

Annual Report 2021/2022

Securities and Exchange Surveillance Commission



Annual Report

(April 2021-March 2022)

Overview

June 24, 2022

Securities and Exchange Surveillance Commission

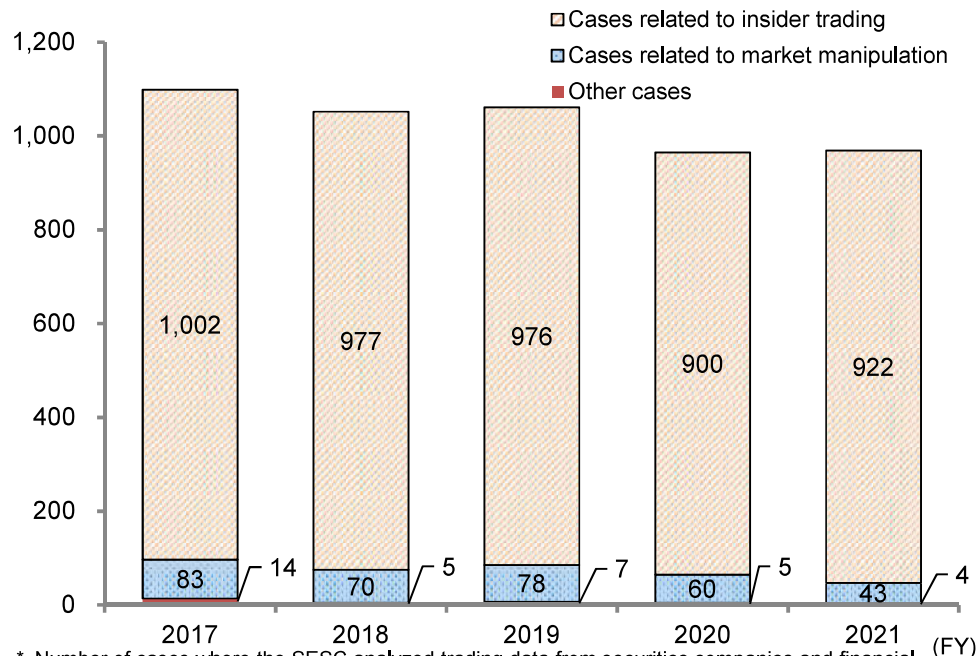
1 Outline of SESC's Activities in 2021/2022

The SESC conducted

- Timely market surveillance, information gathering and analysis focusing on potential risks
- Inspections based on the risk assessment of financial instruments business operators (FIBOs *)
- Swift and efficient investigations / inspections taking advantage of the administrative monetary penalty system and rigorous criminal investigations against serious malicious violations
- Root-cause analysis and dialogue with stakeholders to prevent the occurrence and recurrence of violations

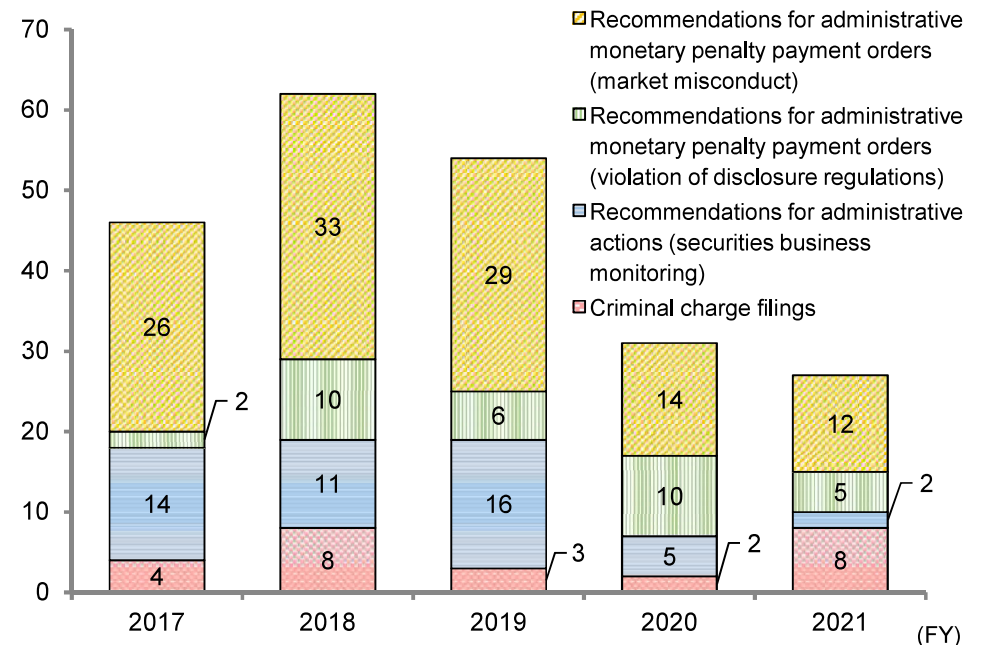
*"FIBOs" refers to all business operators subject to securities business monitoring, including Financial Instruments Business Operators, Registered Financial Institutions, Financial Instruments Intermediary Service Providers, Qualified Institutional Investor Business Operators, and credit rating agencies.

Number of Examined Cases for Market Misconduct*



* Number of cases where the SESC analyzed trading data from securities companies and financial instruments exchanges and examined whether any transactions are suspected as market misconduct

Number of Cases for Recommendations and Criminal Charges Filings



2 Criminal investigations and filing of criminal charges

- The SESC exercises its authority for criminal investigation to take rigorous actions against severe and malicious market misconduct in order to establish fair and transparent markets.
- Based on the investigations, the SESC filed eight criminal charges with public prosecutors office for violation of the Financial Instruments and Exchange Act (FIEA) in Apr 2021-Mar 2022.
 - Five insider trading cases, one market manipulation case, two use of fraudulent means cases

Major criminal charge cases

Case	Date of filing	Overview
Fraudulent means	Jul. 12, 2021	Suspects conspired to misuse the timely disclosure system to falsify sales figures of the suspected corporation and release the figures in order to maintain or raise the stock price and promote the exercise of share options issued by the corporation.
Insider trading	Feb. 14, 2022	Suspect A learned a material fact about a listed company's planned business alliance in the course of duty and conspired with Suspect B to buy shares of the company before the material fact was published. Suspect B, who learned the material fact from Suspect A, also bought such shares independently before the publication.
Fraudulent means	Mar. 16, 2022	Regarding a third-party share allotment, the suspect, who was a director of a company, which planned to receive the allotment, led the allotter to announce a false report that the company would be able to raise funds to pay for the allotment, despite the fact that the company was not specifically expected to raise the funds.
Market manipulation	Mar. 23, 2022	Suspects conducted share transactions constituting an illegal share price stabilization in block offers handled by a suspected company (a financial instruments business operator) to avoid a significant decline in the closing price of the day of the transaction, which is a standard for the trading price, compared to the closing price of the previous day. *On April 12, 2022, criminal charges were filed in a relevant case.

Market misconduct : Information gathering, investigations and recommendations for administrative monetary penalty payment orders

- The SESC made recommendations to the FSA Commissioner, etc. to issue administrative monetary penalty payment orders in 12 market misconduct cases based on its investigations in Apr 2021-Mar 2022.
- Insider trading – six recommendations cases (including one cross-border case)
 - A recommendation was made for a case where a director of a listed company, who was positioned to learn of insider information, misused the position to repeat insider trading.
 - In many cases subjected to recommendations for administrative monetary penalty payment orders, tender offers and business alliances were material facts.
- Market manipulation – six recommendations cases (including one cross-border case).
 - Market manipulation schemes have become more complicated and sophisticated.
 - a wrongdoer repeated bidding and offering spoofing orders to artificially cause share prices to fluctuate.
 - a wrongdoer placed spoofing orders in the market through over-the-counter derivative transactions of CFD (contract for difference) in Japanese stocks.
 - Multiple recommendations for cases in which wrongdoers who received recommendation for administrative monetary penalty payment orders within the past five years have committed the violations.

Major cases for recommendations (market misconduct)

Overview	Date of recommendation Amount of administrative monetary penalty	Key points
A retail investor repeated bidding and offering spoofing orders for shares of multiple listed companies to manipulate market prices.	Jun. 18, 2021 6.98 million yen	<ul style="list-style-type: none"> • The investor engaged in a sophisticated scheme to repeat bidding orders at best bid prices and offering orders at best ask prices over a short period of time while producing a ranging market by using spoofs for artificially causing best bid and ask prices to fluctuate.
A director at a listed company misused his position to learn material facts in the course of duty and bought shares before such facts were publicly announced.	Nov. 19, 2021 4.02 million yen	<ul style="list-style-type: none"> • The wrongdoer used brokerage accounts in other persons' names to repeat insider trading.
A retail investor used share price falls and spoofing sell orders to manipulate market prices of listed shares.	Jan. 21, 2022 825,000 yen	<ul style="list-style-type: none"> • In the second recommendation for an administrative monetary penalty payment order for the investor, the penalty amount was raised by 50% under an additional payment rule.
A foreign corporation placed non-bona fide orders without intent to be executed on the order book of an exchange through over-the-counter derivatives transactions of CFD, whose underlying assets were Japanese stocks, for the purpose of executing its orders on the opposite side of the order book in its favor.	Nov. 5, 2021 2.76 million yen	<ul style="list-style-type: none"> • This was the first market manipulation case through over-the-counter derivatives transactions, for which an administrative monetary penalty order was made. • The SESC obtained assistance in finding facts from four foreign authorities.

4 Violations of disclosure regulations : Information gathering, inspections and recommendations for administrative monetary penalty payment orders

- The SESC made recommendations to the FSA Commissioner, etc. for administrative monetary penalty payment orders in five disclosure regulation violation cases based on its inspections in Apr 2021-Mar 2022.
 - In one of the five cases, SESC also recommended the submission of amended reports.
- Recommendations were issued for the following cases:
 - Inappropriate accounting practices were conducted, including the overstatement of sales through round-tripping
 - Inappropriate accounting practices were conducted, including booking of fictitious sales and advanced booking of sales.
- The SESC discussed their backgrounds and causes with management officials of listed companies to share awareness with them in order to prevent the occurrence and the recurrence of violations of disclosure regulations.

Major cases for recommendations (violations of disclosure regulations)

Overview	Date of recommendation Amount of administrative monetary penalty	Key points
<ul style="list-style-type: none"> • Round-tripping to overstate sales and understate sales costs • Failure to book a special loss involving advances that were unlikely to be recovered 	<p>Jun. 11, 2021</p> <p>81,109,997 yen</p>	<ul style="list-style-type: none"> • The company failed to establish sufficient internal controls due to a management system that relied on individual performance-based management in order to focus on short-term performance improvement, among other factors. • Auditors and the other internal audits had little awareness of misconduct risks.
<ul style="list-style-type: none"> • Booking of fictitious sales • Fictitious and premature revenue recognition, etc. • The company has conducted such inappropriate accounting practices since before its listing. 	<p>Feb. 22, 2022</p> <p>24 million yen</p>	<ul style="list-style-type: none"> • The previous chairman had set excessively high earnings targets. • A corporate culture that gives top priority to earnings in defiance of compliance with law was dominant. • Internal control and audit were dysfunctional.

5 Monitoring of FIBOs

- The SESC conducted risk assessment based on the size and type of business
 - Analyzing operational risks and issues by the size and type of business
- The SESC inspected 46 FIBOs based on the risk assessment and made two recommendations for administrative disciplinary actions to FSA Commissioner, etc.
- The SESC also took initiatives to encourage FIBOs to build effective internal control environments
 - The SESC described “items to be noted (issues that have yet to develop into problems but should be improved)” in notifications of completion of inspection to share awareness with the management of the inspected FIBOs

Major cases for recommendations (securities business monitoring)

Type of business	Date of recommendation	Overview
Investment management business	Jan. 21, 2022	<p>[Failure to conduct investment management business with the due care of a prudent manager]</p> <ul style="list-style-type: none"> • The company failed to appropriately manage and control investment assets, including failure to conduct sufficient due diligence in light of the characteristics of financial instruments before and after signing discretionary investment contracts. Even when finding events that could gravely affect customer assets, the company failed to make its own investment decisions. <p>[Failure to conduct investment management business with the due care of a prudent manager and with loyalty]</p> <ul style="list-style-type: none"> • The company failed to conducted sufficient due diligence on publicly offered investment trusts before their establishment and maintained investment in underlying funds, without understanding investment policies of the funds over the long term. Even after understanding the investment policies, the company failed to make appropriate investment decisions including timely investment revisions. • In addition, the company conducted problematic practices regarding the provision of information to beneficiaries from the viewpoint of beneficiary fairness.
Investment advisory/agency business	Mar. 25, 2022	<p>[Solicitation of investment in foreign investment securities without statutory registration]</p> <ul style="list-style-type: none"> • The company solicited customers' purchases of foreign investment securities without obtaining registration as a Type I FIBO (registration of changes based on Article 31-4 of the FIEA). <p>[Lending of a name to unregistered business operators]</p> <ul style="list-style-type: none"> • The company had two unregistered business operators conduct investment advisory business under its name, despite the fact that it had not concluded employment agreements with them or controlled or supervised them.

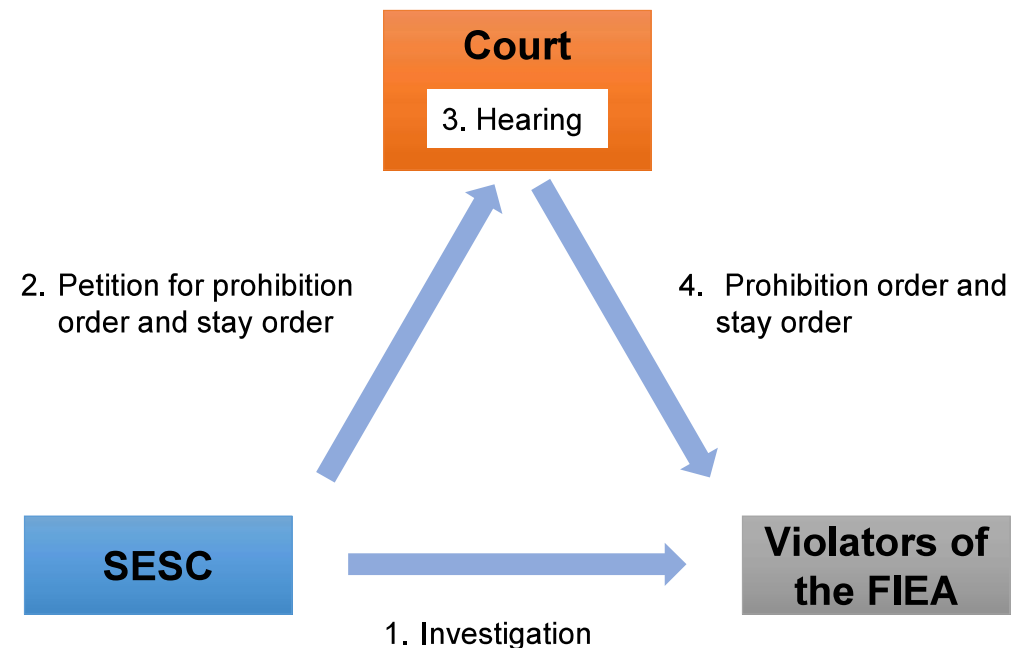
Petitions to the court for prohibition order and stay order against acts in violation of the FIEA

- The SESC filed a petition for the issuance of a prohibition and stay order by the court against acts in violation of the FIEA committed by unregistered business operators in order to prevent the spread of investor damage.
- The SESC enhanced cooperation with relevant organizations including other related divisions of the Financial Service Agency, each Local Finance Bureau, law enforcement authorities and the Consumer Affairs Agency, etc.

Case of a petition to the court for prohibition order and stay order

Respondent	Date of petition filing	Overview
SKY PREMIUM INTERNATIONAL PTE. LTD., and its officer	Sep. 17, 2021 (Tokyo District Court)	The respondents conducted the solicitation of domestic ordinary investors' acquisitions of a foreign investment instrument, which falls under an instrument managed based on discretionary investment contracts, to mediate the conclusion of such contracts and collected approx. 120 billion yen from approx. 22,000 ordinary investors. They thus offered intermediary services for the conclusion of discretionary investment contracts on a regular basis without statutory registration, violating the FIEA.

Petitions to the court for acts in violation of the FIEA

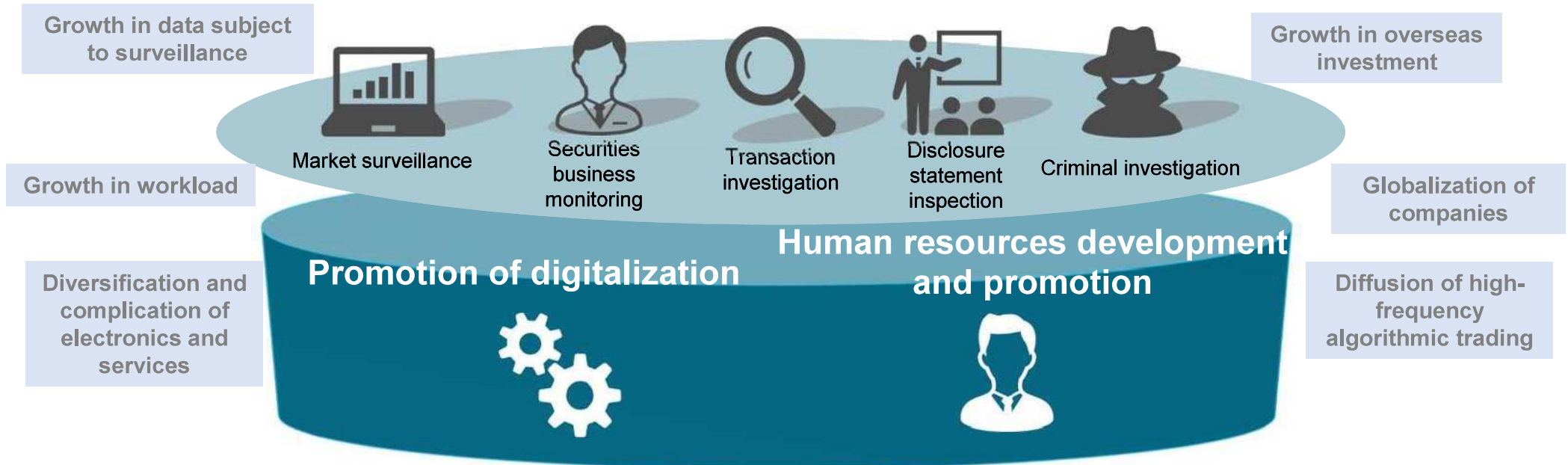


7 Development of infrastructure to support surveillance (digitalization and human resources)

The SESC is promoting initiatives

- to upgrade and enhance market surveillance operation through the reform and improvement of existing system infrastructure
 - Implementation of demonstration tests for digital online deposit account inquiry services provided by private business operators to financial institutions (January to March 2022)
- to strengthen system functions to support market surveillance
- to further enhance Digital Forensic and upgrade the Digital Forensic system
- to improve SESC staff members' professional skills through on-the-job training and hiring personnel with high expertise

Development of infrastructure to support surveillance

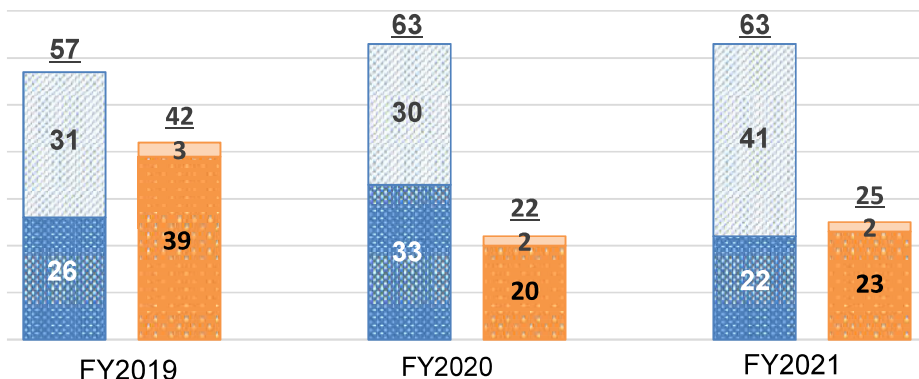


8 SESC's initiatives to enhance market discipline

The SESC is promoting initiatives such as

- Dissemination of information on significance and problems of specific cases
 - Website, casebooks, articles, lectures, etc.
 - Messages to various stakeholders given in the SESC Colum (Annual Report 2021/2022)
- Cooperation with self-regulatory organizations (SROs) in market surveillance
 - Information sharing on a daily basis
 - Periodic discussions for timely sharing of emerging issues
- Cooperation with foreign authorities
 - The SESC proactively participates in discussions for the international harmonization of securities regulations and cooperation among regulatory authorities at the International Organization of Securities Commissions (IOSCO) comprising 233 organizations from around the world.
 - The SESC swiftly enforces laws against misconduct in cross-border transactions based on information exchange with foreign authorities under the IOSCO Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information
 - The SESC enhances networks and shares awareness with foreign authorities through training of staff from foreign authorities and online seminars sponsored by foreign authorities.

Number of cases for information exchange under MMoU, etc.



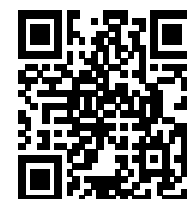
- Voluntary provision of information to foreign authorities
- Requests from foreign authorities for the provision of information
- Voluntary provision of information from foreign authorities
- Requests to foreign authorities for the provision of information

*The numbers are totals for the FSA and the SESC.

Communications using Twitter

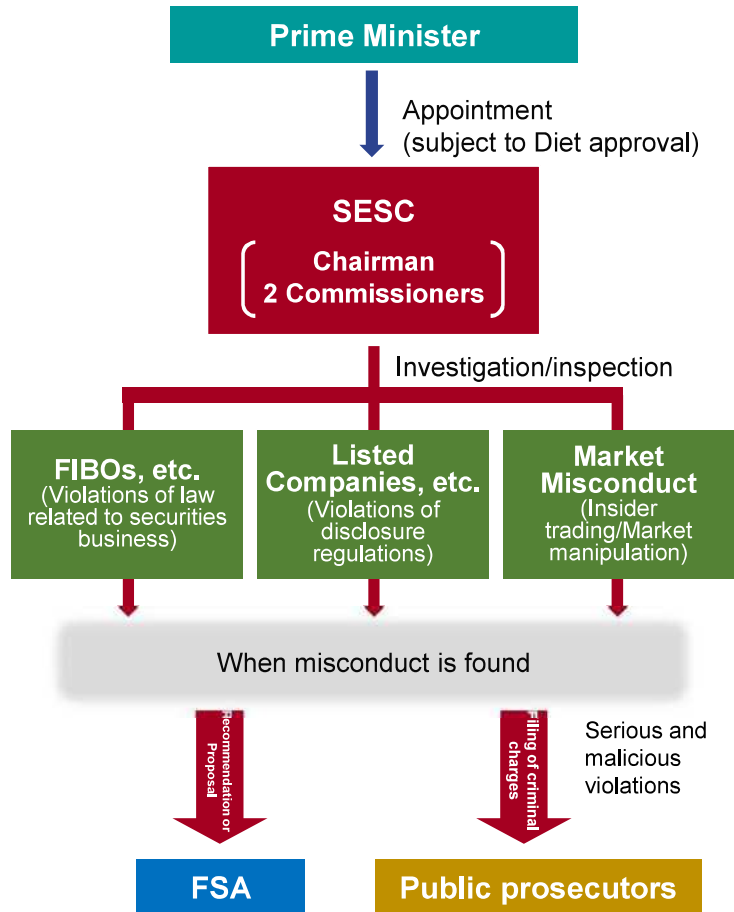
Securities and Exchange
Surveillance Commission

 @SESC_JAPAN



Role and functions of the SESC

Organization



Chairman and Commissioners



Commissioner HAMADA Yasushi

HAMADA Yasushi was appointed as SESC Commissioner in December 2016 (reappointed in 2019). Previously, he served as the Senior Partner and Director of KPMG AZSA LLC, and a professor of Graduate School of Professional Accountancy, Aoyama Gakuin University.

Chairman HASEGAWA Mitsuhiro

HASEGAWA Mitsuhiro was appointed as SESC Chairman in December 2016 (reappointed in 2019). Previously, he served as the Chief Public Prosecutor of Nagoya District Public Prosecutors Office and the Superintending Public Prosecutor of Hiroshima High Public Prosecutors Office.

Commissioner KATO Sayuri

KATO Sayuri was appointed as SESC Commissioner in December 2019. Previously, she served as Director of the Consumer Affairs Agency, Vice-Governor of Nagano Prefecture, and Executive Vice President of the National Consumer Affairs Center of Japan.

Strategy & Policy of the SESC 2020-2022*

- For Trusted and Attractive Capital Markets-

*Published on January 24, 2020

Mission

- Through proper and appropriate market oversight, the SESC
1. Ensures market fairness and transparency, and protects investors
 2. Contributes to the sound development of capital markets
 3. Contributes to sustainable economic growth

SESC's Market Vision

Markets with strong confidence, where market participants share their commitment towards the sound development of capital markets and solid investor protection, fulfill their expected roles and exercise their professionalism^(*)

- (*) Proper disclosure by listed companies, etc.
 Legal compliance and customer-oriented business administration by market intermediaries
 Self-discipline by market users
 Professional market surveillance

Philosophies and Goals

Fairness

Accountability

Forward-looking

Effectiveness and efficiency

Close cooperation

Commitment to excellence

< Based on these philosophies, the SESC aims to achieve the following in terms of market surveillance >

Holistic oversight

- Vigilance against new financial products and transactions
- Surveillance of multiple markets and cross-market activities
- Protecting investors of diverse characteristics
- Holistic and comprehensive investigation of cases and cross-sectoral application of findings
- Enhanced outreach to stakeholders

Timely oversight

- Early detection of market misconduct
- Preemptive actions against market misconduct
- Effective investigation and inspection, and swift corrective action

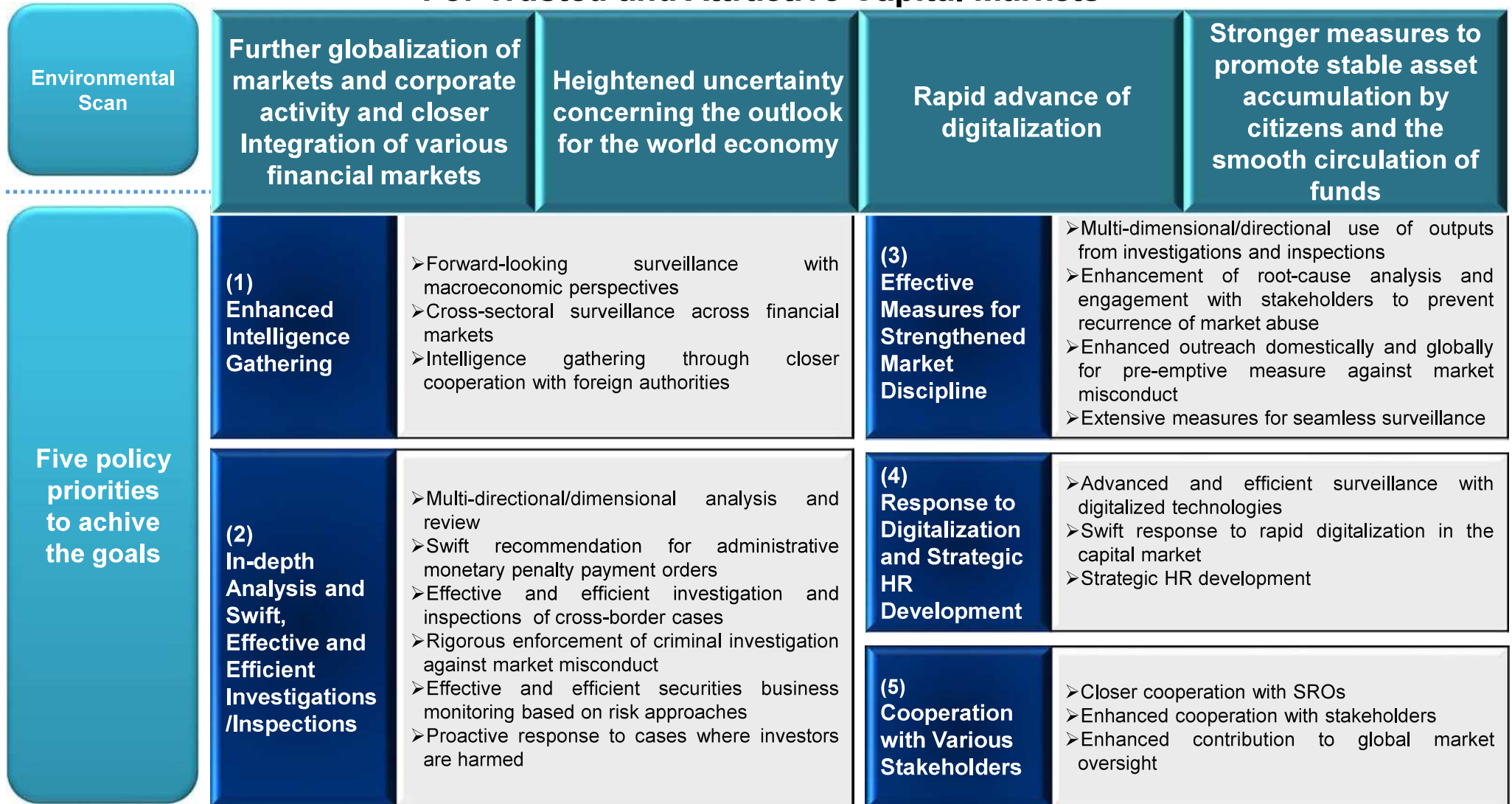
In-depth oversight

- Identifying root causes of problems
- Recognizing structural issues of the markets through in-depth and cross-sectoral analysis

Strategy & Policy of the SESC 2020-2022*

- For Trusted and Attractive Capital Markets-

*Published on January 24, 2020



Continuous Review of Oversight Approach through PDCA Cycle

Annual Report 2021/2022

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[Disclaimer: This is a provisional translation for reference purpose. The Japanese version is the original.]

Introduction

The Securities and Exchange Surveillance Commission (SESC) is a collegiate organization within the Financial Services Agency (FSA) consisting of a Chairman and two Commissioners. Our mission is to ensure the fairness and transparency of Japan's capital markets, protect investors, contribute to the sound development of the markets, and support the sustainable growth of the national economy.

Founded in 1992, the SESC has entered its 30th year. At the beginning, filing criminal charges was the main means of law enforcement, but over the years, the authority to monitor markets has been enhanced and strengthened, including by the introduction of the administrative monetary penalty payment system in 2005 and the expansion of the authority of inspections in 2007. Its organization has also been expanded, with the number of divisions increased from two at the time of founding to six. Through the expansion and enhancement, the SESC has contributed to improving the soundness of the markets not only by filing criminal charges against cases of malicious violation but also by using its inspection and investigation authorities and the administrative monetary penalty system more actively.

Key Achievements

As the environment surrounding capital markets is changing very rapidly, the SESC needs to be well informed of the circumstances of problems that might occur in the markets in order to respond to them in an appropriate manner.

In FY 2021, the SESC conducted timely market surveillance, including information collection and analysis focusing on potential risks. In cooperation with self-regulatory organizations (SROs) and foreign market oversight authorities, we also closely monitored new events in both domestic and foreign markets and promoted initiatives to develop our market monitoring arrangements and improve surveillance means.

Regarding the monitoring of Financial Instruments Business Operators (FIBOs), the SESC inspected the status of customer-oriented business conduct. We also used the administrative monetary penalty system to perform prompt and efficient investigations and inspections and to make rigorous responses to market misconduct and violations of disclosure regulations. From the viewpoint of preventing such misconduct, we strove to identify the root causes of such conduct and to promote active external communications. Furthermore, we filed criminal charges against serious and egregious offences, including FIBOs' market misconduct.

Future Challenges

In recent years, capital markets have been dramatically changing due to the globalization of investment and business activities and progress in digitalization using artificial intelligence and blockchains. The impacts of the COVID-19 pandemic on the economy must be closely watched.

The government's initiative for a virtuous cycle of growth and distribution is attracting attention. To realize the virtuous cycle of growth and distribution, funds for the growth of companies must

be provided, with fairness and transparency being secured for markets to distribute the fruits of business activities to investors.

As the FSA's key policies include the vitalization of capital markets and the smooth provision of growth funds, the SESC must try to secure the fairness and transparency of the markets and protect investors by implementing five measures to achieve its three goals—holistic oversight, timely oversight, and in-depth oversight.

For the development of the Japanese economy, the SESC will make further efforts to develop fair, transparent, trusted and attractive capital markets and protect investors by conducting more effective and efficient market surveillance while promoting the further enhancement of markets' self-regulation function in close cooperation with relevant authorities and SROs.

This annual report outlines the SESC's activities in FY2021 and explains its views pursuant to Article 22 of the Act for Establishment of the Financial Services Agency. We sincerely hope that this report will be shared by as many market participants and investors as possible and contribute to deepening their understanding of the SESC's activities and establishing fair and transparent markets.

June 2022

HASEGAWA Mitsuhiro

Chairman

Securities and Exchange Surveillance Commission

SESC's History

Year	Changes in SESC's authority and organization	Key events & activities
1991		Series of securities and financial scandals
1992	SESC established in the Ministry of Finance	
1993		Filing of criminal charges: Market manipulation related to Nihon Unisys, Ltd. shares (first criminal charge filed by SESC)
1998	Financial Supervisory Agency established: SESC comes under its jurisdiction	
2001	Financial Supervisory Agency reorganized into Financial Services Agency	Major reorganization of central government agencies
2005	Administrative monetary penalty system introduced SESC mandated to exercise administrative monetary penalty investigation SESC mandated to exercise administrative monetary penalty inspection on disclosure statements Additional inspection authority for securities companies, etc. granted to SESC (inspection of financial soundness, inspection of investment advisors)	Filing of criminal charges: False statements in securities report related to Kanebo, Ltd.
2006	Five-division structure introduced (Planning and Management Division, Market Surveillance Division, Securities Business Monitoring Division, Administrative Monetary Penalty Investigation and Disclosure Inspection Division, and Criminal Investigation Division) Additionally mandated to exercise administrative monetary penalty investigation of market manipulation using spoofing orders; authority to conduct criminal investigation expanded	Filing of criminal charges: Spreading of rumors, fraudulent means related to Livedoor Marketing Co., Ltd. shares Filing of criminal charges: Insider trading related to Nippon Broadcasting System, Inc. shares
2007	Additionally mandated to exercise authority on inspections of investment funds	Financial Instruments and Exchange Act in full effect
2008	Additionally mandated to exercise authority to conduct disclosure statements inspection on quarterly securities reports and internal control reports; additionally mandated to exercise authority to conduct investigation for potential imposition of administrative monetary penalties on violations in quarterly securities reports (1) Additionally mandated to exercise authority to conduct disclosure statements inspection on false disclosure statements in tender offer notifications, reports of possession of large volume (2) Additionally mandated to exercise authority to conduct investigation for potential imposition of administrative monetary penalties related to market manipulation by means of fictitious or collusive sales and purchases (3) Additionally mandated to exercise authority to file petitions to the court for a prohibition order and stay order against acts in violation by unregistered business operators	
2010	Additionally mandated to exercise authority to inspect credit rating agencies	

Year	Changes in SESC's authority and organization	Key events & activities
2011	<p>Additionally mandated to exercise authority to inspect group companies (consolidation regulation of large securities companies introduced)</p> <p>Six-division structure introduced (Planning and Management Division, Market Surveillance Division, Securities Business Monitoring Division, Market Misconduct Investigation Division, Disclosure Inspection Division, and Criminal Investigation Division)</p> <p>Cross-Border Investigation Office set up</p>	
2012	<p>Additionally mandated to exercise authority to inspect trade repositories</p>	<p>Filing of criminal charges, recommendation for administrative monetary penalty: False statements in securities report related to Olympus Corporation</p> <p>Recommendation for administrative disciplinary action, filing of criminal charges: AIJ Investment Advisors Co., Ltd. (Use of fraudulent means on discretionary investment contract . related to Pension Fund)</p>
2013	<p>Additionally mandated to exercise authority to conduct disclosure statements inspections on external conspirators who allegedly assisted in submission of false disclosure documents and administrative monetary penalty investigations on market misconduct committed by asset managers on client accounts, and summon alleged violators as part of administrative monetary penalty investigations</p>	<p>Recommendation for administrative disciplinary action: MRI International, Inc. (false notification, etc. related to MARS)</p>
2014	<p>Additionally mandated to exercise authority to conduct administrative monetary penalty investigations and criminal investigations against providing of insider information and transaction encouragement which became subject to insider trading regulation.</p> <p>Additionally mandated to conduct inspections on financial instruments business operators handling commodity derivatives</p>	
2015	<p>Digital Forensic Solutions Office set up</p> <p>Additionally mandated to exercise authority to conduct inspections on specified financial benchmark administrators</p>	<p>Filing of criminal charges: Market manipulation, spreading of rumors, use of fraudulent means, failure to submit reports of possession of large volume related to New Japan Chemical Co., Ltd. shares</p> <p>Recommendation for administrative monetary penalty: False statements in securities report related to Toshiba Corporation</p>
2016	<p>Office of Market Monitoring set up</p> <p>Litigation Office set up</p>	<p>Recommendation for administrative disciplinary action: Arts Securities Co., Ltd. (false notification, etc. related to medical fee receipt bonds)</p>
2017		<p>Filing of criminal charges: Use of fraudulent means by Arts Securities Co., Ltd., etc. (related to medical fee receipt bonds); market manipulation related to Stream Co., Ltd. shares</p>

Year	Changes in SESC's authority and organization	Key events & activities
2018	Additionally mandated to exercise authority to conduct inspections on high speed trading business operators	<p>Filing of criminal charges: False statements in securities report related to Nissan Motor Co., Ltd.</p> <p>Recommendation for administrative monetary penalty: Manipulation of market for long-term government bond futures by Mitsubishi UFJ Morgan Stanley Securities Co., Ltd.</p>
2019		<p>Recommendation for administrative monetary penalty: False statements in securities report related to Nissan Motor Co., Ltd.</p>
2020	<p>IT Strategy Office set up</p> <p>Additionally mandated to exercise authority to conduct inspections on financial instruments business operators handling crypto-assets derivatives and electronically recorded transferable rights</p>	<p>Filing of criminal charges: Transaction encouragement related to Don Quijote Holdings Co. shares</p>
2021	Additionally mandated to exercise authority to conduct inspections on financial service intermediaries that provide securities intermediary services.	<p>Filing of criminal charges: Market manipulation by SMBC Nikko Securities Inc.</p>

Abbreviations

Anti-Criminal Proceeds Act	Act on Prevention of Transfer of Criminal Proceeds (Act No. 22 of 2007)
APRC	IOSCO Asia Pacific Regional Committee
BY	Business Year (from July 1 to June 30)
EMMoU	Enhanced Multilateral Memorandum of Understanding of Concerning Consultation and Cooperation and Exchange of Information
FIBOs	Financial Instruments Business Operators
FIEA	Financial Instruments and Exchange Act (Act No. 25 of 1948)
FIEs	Financial Instruments Exchanges
FSA	Financial Services Agency
FSA Establishment Act	Act for Establishment of the Financial Services Agency (Act No. 130 of 1998)
FY	Fiscal Year (from April 1 to March 31)
HST	High-Speed Trading
IOSCO	International Organization of Securities Commissions
JPX-R	Japan Exchange Regulation
JSDA	Japan Securities Dealers Association
MMoU	Multilateral Memorandum of Understanding of Concerning Consultation and Cooperation and Exchange of Information
SESC	Securities and Exchange Surveillance Commission
SROs	Self-Regulatory Organizations
TOBs	Takeover Bids

Chapter 1. SESC Activity Summary

1 Overview of activities in Fiscal Year 2021

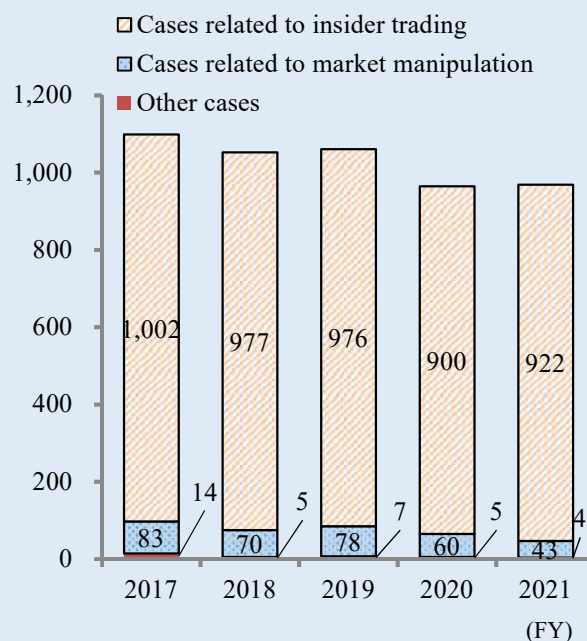
In FY2021 (April 2021-March 2022), the economic environment surrounding Japanese securities markets went through various changes. At the beginning of the fiscal year, although the Japanese economy, while remaining in a severe situation under the impact of the COVID-19 pandemic, continued to rebound, weaknesses are seen in some areas. At present, the economy remains in a severe situation and is plagued with uncertainties amid the Ukraine crisis and other factors, indicating that attention should be paid to downside risks caused by financial and capital market fluctuations.

Against this backdrop, the Securities and Exchange Surveillance Commission (SESC) collected and analyzed information in consideration of domestic and overseas circumstances in FY2021. In its investigation and inspection, the SESC not only recommended administrative actions against violations of laws and regulations but also tried to identify the root causes of the violations in order to prevent their recurrence. In this way, the SESC conducted timely market surveillance.

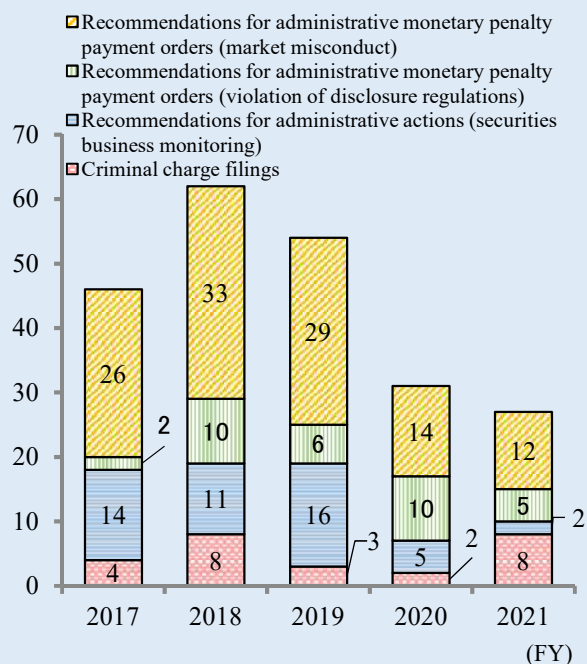
In FY2021, the total number of cases the SESC examined for detecting market misconduct was 969. The SESC made recommendations for administrative monetary penalty payment orders in 17 cases (12 market misconduct cases and five disclosure regulation violation cases¹) and those for administrative

actions based on securities business monitoring in two cases and filed criminal charges in eight cases.

Number of examined cases for market misconduct



Number of cases for recommendations and criminal charge filings



¹ In one of the five cases, the SESC recommended an administrative order for the submission of corrected reports as well.

2 Investigations of market misconduct

(1) Overview of market misconduct

With rapid changes in the business environment as a background, the SESC made recommendations for administrative monetary penalty payment orders in insider trading cases where material facts included tender offers, business alliances and new share issuances. For the first time ever, it made such recommendation in an insider trading case where the material fact was an equity transfer.

Market manipulation schemes have continuously become more complicated and sophisticated. The SESC made recommendations in the following cases: i) a wrongdoer artificially caused stock prices to fluctuate by using multiple brokerage accounts, including those in other persons' names, to repeat bidding and offering spoofing orders over a short time, ii) a wrongdoer raised stock prices by repeating minimum-lot buy orders, and iii) a wrongdoer placed spoofing orders in the market through over-the-counter derivative transactions of CFD (contract for difference) in Japanese stocks.

(2) Policy going forward

The SESC will continue to review investigation methods to conduct flexible and efficient investigations in response to changes in economic conditions and trading methods.

In addition to announcing recommendation cases on its website, the SESC proactively

disseminates information on trends, overviews of the recommendation cases and points that can be improved in the management system for insider trading at listed companies, and messages that the SESC wants to convey to listed companies in casebooks of administrative monetary penalty and other publications to prevent the occurrence and recurrence of market misconduct.

3 Inspection and information gathering on violations of disclosure regulations

(1) Overview of violations of disclosure regulations

In cases where the SESC made recommendations for administrative monetary penalty payment orders, wrongdoers made false statements in securities reports by overstating sales through round-tripping and exaggerating net income through inappropriate accounting practices, including booking of fictitious sales, since before its listing and premature revenue recognition.

(2) Policy going forward

Transactions are increasingly complex, corporate operations are more globalized, and business models are diversifying and transforming. In these circumstances, early detection and early corrective actions against violations of disclosure regulations are essential. For that purpose, the SESC will continue to gather information on listed companies and conduct analysis with a focus on the risk of the violations, as well as

conduct timely and multifaceted inspections of disclosure statements.

In addition, the SESC will engage in dialogues and enhance mutual understanding on the background and causes of violations with the management officials of listed companies that have committed violations of disclosure regulations, to assist them in building internal systems for proper information disclosure. The SESC will also proactively communicate with listed companies and their audit firms regarding the details of the actual violations of disclosure regulations detected in inspections of disclosure statements. Such efforts will collectively contribute to preventing the occurrence and recurrence of violations of disclosure regulations.

4 Monitoring of FIBOs²

(1) Overview of securities business monitoring

There were cases where Financial Instruments Business Operators (FIBOs) performed gravely problematic operations due to a lack of awareness in compliance with laws and regulations and in investor protection: i) an investment management firm failed to conduct investment management business for discretionary investment contract customers with the due care of a prudent manager, and ii) an investment adviser/agent solicited investment in foreign investment securities without statutory registration and

lent its name to unregistered business operators

(2) Overview of a case for a petition filed with the court

As it was identified that a company engaged in intermediation for the conclusion of discretionary investment contracts on a regular basis without statutory registration, which constitutes a violation of the Financial Instruments and Exchange Act, the SESC filed a petition with a court to issue an order to prohibit and stay the acts in order to prevent the spread of investor damage.

(3) Policy going forward

While the number of business operators subject to the SESC's monitoring total approximately 8,000, whose sizes, business operations and products are diverse, there are business operators that are still lacking awareness and controls for basic compliance with the law and investor protection. The SESC will endeavor to accurately identify potential risks through its effective and efficient monitoring based on the annual "Monitoring Priorities for Securities Businesses."

The SESC will also keep a close watch on the impact of the COVID-19 pandemic on FIBOs' business environments and operations. Especially in cases where the SESC identifies the necessity for early, in-depth examinations with regard to possible

² In this document, "FIBOs" refers to all business operators subject to securities business monitoring, including Financial Instruments Business Operators, Registered Financial Institutions, Financial Instruments Intermediary Service

Providers, Qualified Institutional Investor Business Operators, and credit rating agencies.

violations of relevant regulations or problems related to business operations, the SESC will conduct on-site inspection to verify the problems.

5 Investigations into criminal cases and criminal charge filings

(1) Overview of criminal charge cases

As financial transactions become more globalized, complicated and advanced, the SESC flexibly investigates criminal cases regarding primary and secondary markets. In FY2021, the SESC filed criminal charges in eight cases (five insider trading cases, one market manipulation case, and two use of fraudulent means cases).

Among them was one use of fraudulent means case where wrongdoers misused the timely disclosure system to publish continually false sales data. In the other use of fraudulent means case, a director at a company planned to receive shares in a third-party allocation and led the share issuer to publish false information on procurement of proceeds from the share issuance. In the market manipulation case, wrongdoers conducted share transactions constituting an illegal share price stabilization in block offers handled by a suspected company to avoid a significant decline in the closing price of the day of the transaction.

(2) Policy going forward

The SESC will take rigorous actions against severe and malicious market misconduct by exercising its authority for

criminal investigation appropriately and filing criminal charges accurately in cooperation with law enforcement and other relevant authorities.

The SESC will have to flexibly respond to changes in the environment surrounding financial transactions. The SESC will train and enhance personnel with professional criminal investigation skills, upgrade various criminal investigation tools, and strengthen cooperation with domestic and overseas relevant organizations, including foreign authorities in order to establish fair and transparent markets.

6 Development of infrastructure to support surveillance

(1) Further promotion of digitalization in market surveillance

As information and communication technology advances rapidly and dramatically, the environment surrounding Japan's capital market and market participants is changing greatly. People's working styles are also changing sharply under the impact of the COVID-19 pandemic. Based on such market environment and working style changes, the SESC is promoting initiatives to upgrade and enhance market surveillance operations through the reform of existing system infrastructure and demonstration tests for digital online deposit account inquiry services provided by private business operators to financial institutions.

(2) Policy going forward

Based on technology trends in Japan and other countries, the SESC will continue to reform and develop infrastructure to upgrade and enhance market surveillance operations.

7 Initiatives to enhance market discipline

(1) Enhancing communications with stakeholders

The SESC publicizes information on individual cases at the time of recommendations. In addition, for the purpose of enhancing self-discipline in the market, the SESC continuously endeavors to enhance its communications with retail investors and other market participants with respect to the significance, details and root causes of the cases and to let them know the activities of the SESC through the publication of various casebooks, contribution of articles, and holding of lectures. In FY2021, the SESC proactively conducted external outreach through its website, media outlets and a total of 14 seminars to market participants and other stakeholders.

(2) Cooperation with self-regulatory organizations

The SESC works with self-regulatory organizations (e.g., Financial Instruments Firms Associations, Financial Instruments Exchanges, and Self-Regulation Organization (SROs)) on a daily basis in examining market transactions and in monitoring the appropriateness of members' operations. The SESC further strengthened its cooperative relationship with SROs through periodic discussions to share emerging issues related

to market surveillance. In FY2021, the SESC had such periodic discussions with SROs 12 times to exchange views.

(3) Cooperation with foreign authorities

Regarding cooperation with foreign authorities, the SESC participates in various multilateral discussions at the International Organization of Securities Commissions (IOSCO) and actively engages in exchanges of views on a bilateral basis. In addition, for investigations into market misconduct cases using cross-border transactions, the SESC made a total of 22 requests for information to foreign authorities pursuant to the IOSCO MMoU (Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information) in FY2021.

Chapter 2. Activity Report for Fiscal Year 2021

2-1 EXAMINATION OF TRANSACTIONS AND COLLECTION / ANALYSIS OF WIDE-RANGING INFORMATION

1. Purpose of Market Surveillance

To realize holistic and timely market oversight in response to changes in the market environment, the SESC positions market surveillance as an entrance for information. This is because market surveillance aims at detecting any possible market misconduct through routinely monitoring the primary and secondary markets, as well as collecting and analyzing an extensive range of information on the overall financial and capital markets.

For the above reason, the SESC routinely receives a wide range of information from investors and others, and promptly circulates the information to the relevant divisions within the SESC (or the relevant divisions within the FSA, if the information relates to affairs under the jurisdiction of the FSA). The SESC also cooperates with SROs to gather a variety of information related to the financial and capital markets. Based on the information, the SESC analyzes the background of individual transactions and market trends, examines transactions for possible market misconduct, and reports to the relevant divisions in the SESC if any suspicious transactions are identified.

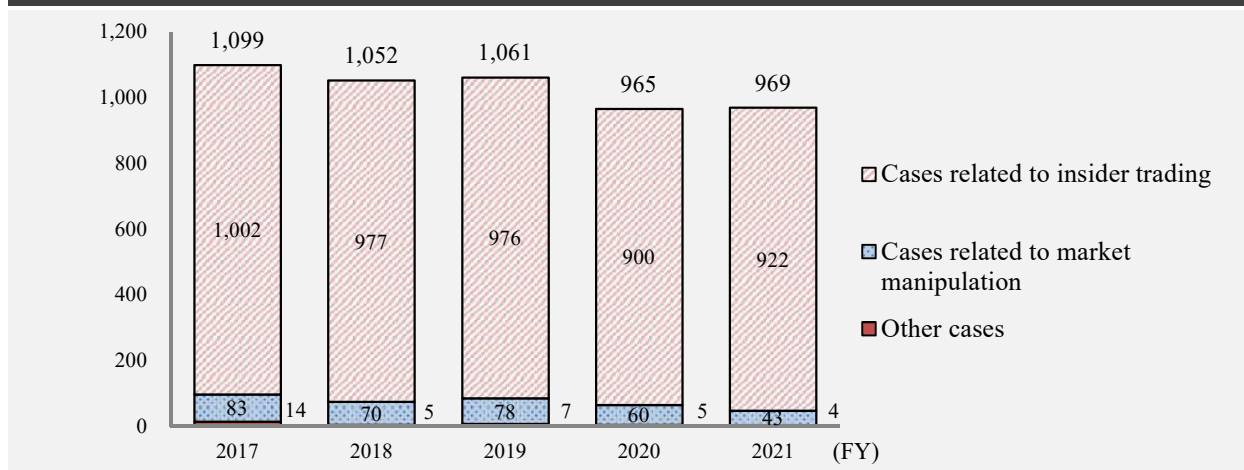
The SESC implements effective market surveillance with close cooperation among each of the functions, i.e. information collection, market trend analysis and transaction examinations, and collaboration among the relevant divisions.

2. Status of Transaction Examinations

The number of cases the SESC examined to detect suspicious market misconduct reached 969 in FY2021.

The breakdown by category of surveillance is 922 possible insider trading cases, 43 possible market manipulation cases, and four others, including the use of fraudulent means and spreading rumors.

As for high-speed trading (HST), the SESC focused on fact finding for the purpose of effective monitoring of HST transactions. Specifically, the SESC analyzed HST transactions by, for example, examining orders placed and executed by HST operators. The SESC also examined transactions for possible market misconduct in cooperation with SROs.

Fig. 1-1: Number of cases examined for market misconduct

3. Overview of Market Monitoring

To conduct market oversight in a holistic and timely manner, the SESC collects and analyzes a wide range of market information at the Office of Market Monitoring in the Market Surveillance Division.

(1) Information collection and whistleblowing

(i) Efforts to collect information

In FY2021, the SESC received 6,324 information reports from the public.

Information from market participants and investors represents candid opinions in the markets and can trigger the SESC's investigation and inspection. The SESC believes it is important to collect useful information from as many stakeholders as possible.

Therefore, the SESC announces its 24-hour acceptance of information provision through the Internet in an easy-to-understand form on a SESC brochure page calling for information provision and uses a poster with a QR code and other means to urge investors to provide information. Furthermore, the SESC website indicates information about the Contact Point for Information Reporting and lists examples³ of information we want in an effort to ensure that more specific information would be provided about transactions suspected as market misconduct.

The SESC also provides preparatory consultation to whistleblowers through a dedicated Contact Point for Whistleblowing and examines information before formally accepting it. In FY2021, two tips from whistleblowers were accepted.

³ "Examples of wanted information" on the SESC website: <https://www.fsa.go.jp/sesc/watch/example.html>

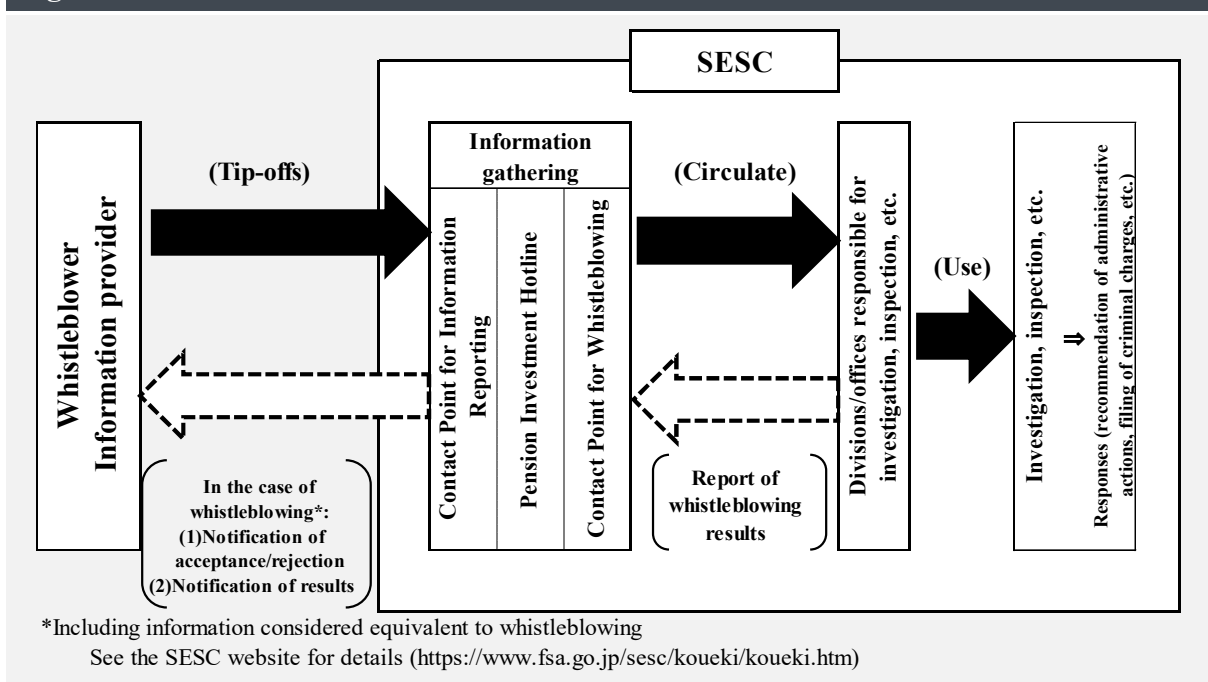
(ii) Receipt and use of information

As illustrated by Fig. 1-2, information/tips provided to us are examined at the Contact for Information Gathering and circulated to and used effectively by relevant SESC divisions responsible for investigation and inspection.

(Note) The Contact for Information Gathering is divided by information category into three contact points (Contact Point for Information Reporting, Pension Investment Hotline and Contact Point for Information Reporting). For details of information and information reporting methods for these contact points.

Even if an information report does not fall under the definition of whistleblowing, the report is received as an information report to the Contact Point for Information Gathering and circulated to and used effectively by relevant SESC divisions responsible for investigation and inspection.

Fig. 1-2: Flow of information



(2) Market trend analysis

In addressing cases of “fraudulent finance,”⁴ the SESC has utilized information gathered from market participants, such as investors and securities companies. The SESC has also enhanced its market monitoring by collecting and analyzing information that covers both the primary and

⁴ “Fraudulent finance” refers to a series of fraudulent trading practices comprised of inappropriate acts in the primary or secondary securities market, including listed companies’ fund procurement through disguised additional equity issuance and in-kind contribution using overestimated real estate, as well as illegal external transfers of procured funds.

secondary markets in close cooperation with Local Financial Bureaus' relevant divisions and Financial Instruments Exchanges (FIEs). As a result, some listed companies with problems, including those that released false information in connection with the issuance of new shares or stock acquisition rights allocated to third parties, have been delisted and withdrawn from the capital market. As there are emerging cases of attempts to conduct market misconduct by using complex finance schemes or the issuance of shares to overseas funds, the SESC will keep paying close attention to these activities.

4. Future Challenges

(1) More efficient and sophisticated monitoring through promotion of digitalization

In recent years, dramatic progress in digitalization has led to the diffusion of HST using algorithms and the emergence of new products and transactions, exerting great influence on capital markets and market participants. To respond to such market environment changes appropriately and conduct seamless market surveillance, the digitalization of market monitoring, including market misconduct examinations, must be promoted through the development of a system to gather and search massive data more efficiently and effectively to quickly confirm and analyze relevant data.

As for HST, the SESC has analyzed massive data from exchanges to find and examine facts, such as orders placed and executed by HST operators. In the future, the SESC will further promote digitalization to securely conduct monitoring according to the characteristics of HST. In monitoring non-HST transactions as well, the SESC will upgrade analysis systems for more efficient and sophisticated monitoring.

(2) Promotion of measures to increase acceptance

To promote the reporting of useful information from the public, the SESC will continue to promote public campaigns for information reporting and consider measures to pave the way for citizens to provide information more easily and conveniently.

If information providers are expected to have more useful materials regarding their information reports, the SESC will encourage them to provide additional materials, promoting proactive information gathering.

2-2 INVESTIGATION INTO MARKET MISCONDUCT

1. Purpose of Investigation into Market Misconduct

The SESC investigates insider trading, market manipulation, the spread of rumors, the use of fraudulent means and other suspected market misconduct subject to an administrative monetary penalty payment order, pursuant to the Financial Instruments and Exchange Act (FIEA).

As timely oversight is required in response to environmental changes regarding markets, the SESC's prompt and efficient investigation with recommendations for administrative monetary penalty payment orders in mind aims to deter misconduct, ensure the fairness and transparency of securities markets, and protect investors.

2. Overview of Cases in FY2021

The SESC promptly and efficiently investigates suspected market misconduct cases through the active use of the administrative monetary penalty system. In FY2021, there were 12 cases of market misconduct (six cases of insider trading and six cases of market manipulation) for which the SESC made recommendations for administrative monetary penalty payment orders.

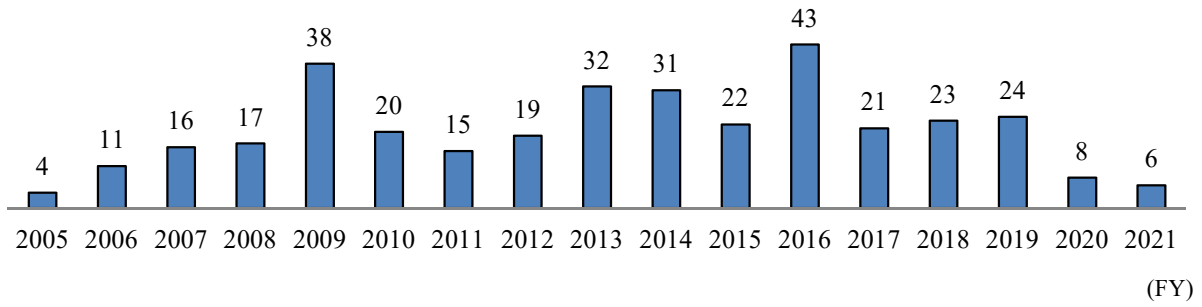
(1) Insider trading

In FY2021, there were six cases of insider trading for which the SESC made recommendations for administrative monetary penalty payment orders, including one cross-border case (See Fig. 2-1).

Of the six violators who engaged in insider trading, three individuals (50.0%) were corporate insiders and the other three (50.0%) were primary recipients of information from corporate insiders. The three corporate insiders included a director of a listed company and two in the category of contract negotiators with listed companies or such negotiators' directors or employees. The three primary recipients of information were a trading partner, relatives and friends/colleagues of corporate insiders as information providers (See Fig. 2-2).

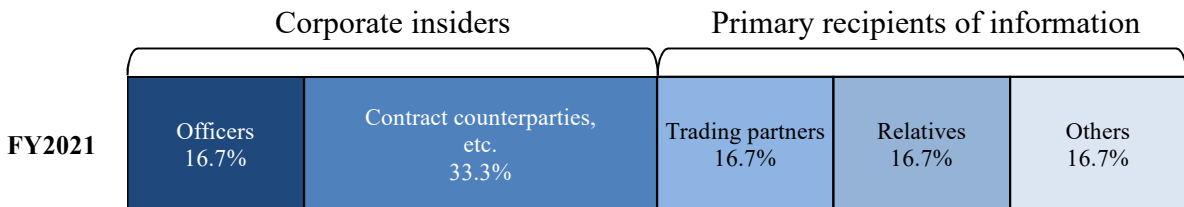
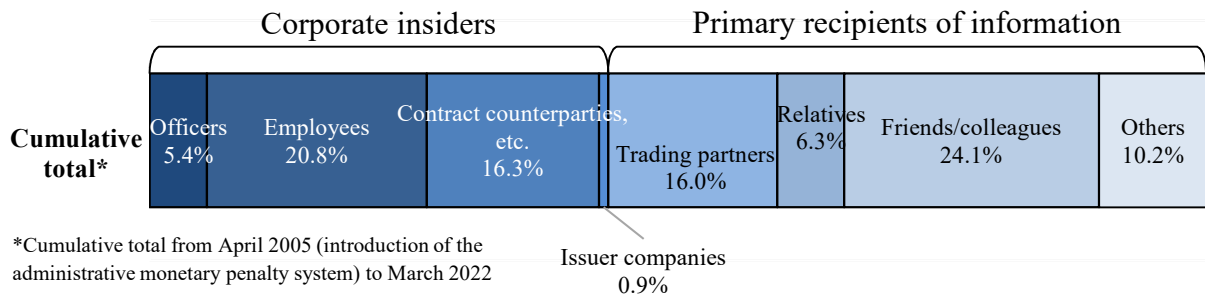
Among the six cases subjected to the abovementioned recommendations, there were two cases of insider trading by directors of listed companies and one case of insider trading by a primary recipient of information from a director of a listed company. Directors of listed companies must manage information about material facts appropriately and take the initiative to prevent insider trading. However, the SESC still found such cases where directors provided information to others even without the need to do so during the course of their duties and caused insider trading.

Fig. 2-1: Number of insider trading cases for recommendations for administrative monetary penalty payment orders

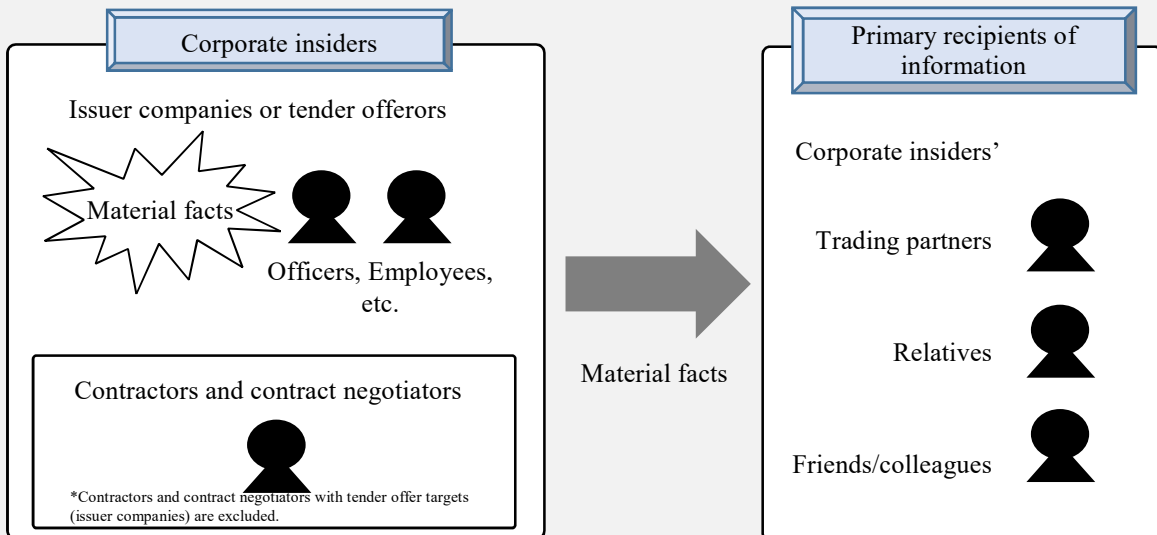


Note: The numbers include cross-border cases.

Fig. 2-2: Attributes of violators of insider trading regulations



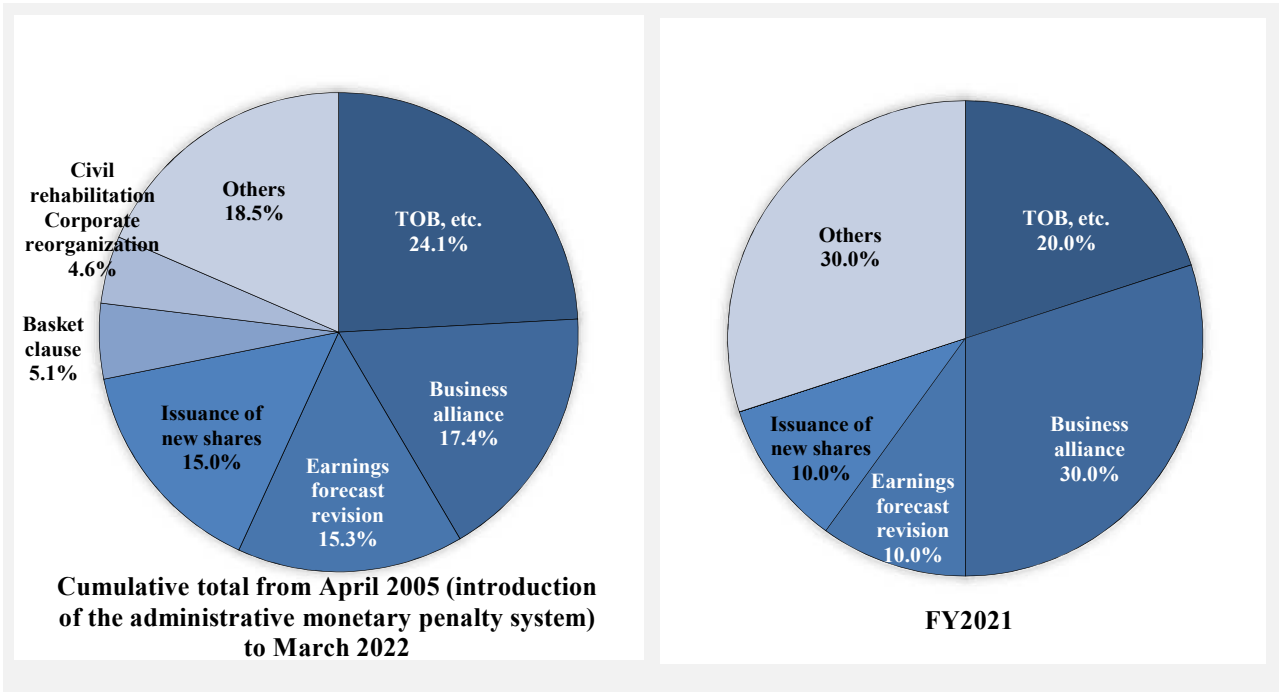
(Reference) Attributes of violators



In FY2021, the SESC made a total of six recommendations concerning 10 material facts (the number of recommendations and the number of material facts do not match because there were cases in which those aware of multiple unpublished material facts conducted insider trading). The 10 material facts included three related to business alliance (30.0%), two related to Takeover Bids (TOBs) (20.0%), and one related to the revision of earnings forecasts or the issuance of new shares (10.0%). The shares for business alliance and TOBs remained high (See Fig. 2-3).

In general, where negotiating business alliance, TOBs, and other deals with various outside parties, there is a long time between the decision-making on material facts and their publication. Corporate insiders therefore need to keep confidentiality more carefully.

Fig. 2-3: Breakdown of insider trading cases by material fact



Through its insider trading investigation, the SESC found that although listed companies had established internal rules for preventing insider trading, some of them failed to have the rules understood fully by insiders or otherwise failed to prescribe internal rules to prevent insiders from encouraging the purchase and sale of their securities to others.

Key Case (Insider trading)

Overview	Date of recommendation/ amount of administrative monetary penalty	Points
A director of a listed company who was positioned to know material facts in the course of duties misused the position to buy shares before some material facts were published.	November 19, 2021 4.02 million yen	<ul style="list-style-type: none"> ▪ The violator used brokerage accounts in other persons' names to conduct multiple insider transactions

Key Case (Cross-border insider trading)

Overview	Date of recommendation/ amount of administrative monetary penalty	Points
A director of a foreign company that had entered into a business contract with a subsidiary of a listed company sold the shares before the publication of the material fact, while learning it during the course of his/her duties.	December 17, 2021 2.16 million yen	<ul style="list-style-type: none"> ▪ Insider trading by a corporate insider residing overseas

(2) Market manipulation

In FY2021, the SESC made recommendations for administrative monetary penalty payment orders for six cases of market manipulation, including a cross-border case.

In recent years, market manipulation schemes have become more complicated and sophisticated. In FY2021, a wrongdoer artificially fluctuated stock prices by using multiple brokerage accounts, including those in other persons' names, to repeat offer and bid spoofs over a short time. Another

wrongdoer raised stock prices by repeating minimum-lot buy orders. In another case, a wrongdoer conducted spoofing in the market through over-the-counter derivative transactions of contract for difference (CFD) trading.

In two cases subjected to recommendations for administrative monetary penalty payment orders in FY2021, those who received such orders in the past five years committed market manipulation again (the penalty amounts were raised by 50% under an additional payment rule).

Key Cases (Market manipulation)

Overview	Date of recommendation/ amount of administrative monetary penalty	Points
A retail investor repeated offer and bid spoofs for shares of multiple listed companies to manipulate market prices.	June 18, 2021 6.98 million yen	<ul style="list-style-type: none"> ▪ The investor engaged in a sophisticated scheme to repeat buy orders at best bid prices and sell orders at best ask prices over a short period of time while producing a sideways trade by using spoofs for artificially fluctuating best bid and ask prices.
A retail investor used share price falls and offer spoofs to manipulate the market prices of listed shares.	January 21, 2022 825,000 yen	<ul style="list-style-type: none"> ▪ As the investor was subjected to a recommendation for an administrative monetary penalty payment order for the second time, the penalty was raised by 50% under an additional payment rule.

Key Case (Cross-border market manipulation)

Overview	Date of recommendation/ amount of administrative monetary penalty	Points
<p>A foreign corporation placed non-bona fide orders without intent to be executed on the order book of an exchange through over-the-counter derivatives transactions of CFD, whose underlying assets were Japanese stocks, for the purpose of executing its orders on the opposite side of the order book in its favor.</p>	<p>November 5, 2021 2.67 million yen</p>	<ul style="list-style-type: none"> ▪ This was the first market manipulation case through over-the-counter derivatives transactions for which an administrative monetary penalty order was made. ▪ The SESC obtained assistance in finding facts from four foreign authorities.

3. Future Challenges

(1) Appropriate application of laws and regulations

The SESC continued to find many cases where insider information was leaked by those who have many opportunities to access insider information and are required to have high ethical standards and manage information because of their official positions or social roles. If a corporate insider provides material facts to a person in an attempt to lead the person to gain profit, the provider may be suspected of violating the regulations on the provision of insider information even without trading in relevant shares. The SESC will appropriately apply laws and regulations to information provision and transaction encouragement by such insiders of listed companies.

In multiple market manipulation cases subjected to recommendations for administrative monetary penalty payment orders, those who received such orders in the past five years committed misconduct again (the penalty amounts were raised by 50% for such cases). The SESC cooperates with exchanges, securities companies and other market stakeholders to persistently monitor markets. Even if wrongdoers reduce trading volumes or narrow share price fluctuation ranges from those for their previous market manipulation in an attempt to avoid detection by authorities, the SESC will implement rigorous investigations and appropriately apply laws and regulations

irrespective of whether trading volumes or share price fluctuation ranges are large or small.

(2) Scrutiny into cross-border transactions

With respect to market misconduct involving cross-border transactions, the SESC will find facts through extensive collaboration and information exchange with foreign authorities pursuant to the IOSCO MMoU in a more effective and efficient manner.

(3) Proactive communications

As a means of enhancing market discipline, the SESC appropriately distributes information⁵ after making recommendations by website posting, press briefings and “Message to the Markets.”⁶ The SESC also gives lectures, contributes articles on a variety of topics and publishes “Casebook of Administrative Monetary Penalties.” The SESC will continuously endeavor to enhance its external communications and provide easy-to-understand explanations of cases for administrative monetary penalty order recommendations. The SESC will also use various opportunities to tell investors and company officials that not only their insider trading, but also their providing of information on unpublished material facts to others and encouraging them to make transactions would run counter to the FIEA. These efforts are designed to forestall market misconduct.

(4) Improvement of digital forensic technology

For market misconduct investigations, it is important to ensure the restoration and preservation of data contained in electronic devices possessed by investigated entities. Along with the advancement of information technology, available communication tools, such as SNS, have become diverse, and the volume of data contained by such tools has expanded. In response, the SESC will work to further improve its digital forensic technology.

⁵ For example, the FSA and the SESC have published "FAQ Regarding Insider Trading Regulation" to allow ordinary people to make fair stock and other investments without worries.

⁶ In April 2019, the SESC email newsletter was revamped and renamed “Message to the Markets”
<https://www.fsa.go.jp/sesc/message/index.html>



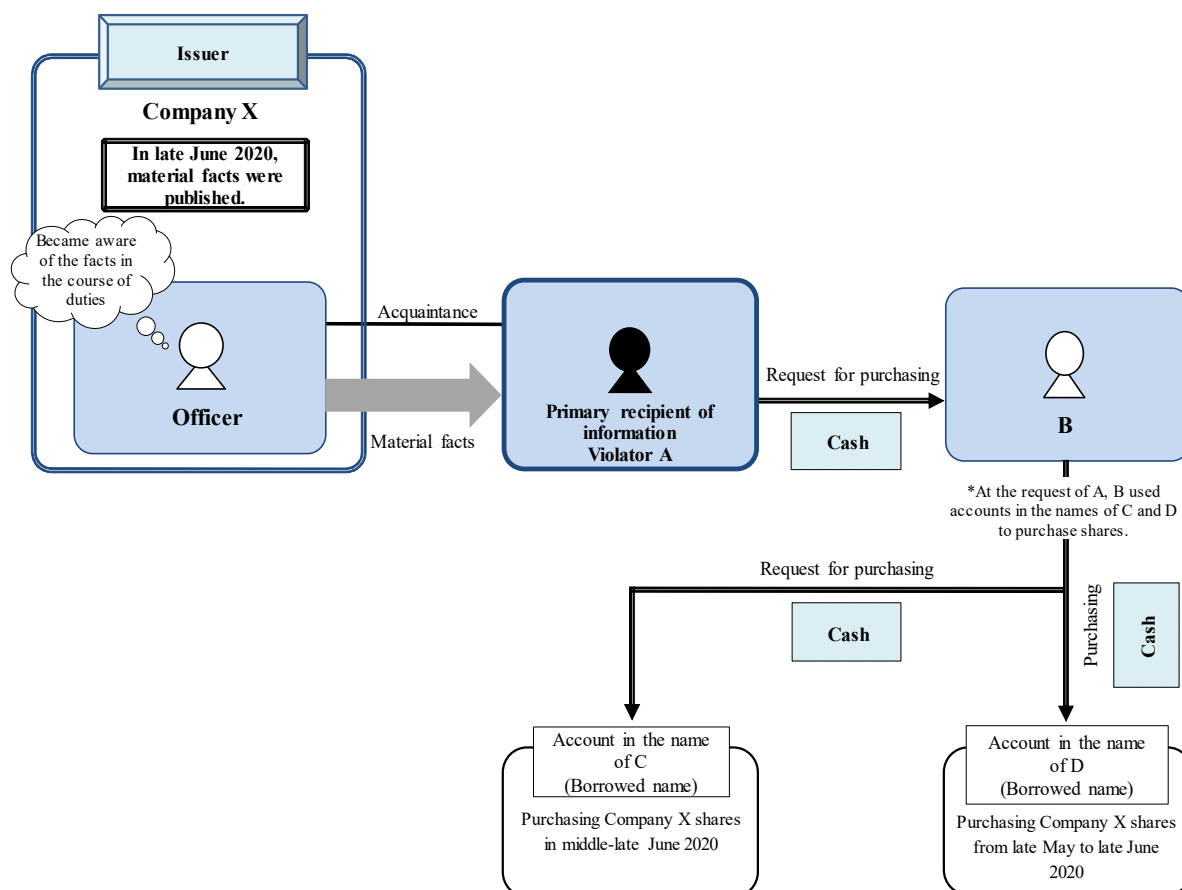
We don't miss transactions in someone else's name

Message to market participants (1)

The SESC has made many recommendations for administrative monetary penalty payment orders regarding market misconduct using someone else's name. In FY2021, the SESC made such recommendations regarding three insider trading cases where someone else's name was used, including the following case, where cash transfers were seen between multiple persons.

Violators who conducted transactions in other persons' names might have easily thought that transactions using accounts opened in other persons' names would prevent their misconduct from being detected. However, the SESC conducts extensive investigations and analyses to easily identify true transaction parties even if they use accounts opened in other persons' names. The SESC does not miss any unnatural transactions.

In investigating suspected insider trading, the SESC checks brokerage and bank accounts owned not only by those trading in securities at an opportune time before the publication of material facts, but also checks, as necessary, accounts owned by their relatives, acquaintances and colleagues. If unnatural fund transfers between these people are identified, the SESC tries to find facts while considering potential transactions made in someone else's name.





Scrutiny into derivatives transactions

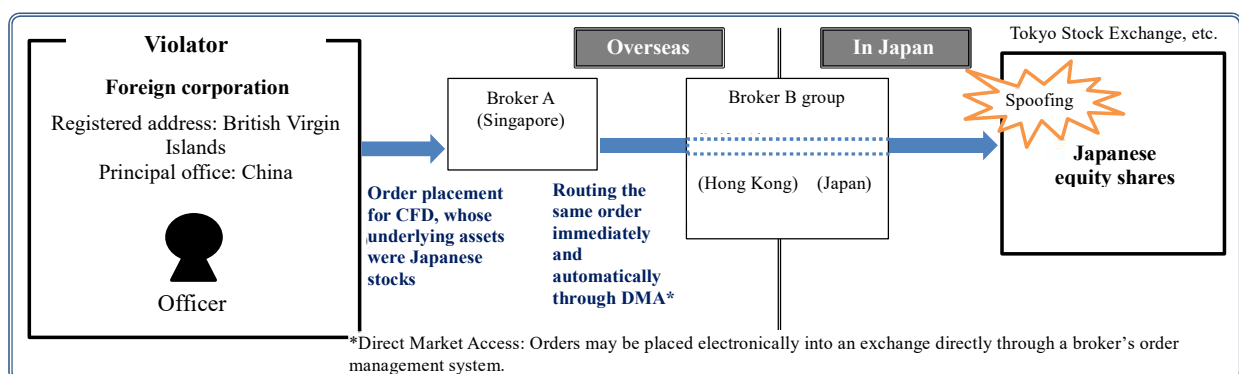
Message to market participants (2)

Regarding “Surveillance of multiple markets and cross-market activities” cited as a goal in the SESC “Strategy & Policy 2020-2022 (for the 10th term),” we here introduce the SESC’s surveillance regarding derivatives transactions.

Subject to market manipulation regulations are not only cash share transactions but also stock index futures, government bond futures, and other financial derivatives transactions.

Regarding derivatives transactions before FY2021, the SESC has made recommendations for administrative monetary penalty payment orders against domestic and foreign institutional investors’ market manipulation involving TOPIX and long-term government bond futures transactions. In FY2021, the SESC also made a recommendation for a case where a foreign corporation committed market manipulation through CFD,* whose underlying assets were Japanese stocks, with a foreign broker (see the figure below).

*In a CFD whose underlying assets are cash equities or others, a margin is required and a settlement is made by a profit or loss based on a spread between an execution price at opening a position and one at closing the position. It is classified as an over-the-counter derivative transaction under the Financial Instruments and Exchange Act.



The SESC cooperates with foreign authorities and Japan Exchange Regulation to continue surveillance on market misconduct regarding not only cash transactions but also their derivatives.

2-3 INSPECTION & INFORMATION GATHERING ON VIOLATIONS OF DISCLOSURE REGULATIONS

1. Purpose of Disclosure Statements Inspection

The FIEA's disclosure regulations are aimed at protecting investors by providing them with material information for making appropriate investment decisions in primary and secondary markets. Specifically, issuers of securities are required to submit disclosure documents, such as Securities Registration Statements and Annual Securities Reports, which provide details on their business profiles and financial conditions, among others. The Prime Minister makes these disclosure documents available for public inspection, allowing such information to be disclosed to investors.

Investors are thus enabled to make investment decisions based on the disclosure documents submitted by the issuers of securities. If such documents contain false information or lack information that should have been included, investors who base their investment decisions on such documents may unexpectedly suffer losses.

To avoid such a situation, the SESC inspects disclosure statements. If the submitted documents contain false statements, the SESC requires those submitters to make corrections for the purpose of providing correct information to investors and makes recommendations for administrative monetary penalty payment orders against securities issuers who have violated disclosure regulations by including materially false information in the documents. The SESC is also engaged in various initiatives to prevent occurrences or recurrences of violations of disclosure regulations.

2. Disclosure Statements Inspection and Trends of Violations in FY2021

In FY2021, the SESC collected and analyzed information with a focus on the risk of listed companies violating disclosure regulations and identified suspected violators at an early time, conducting flexible and multi-faceted disclosure statements inspection.

Through these activities in FY2021, the SESC conducted 24 cases of disclosure statements inspection, including those continued from the previous year, and completed 12 cases. In five of the completed cases, the SESC found material misstatements and other violations in disclosure statements, such as securities reports, and recommended administrative monetary penalty payment orders. As for one of these cases, the SESC also recommended an order for the submission of an amended report. In the cases for inspection, including those that were not subjected to recommendations for administrative monetary penalty payment orders, the SESC encouraged statement submitters to voluntarily submit amended reports as necessary.

In cases where violations of disclosure regulations by listed companies were identified through inspection, furthermore, the SESC discussed the background and causes of such violations with their management, including board members, irrespective of whether or not recommendations for administrative monetary penalty payment orders were made. By sharing awareness with them, the SESC encouraged them to develop internal systems for proper information disclosure, in order to prevent recurrences of violations. Concerning listed companies that were not very proactive in developing and operating such internal systems, the SESC cooperated with relevant organizations (FIEs, audit firms and others) in preventing recurrences of similar violations of disclosure regulations.

(1) Cases in which administrative monetary penalty was recommended

Key cases

Overview	Date of recommendation /amount of administrative monetary penalty	Background
The company conducted inappropriate accounting practices, including round-tripping to overstate sales and understate sales costs, as well as failure to book a special loss involving advances that were unlikely to be recovered.	June 11, 2021 81,109,997 yen	<ul style="list-style-type: none"> ▪ Under business administration arrangements to depend on personal achievements for focusing efforts to improve earnings over the short term, sufficient internal controls failed to be developed. ▪ Auditors and other internal control officials were little aware of misconduct risks. ▪ The management, while being aware of vulnerable risk management arrangements, failed to take measures to correct the vulnerability.

<ul style="list-style-type: none"> ▪ The company conducted inappropriate accounting practices, such as fictitious and advanced booking of sales. ▪ The company has conducted such inappropriate accounting practices since before its initial public offering. 	<p style="text-align: center;">April 22, 2022*</p> <p style="text-align: center;">24 million yen</p>	<ul style="list-style-type: none"> ▪ The previous chairman had set excessively high earnings targets. ▪ A corporate culture that gives top priority to earnings in defiance of compliance with law was dominant. ▪ Internal control and audit were dysfunctional.
<ul style="list-style-type: none"> ▪ The company conducted inappropriate accounting practices, including the overstatement of suspense and other accounts for software to understate sales and general administration costs. 	<p style="text-align: center;">March 18, 2022</p> <p style="text-align: center;">283.09 million yen</p>	<ul style="list-style-type: none"> ▪ Executives, including the chief executive officer, failed to understand accounting standards. ▪ The accounting division fell short of developing arrangements to sufficiently verify the assessment of software development value, failing to fully engage in accounting policy decisions.

*The SESC also recommended an order for the submission of an amended report.

In cases for recommendations for administrative monetary penalty payment orders in FY2021, periodic net income was overstated through inappropriate accounting practices, such as the overstatement of sales and the understatement of sales costs to falsify securities reports, etc. Among other falsifications identified in the year were failure to book a loan loss involving loans that are unlikely to be recovered and a special loss, as well as the overstatement of suspense accounts and other accounts for software to understate sales and general administration costs.

(2) Others

Even in cases where materially false statements affecting investment decisions by investors in specific companies in question are not found in inspection of these companies' disclosure documents, the SESC encourages the submitters of these disclosure documents to voluntarily present amended reports as necessary to provide accurate information to investors.

In cases where defects in internal control are identified through inspection of a company's disclosure statements, the SESC discusses how to amend or improve internal control with the management of the company to forestall violations of disclosure regulations.

The SESC also conducts inspection regarding “specified involvement”⁷ as necessary.

In FY2021, the SESC didn’t identify the specified involvement.

3. Future Challenges

(1) Upgrading analysis capabilities

The SESC will gather and analyze information on listed companies with a focus on the risk of violation of disclosure regulations occurring against the backdrop of the growing complexity of transactions, progress in the globalization of companies, and the diversification and transformation of business models. The SESC will also conduct flexible and multi-faceted disclosure document inspection in order to detect and correct violations of disclosure regulations at an early time.

(2) Actions to prevent occurrence or recurrence of violations of disclosure regulations

(i) Sharing awareness with management

If listed companies violate disclosure regulations, the SESC will discuss the background and causes of such violations and share awareness with the companies’ management, including board members, to encourage them to develop and operate systems for adequate information disclosure to prevent the occurrence or recurrence of such violations. If listed companies are not proactive in establishing and developing and operating such information disclosure systems, the SESC will share information on such listed companies with financial instruments exchanges and relevant audit firms as necessary.

(ii) Upgrading and enhancing dispatch of information

In an effort to prevent violations of disclosure regulations, the SESC has always delivered as clear explanations as possible when providing information on cases where recommendations for monetary penalty payment orders were made (on the SESC’s website, at media briefings, etc.). The SESC also promotes listed companies’ internal discussions towards appropriate information disclosure and dialogue between listed companies and their certified public accountants/audit firms by annually publishing a case book presenting actual cases of violations identified through inspection. Through such proactive communications with stakeholders, the SESC will continue its efforts to prevent the occurrence or recurrence of violations of disclosure regulations.

⁷ Acts which facilitate or instigate the submission, provision or public announcement of disclosure documents containing materially false statements.



Are your internal control and governance systems okay?

Message to listed companies

In cases where materially false statements that could affect investors' decisions were found in disclosure documents through our recent disclosure documents inspection, we identified the following backgrounds and causes, including the management's lack of compliance consciousness and dysfunctional internal control and governance systems:

- Top managing leaders' corporate cultures that give top priority to earnings in defiance of compliance with law were dominant.
- Under business administration arrangements to depend on personal achievements for focusing efforts to improve earnings over the short term, sufficient internal controls failed to be developed.
- The management failed to correct risk management arrangements while identifying their vulnerability.
- Arrangements to check responsible persons' business practices in an organized manner were absent.
- While the accounting division lacked personnel with sufficient knowledge about accounting, management executives' insufficient understanding about accounting standards led to inappropriate accounting practices.
- Auditors and an internal control office were little conscious of misconduct risks.
- Internal control and audit systems were dysfunctional, as officials in charge of internal control worked for other departments to be audited and internal control rules failed to be established clearly.
- Inside and outside auditors were dysfunctional, failing to make important points or questions while attending board of directors meetings.
- Accounting auditors failed to be given sufficient information for accounting decisions.

Given the above, listed companies are required to develop arrangements for appropriate information disclosure to prevent and forestall disclosure regulation violations.

To this end, administrators (including management executives) and others at listed companies are required to be highly conscious of compliance and check if governance of their companies is substantial, rather than nominal, if effective internal control is secured, and if arrangements for appropriate information disclosure are working.

We believe that auditors and non-executive directors should fulfill their essential role of checking directors' business conduct independently to prevent corporate scandals, including disclosure regulation violations.

Furthermore, we believe that sufficient communications between listed companies and their

accounting auditors, such as certified public accountants and auditing firms, as well as constructive dialogue between investors and listed companies as their investment targets, should be implemented proactively.

2-4 MONITORING OF FINANCIAL INSTRUMENTS BUSINESS OPERATORS

1. Purpose of Monitoring Securities Businesses

The SESC accurately recognizes the operational and financial status of FIBOs through inspection and monitoring. If any problem regarding the adequacy of FIBO business operations is found, the SESC, where necessary, recommends the Prime Minister and the FSA Commissioner to take appropriate measures, such as administrative disciplinary action, or provides necessary information to the supervisory departments in the FSA.

In this way, the SESC encourages FIBOs to establish proper governance and risk management systems, administer their businesses in accordance with laws, regulations and market rules, and perform their function as market intermediaries appropriately, for example, as gatekeepers. The purpose of monitoring securities businesses is thus to maintain a market environment in which investors are able to invest comfortably.

2. Achievements of Monitoring (Risk Assessment)

The number of FIBOs subject to the SESC's monitoring is approximately 8,000 in total, with their sizes, operations and products wide ranging. Some of these FIBOs have not had adequate awareness of legal and regulatory compliance and investor protection or systems therefor. Consequently, it is important to monitor FIBOs efficiently and effectively in accordance with their respective characteristics based on the Basic Principles of Securities Business Monitoring and the annually published Monitoring Priorities for Securities Businesses so as to identify their risks at an early time. (See Figs. 4-1 and 4-2).

Since July 2016, in its monitoring of all FIBOs, the SESC has conducted risk assessment, including an analysis of the business environment covering economic and industrial trends, as well as business models, in collaboration with the relevant divisions of the FSA. In assessing risks, the SESC has closely examined the business operations of each FIBO, while conducting a cross-sectoral review of major securities companies focusing on governance, IT system management, risk management, internal audit, etc.

Based on the results of the risk assessment using multi-faceted risk evaluation, the SESC in collaboration with Local Finance Bureaus selected the FIBOs subject to inspection. In conducting inspection, the SESC verified the FIBOs' products and trading schemes. When problems were detected, the SESC looked into their root causes and made recommendations for administrative disciplinary actions or informed the FIBOs of issues relating to their business operations.

The SESC also communicated with Local Finance Bureaus on a daily basis and shared relevant information with them in a timely fashion. The SESC also proactively provided advice and guidance to Local Finance Bureaus with respect to their inspection.

Fig. 4-1: Number of FIBOs subject to monitoring (at the end of each fiscal year)

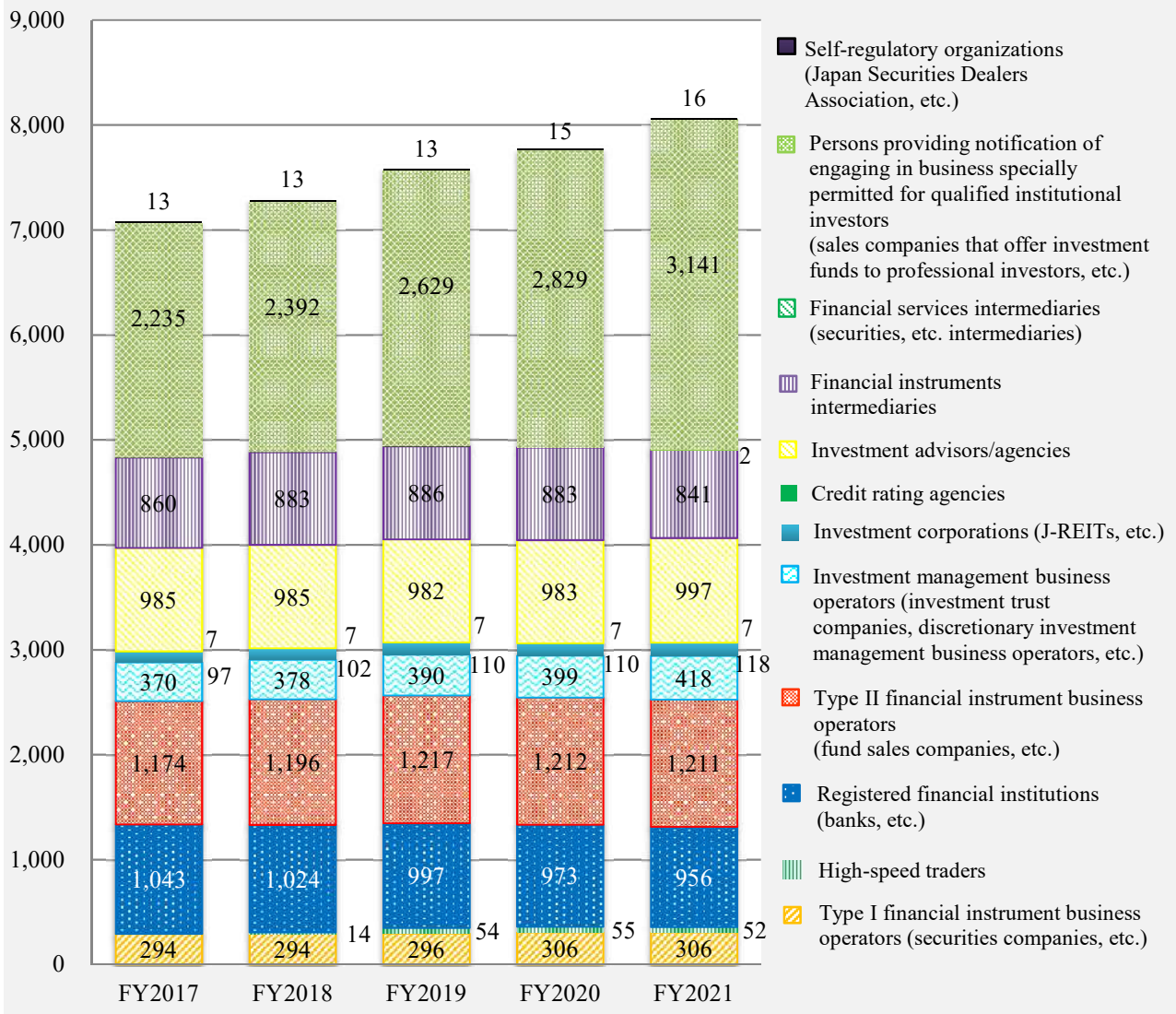


Fig.4-2: Summary of Monitoring Priorities for Securities Businesses (BY 2021)⁸**Environment surrounding FIBOs**

1. Environment surrounding FIBOs
 - The declining birthrate and aging population, an intensifying race to cut brokerage commissions, expanding impact of COVID-19
 - Progress in digitalization
 - International interest in Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) measures
2. Changes to regulatory frameworks for FIBOs
 - New measures to further promote customer-oriented business conduct, reviewing financial services in the super-aged society
 - Establishing guidelines for preventing illegal access in Internet transactions
 - Measures to improve transparency in dark pool trading
 - Measures accompanying the realization of the Integrated Exchange
 - Establishing a notification system for financial service intermediary businesses and investment management businesses for foreign investors in Japan
3. Findings through monitoring of securities businesses in the previous business year
 - (Type I FIBOs) Inadequate salesperson-led investment solicitation, illegal withdrawals of customers' money through illegal access, etc.
 - (Investment management business operators) Breach of duty of due care of a prudent manager, including failure to grasp the actual state of managing investment assets
 - (Type II FIBOs) Using false indications and misleading indications regarding important matters to solicit customers to acquire shares of a loan-type fund
 - Without being registered as a FIBO, a business operator was soliciting customers to acquire financial instruments

Industry-wide monitoring priorities

1. Customer services under the impact of COVID-19
2. Developing internal control environments focusing on appropriate investment solicitation based on the clarification of the principle of suitability and establishing customer-oriented business conduct
3. Business model and market changes under the falling birthrate and aging population, progress in digitalization, etc. and the development of internal control environments responding to such changes
4. Sufficiency of cybersecurity measures and the status of risk management in system amid progress in digitalization
5. Firm establishment of internal control environments for AML/CFT
6. Implementation of measures to improve or prevent the recurrence of matters pointed out in results of internal audits or examinations by self-regulatory organizations

In addition to the above, the SESC will flexibly examine FIBOs on other themes in response to changes in the environment surrounding them.

The SESC will also cooperate with relevant parties in considering monitoring approach in line with the revision of regulations regarding the firewall between banking and securities businesses.

⁸ BY 2021 refers to the period from July 1, 2021, to June 30, 2022.

Monitoring strategies for various FIBO business models

Type I FIBOs	Major securities business groups	<ul style="list-style-type: none"> • Development of control environments for governance and risk management that support global business operations • Efforts to build sustainable business models • If it is necessary to confirm actual sales practices at sales offices, the SESC will swiftly inspect relevant sales offices. • Control environments for conflict-of-interest management regarding cooperation between banking and securities businesses [3 mega banking groups]
	Foreign securities firms	<ul style="list-style-type: none"> • Development of internal control environments responding to the overseas outsourcing of back-office operations and control environments for system risk management • Development of control environments for managing sales of financial instruments to Japanese financial institutions and other investors.
	Online securities firms	<ul style="list-style-type: none"> • Development of control environments for system risk management, including cybersecurity measures • Development of internal control environments in line with their business model changes, such as initiatives to eliminate brokerage commissions, increases in products and launch and expansion of face-to-face sales activities in collaboration with independent financial advisors
	Semi-major/regional securities firms	<ul style="list-style-type: none"> • Inappropriate solicitation and other conducts that are inappropriate from the viewpoint of investor protection, including response to the principle of suitability • Effectiveness of internal control environments from the viewpoint of business models or governance at securities firms where major shareholders or business management systems have changed.
	Foreign currency margin transactions business operators	<ul style="list-style-type: none"> • Development of control environments for system risk management, including cybersecurity measures • Development of adequate internal control environments regarding advertising and sales/solicitation regulations • Disclosure of risk information, reflection of stress test results to capital and development of transaction data storage and reporting arrangements
Investment management business operators	<ul style="list-style-type: none"> • Grasp of investment status, development of control environments for investment management (including those outsourced) and conflict-of-interest management, etc. 	
Investment advisors/agencies	<ul style="list-style-type: none"> • Misleading advertisement, solicitation through false explanation, etc. 	
Type II FIBOs, QII business operators, independent financial advisors, and others	<ul style="list-style-type: none"> • Funds advertising high returns and substantiality of investment target projects, etc. [Type II FIBOs, business operators, etc., engaging in specially permitted businesses for qualified institutional investors (QII business operators)] • Adequacy of their investment solicitation, sufficiency of control by entrusting FIBOs [Independent financial advisors] • Risk-based securities businesses monitoring in light of the firm's particular business types [registered financial institutions, credit rating agencies, securities finance companies, self-regulatory organizations, etc.] 	
Unregistered business operators	<ul style="list-style-type: none"> • Exercising investigative authority proactively to seek court injunctions on illegal conduct • Enhancing information dissemination, including the public disclosure of unregistered business operators' names, their representatives' names and their illegal conduct, etc. • Collaborating proactively with relevant FSA divisions, Local Finance Bureaus, investigative authorities and the Consumer Affairs Agency. 	

*The SESC will also verify FIBOs' responses to changes in regulatory frameworks.

Approach to monitoring securities businesses

- The SESC will select FIBOs for inspection based on risk assessment from various viewpoints, including business models, in cooperation with relevant JFSA divisions. Inspection will be mainly conducted in cases where it is necessary to comprehend further details, such as:
 - ① a relevant law and/or regulation is breached or there is a deficiency in business operations that requires a prompt in-depth examination;
 - ② a financial instruments is offered with an unclear risk profile, necessitating an examination of its solicitation activities;
 - ③ the actual situation of business operation is not fully comprehended from an information analysis based on monitoring (including where there is a long period between examinations);
 - ④ There is a possible serious problem concerning investor protection, including the inappropriate segregated management of customer assets
- Through its inspection, the SESC aims not only to point out problems and take actions, such as making recommendation for administrative disciplinary actions, but also to analyze the whole picture of the problems to identify their root causes, so that effective measures to prevent problems will be developed. Furthermore, if the need to improve business operations is identified before any potential issues materialize, the SESC will describe it as “Items to be noted” in the notification of completion of inspection to share the awareness with the inspected businesses and urge them to build effective internal control environments or take other actions to address the issues.
- To prevent the spread of COVID-19 infections, the SESC will, for the time being, conduct inspection with the utmost care for the inspection targets’ COVID-19 infection prevention measures, including through using remote conference systems.

Cooperation with relevant organizations and dissemination of inspection results

- The SESC and Local Finance Bureaus will work closely from the planning stage of monitoring and inspection and conduct joint inspection as needed. In addition, The SESC will collect and share information with Local Finance Bureaus, consider appropriate monitoring methods and focus on training required for them.
- The SESC will continue collaborating closely with self-regulatory organizations, sharing information with them in a timely manner to promote securities businesses monitoring effectively and efficiently.
- The SESC will share inspection results with inspected FIBOs’ audit-related officials and outside directors, encouraging these FIBOs to voluntarily improve practices.

(Published in August 2021)

(1) Securities companies

As for securities companies, the SESC in BY 2021 verified the development of internal control environments focusing on adequate investment solicitation, based on the revision of the Comprehensive Guidelines for Supervision (clarifying the principle of suitability). The SESC also conducted inspection and monitoring of the companies' control environment for system risk management, including cybersecurity measures, considering that security must be enhanced in the wake of illegal withdrawals from customer accounts through unauthorized access.

Furthermore, the SESC proactively conducted inspection of, for example, companies that were plagued with concerns about specific cases of legal violations and business administration arrangements and needed to be subjected to in-depth investigation at an early stage and those that needed to be investigated with respect to their handling and solicitation of products with unclear risks.

Of the 22 securities companies of which inspection was completed in FY2021, the SESC notified seven of their problems found through inspection.

(2) Investment management business operators

The SESC conducted inspection and monitoring of investment management business operators to verify their grasp of investment status, and their development of control environments for investment management (including those outsourced) and conflict-of-interest management in order to fulfill their duties of loyalty to customers and of the due care of a prudent manager.

Of the four investment management business operators of which inspection was completed in FY2021, the SESC notified one of its problems identified through the inspection and made a recommendation for an administrative disciplinary action against one that was identified as failing to engage in investment management business with the duty of due care of a prudent manager for customers who signed discretionary investment contracts.

Key case:

Company name	Date of recommendation	Description
Shinsei Investment Management Co., Ltd.	January 21, 2022	The company failed to appropriately manage and control investment assets, including failure to conduct sufficient due diligence in light of the characteristics of financial instruments before and after signing discretionary investment

		<p>contracts. Even when finding events that could gravely affect customer assets, the company failed to make its own investment decisions.</p> <p>In addition, the company failed to conduct sufficient due diligence on publicly offered investment trusts before their establishment and maintained investment in underlying funds, without understanding investment policies of the funds over the long term. Even after understanding the investment policies, the company failed to make appropriate investment decisions, including timely investment revisions. Regarding the provision of information to beneficiaries, the company also conducted problematic practices from the viewpoint of beneficiary fairness.</p>
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(3) Type II financial instruments business operators

Regarding Type II FIBOs, which include sellers of loan-type funds, the SESC conducted monitoring focusing on funds claiming high yields and on whether businesses in which the funds were investing actually existed. The SESC also promptly conducted inspection of business operators considered to carry high risks, based on the analysis of information provided by investors.

(4) Investment advisors/agencies

The SESC conducted monitoring of investment advisors/agencies to make sure that they were neither using advertisements that may mislead customers nor soliciting customers based on false explanations. The SESC also conducted inspection of investment advisors/agencies considered to carry high risks.

In FY2021, the SESC completed inspection of two investment advisors/agencies and notified one of them of its problems found in the inspection. The SESC also made a recommendation for an administrative disciplinary action against the other for serious breaches of laws and regulations, including soliciting foreign investment securities without obtaining registration and lending of a corporate name to unregistered business operators.

Key case:

Company name	Date of recommendation	Description
AMI Co., Ltd.	March 25, 2022	<p>The company solicited customers' purchases of foreign investment securities without obtaining registration as a Type I FIBO (registration of changes based on Article 31-4 of the Financial Instruments and Exchange Act).</p> <p>The company had two unregistered business operators notified as investment decision makers conduct investment advisory business under its name, despite the fact that it had not concluded employment agreements with them or controlled or supervised them.</p>

(5) Petitions to the court for a prohibition order and stay order against acts in violation of the FIEA

To prevent damage to investors from fraud caused by unregistered business operators, the SESC took rigorous actions against unregistered business operators, such as seeking the court to grant a prohibition order and stay order against their illegal acts in cooperation with the FSA, Local Finance Bureaus and other law enforcement authorities. As necessary, the SESC publicly disclosed the name of an unregistered business operator, the name of its representative, and the specifics of legal and regulatory violations.

Key case:

Respondent	Date of petition (name of court)	Description	Date of injunction order
SKY PREMIUM INTERNATIONAL PTE. LTD. and its officer	September 17, 2021	The respondents conducted the solicitation of domestic ordinary investors' acquisitions of a foreign investment instrument, which falls under an instrument managed based on	December 8, 2021

	(Tokyo District Court)	discretionary investment contracts, to mediate the conclusion of such contracts and collected approx. 120 billion yen from approx. 22,000 ordinary investors. They thus offered intermediary services for the conclusion of discretionary investment contracts without statutory registration, violating the FIEA.	(Tokyo District Court)
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(6) Items to be noted

In conducting inspection, it is important that the SESC not only points out legal problems and makes recommendations for administrative actions but also analyzes the whole picture of the problems to identify their root causes, so that FIBOs can address them and design effective measures to prevent recurrences of the problems.

To that end, in cases where the SESC has recognized the need to improve the control environments of business operation although problems have yet to materialize, the SESC has described the situation as items to be noted in the notifications of completion of inspection to share awareness with the inspected FIBOs and urged them to build effective internal control environments.

Example case:

•Customer-oriented business conduct

The company has not established an environment to confirm whether or not transactions are economically rational, such as confirming details of the customers' long-term transactions and source of funds for the transactions, or to instruct sales staff to confirm such details. As a result, transactions that are inconsistent with investment purposes or are not economically rational could be conducted.

In dealing with elderly customers, in particular, the company should not only accept the customers' requests for transactions but also confirm whether their transactions are economically rational, from the viewpoint of customer-oriented business conduct.

3. Future Challenges

(1) Enhancing monitoring of securities businesses

While the number of business operators subject to the SESC's securities business monitoring has increased to approximately 8,000 since the enforcement of the FIEA, their sizes, businesses and products are diverse. Furthermore, there are business operators that still do not have adequate arrangements for compliance with fundamental laws and regulations or for investor protection. Therefore, it is necessary to conduct effective and efficient securities business monitoring of such FIBOs.

To enhance securities business monitoring so as to promptly identify challenges and problems for FIBOs, the SESC will continue to verify the effectiveness of governance supporting business models and the appropriateness of risk management and implement risk assessment based on the analysis of business environments, including economic and business trends.

(2) Enhancing feedback

In conducting inspection, the SESC will not only point out problems and take actions, such as making recommendations for administrative disciplinary actions, but also analyze the whole picture of the problems and identify their root causes to provide feedback that helps FIBOs develop effective measures to prevent problems.

Furthermore, the SESC will provide feedback on the results of inspection that would contribute to encouraging FIBOs to ensure appropriate conduct of business, such as information on challenges common across sectors as well as best practices.



Beware of persons who solicit investment products without registration

Message to investors

1. Financial instruments business operators without registration (unregistered FIBOs)

Persons who conduct the following acts without statutory registration **are violating the FIEA**.

- Soliciting or arranging customers to sign contracts for investment in a project by explaining that dividends would be paid to investors from earnings from the project.
- Soliciting customers to acquire investment instruments sold by foreign business operators and arranging them to conclude contracts for the acquisition
- Providing investment advice to customers in exchange for payment, such as by offering to tell them of stock names expected to see price hikes
- Offering or intermediating FX trading by foreign business operators to/with Japanese resident customers
- Foreign business operators' activities, such as conducting asset management entrusted by Japanese resident customers (*management of customer assets from an overseas business base is prohibited) or managing partnership-type funds in which multiple Japanese resident customers invest, etc.

⇒ Persons who conduct these acts on a regular basis are required to be properly registered with the national government under the FIEA.

Investors, before making an investment, should sufficiently consider from various viewpoints, for example, by checking the FSA's website in advance whether or not a solicitor is registered.

2. Unregistered FIBOs causing damage to investors

Fraudulent cases leading to damage to investors and their troubles with unregistered FIBOs occur frequently.

*Unregistered FIBOs are free from authorities' supervision or administrative disciplinary actions under the FIEA.

- After conducting FX trading with a foreign business operator as recommended by a partner gained through a matching service for a marriage hunting app, an investor failed to obtain realized profits from the business operator and later lost contact with the business operator and the partner.
- An investor paid a high price to buy a USB memory stick from a university friend who claimed that the memory stick contained knowhow for secure money-making transactions. He then made transactions with a foreign unregistered FIBO as recommended but incurred massive losses.
- An investor was recommended by a reliable person to invest in an instrument with an explanation that it had existed for more than 10 years and featured past high profitability, a refund would be available at any time, and the person had already invested in it. The investor successfully received refunds at his request at one point but failed to do so later. The investor eventually failed to recover

the investment principal.

- An investor became interested in binary option transactions when seeing blog and SNS posts including successful investment experiences and started transactions with a foreign business operator. Later, even though the investor should have been making a profit on the transactions, the foreign business operator rejected the investor's request for withdrawals.

There are many fraudulent business operators who conduct little business but solicit investment by vowing to guarantee principal repayment and profit, causing damage to many investors.

They may repay the principal or pay dividends to some investors **depending on investment from other investors** in order to **pretend** to be doing business. **Even if they pay dividends one or two times, investors should be aware that they may be taking advantage of such payments in order to simply appear to be doing business.**

2-5 INVESTIGATION OF CRIMINAL CASES

1. Purpose of Criminal Investigation

It is important to respond strictly to material, malicious market misconduct in order to secure fairness and transparency in financial and capital markets and build market participants' confidence in the markets in order to maintain financial and capital markets in which investors and other participants are able to participate with a sense of security. In order to uncover the background to malicious market misconduct that would damage the integrity of financial markets and to protect investors, the authority to investigate criminal cases involving market misconduct was given as a unique power of the SESC staff⁹ upon the SESC's establishment in 1992. At present, some of the acts prescribed in the Financial Services Act for regulating financial services intermediaries and the Anti-Criminal Proceeds Act for regulating cross-border money laundering are additionally subjected to the SESC staff's criminal investigation.¹⁰

2. Overview of Criminal Cases in FY2021

Given the increasingly global, complex and sophisticated financial activities, the SESC flexibly investigates criminal cases in both primary and secondary markets. In FY2021, the SESC filed criminal charges in eight cases (including five insider trading cases, one market manipulation case and two use of fraudulent means cases). In one use of fraudulent means case, criminal charges were filed on July 12, 2021, against suspects who misused the timely disclosure system to continuously release false sales data. In the other use of fraudulent means case, a criminal charge was filed on March 16, 2022, against a director of a company that planned to receive new shares through another company's third-party allocation of new shares who led the other company to release false information about a specific method for procurement of funds for the new shares. In the market manipulation case, criminal charges were filed on March 23, 2022, against suspects who conducted share transactions constituting illegal share price stabilization to prevent substantial falls in closing share prices for a suspected corporation's block offers.

Case	Date of criminal charge filing	Filed with
Insider trading related to J Lease Co. shares	June 30, 2021	Public prosecutor of the Fukuoka District Public

⁹ Article 210, FIEA

¹⁰ Article 102 Financial Services Act; Article 32, Anti-Criminal Proceeds Act

		Prosecutors Office
Use of fraudulent means related to Nuts Inc.	July 12, 2021	Public prosecutor of the Tokyo District Public Prosecutors Office
Insider trading related to Asahi Eito Co. shares	February 14, 2022	Public prosecutor of the Osaka District Public Prosecutors Office
Insider trading related to Tella, Inc. shares (1)	February 24, 2022	Public prosecutor of the Tokyo District Public Prosecutors Office
Insider trading related to Tella, Inc. shares (2)	February 24, 2022	Public prosecutor of the Tokyo District Public Prosecutors Office
Insider trading related to Tella, Inc. shares (3)	February 24, 2022	Public prosecutor of the Tokyo District Public Prosecutors Office
Use of fraudulent means related to Tella, Inc. shares	March 16, 2022	Public prosecutor of the Tokyo District Public Prosecutors Office
Market manipulation by SMBC Nikko Securities Co.	March 23, 2022	Public prosecutor of the Tokyo District Public Prosecutors Office

3. Notable Criminal Charges Filed in FY2021

(1) Charge in the case of use of fraudulent means related to Nuts Inc.

The SESC filed criminal charges against a corporation and four persons with the Tokyo District Public Prosecutors Office for their suspected violation of the FIEA (use of fraudulent means) on July 12, 2021.

Case overview

In the use of fraudulent means case, the suspects conspired to maintain or raise the price of shares listed by Nuts Inc., the suspected corporation, on the Tokyo Stock Exchange and promote the exercise of share options issued by the corporation by overstating the sales of a membership-based healthcare facility operated by the corporation as a total of about 560 million yen instead of 20 million yen in actual sales through the continuous publication of false data between mid-June and late December 2019. Considering the misuse of the timely disclosure system, its impact on market fairness and other factors regarding the case, the SESC concluded that the suspects' acts were highly malicious and filed the criminal charges.

(2) Insider trading related to Asahi Eito Co. shares

The SESC filed criminal charges against two corporations and two persons with the Osaka District Public Prosecutors Office for their suspected violation of the FIEA (insider trading) on February 14, 2022.

Case overview

In the insider trading case, Suspect A, in the course of duty as chief executive officer and president of Asahi Eito Co., became aware of a material fact about the corporation's planned business alliance with Yamada Denki Co. (renamed Yamada Holdings Co. on October 1, 2020) and conspired with Suspect B to purchase Asahi Eito shares in August 2017 before the publication of the material fact. Suspect B, informed by Suspect A of the material fact, purchased Asahi Eito shares under his name and the name of a suspected corporation he effectively managed between August and November 2017 before the publication of the material fact. Considering the insider trading's impact on market fairness and other relevant factors, the SESC concluded that the suspects' acts were highly malicious and filed the criminal charges.

(3) Use of fraudulent means related to Tella, Inc. shares

The SESC filed a criminal charge against a person with the Tokyo District Public Prosecutors Office for suspected violation of the FIEA (use of fraudulent means) on March 16, 2022.

Case overview

In the use of fraudulent means case, the suspect, who was a director of Cenegenics Japan, planned to receive new shares from Tella, Inc. listed on the Tokyo Stock Exchange through Tella's third-party new share allocation, attempted to raise the Tell share price and acquire Tella shares and disguised Cenegenics Japan as having a specific plan to procure funds for payments for the Tella shares subject to the third-party new share allocation, even in the absence of such plan, and led Tella officers and employees to believe in the disguise and publish in late October 2020 a release including a false fact that Cenegenics Japan would be able to borrow the funds from another company. Considering the impact on market fairness and other relevant factors, the SESC concluded that the use of fraudulent means was highly malicious and filed the criminal charge.

(4) Market manipulation by SMBC Nikko Securities Co.

The SESC filed criminal charges against a corporation and seven persons with the Tokyo District Public Prosecutors Office for their suspected violation of the FIEA (price stabilization manipulation) on March 23, 2022.

Case overview

In the market manipulation case, the suspects who were officers and employees of SMBC Nikko Securities Co. as the suspected corporation, conspired to conduct share transactions amounting to illegal share price stabilization, a kind of market manipulation, to prevent substantial day-to-day falls in the closing share prices of five companies listed on the securities market established by the Tokyo Stock Exchange, Inc. as standard prices for block offer transactions handled by the suspected corporation on market days between December 2019 and November 2020. Considering the positions of the suspected corporation and persons, their acts' impact on market fairness and other relevant factors, the SESC concluded that the market manipulation was highly grave and malicious and filed the criminal charges.

* The SESC filed relevant criminal charges on April 12, 2022.

4. Issues regarding Investigation of Criminal Cases

The SESC adequately exercises its authority for criminal investigation and filing criminal charges in cooperation with criminal prosecutors and other relevant authorities to appropriately take rigorous actions against severe and malicious market misconduct. In this respect, it is important for the SESC to keep an eye not only on frequently occurring misconduct that can be easily categorized into typical types of violations, such as insider trading and market manipulation, but also on various sorts of market misconduct in order to ensure seamless market monitoring.

It is also essential for the SESC to flexibly respond to changes in the environment surrounding financial transactions. For example, the recent advancement of information technology has made it easier for anyone to use advanced communication devices and led to the arrival of SNS and other types of communication tools that were not anticipated when regulations on insider trading and other market misconduct were introduced. In addition, the increase in the number of cross-border transactions has inevitably made it necessary to seek international cooperation in monitoring markets. To adapt to various changes in the environment, the SESC will continuously contribute to enhancing the fairness and transparency of the market by developing human resources with expertise in criminal investigation, while upgrading various tools used in criminal investigations and further strengthening cooperation with relevant institutions, including foreign authorities.

2-6 ENHANCING INFRASTRUCTURE FOR SURVEILLANCE (DIGITALIZATION AND HUMAN RESOURCES)

1. Adapting to Information and Communications Technology Progress

As information and communications technology progresses rapidly and dramatically, the environment for capital markets and market participants are changing greatly. Due to the impacts of COVID-19, people's working styles are also changing enormously. Based on these market environment and working style changes, financial technological trends at home and abroad, and digitalization trends for regulatory and law enforcement authorities, the SESC reviewed existing infrastructure, conducted demonstration tests for digital online deposit account inquiry services provided by private business operators to financial institutions, and renovated enterprise systems for digital forensics.

2. Future Challenges for Further Promotion of Digitalization

(1) Study on further promotion of digitalization for market surveillance

To respond to market surveillance environment changes, the SESC will review and develop relevant infrastructure to sophisticate and streamline market surveillance. For instance, the SESC will study such specific measures as the development of functions for analyzing massive order and trade data efficiently and tools for finding signs of market misconduct in various SNS and Internet data, as well as the further utilization of digital online deposit balance account inquiry services by private business operators for financial institutions to further promote the digitalization of market surveillance operations.

(2) Promoting information sharing with market participants and foreign authorities

The SESC is required to closely share information on the use of market surveillance technologies and data with foreign authorities, self-regulatory organizations, and market participants, such as financial institutions, to continuously review existing infrastructure.

For instance, the SESC will proactively participate in international conferences sponsored by the International Organization of Securities Commissions and other entities to share information with foreign authorities on digitalization responses and will regularly exchange views with self-regulatory organizations and financial institutions to enhance cooperation.

(3) Improving digital forensic technology further and sophisticating systems

As the purposes and circumstances of using digital technologies have become diverse, smartphones, tablet computers and other electronics subject to market surveillance, various services provided by cloud business operators, and cybersecurity measures for protecting these services have become diverse and complicated, while data for acquisition and analysis have rapidly increased. Digital conditions regarding market surveillance have thus been changing always.

To respond to such various circumstantial changes, the SESC has been trying to enhance information systems for protecting, recovering, analyzing and storing data, and trying to further improve digital forensic technology to properly secure data in diverse and sophisticated electronic devices.

In FY2021, the SESC took advantage of the renewal of enterprise systems for digital forensics to reform system configuration to renovate equipment, add functions and improve performance and convenience.

The SESC will continue to develop systems required to maintain its digital forensics response capabilities and further improve the skills of its staff.

3. Staff Training

(1) Human resources development

To develop human resources with expertise and a broad perspective on market surveillance, the SESC provides various training programs for its staff to learn about information technology and the methodologies for conducting inspection and investigation.

In FY2021, the SESC invited information technology company experts to study meetings to lead its staff to acquire the latest digitalization and information technology knowledge, and it implemented digital forensic training to develop human resources engaging in digital forensics for investigation and inspection, striving to enhance the expertise of its staff.

In addition, the SESC shared information with foreign authorities on market surveillance technologies and data analysis to acquire monitoring, investigation and inspection techniques at foreign authorities and enhance the capability to handle international cases through the improvement of skills to analyze and investigate market misconduct using cross-border transactions. (For details, see Section 8-3-(2)).

(2) Recruitment of personnel with expertise

In order to realize professional market surveillance in response to changes in the environment surrounding the SESC, the SESC is strengthening its investigation and inspection systems by

actively hiring personnel with diverse backgrounds and professional skills, including legal experts (e.g., judges, prosecutors and lawyers), certified public accountants, and information technology experts.

The personnel with such backgrounds and skills engage in inspections and investigations of listed companies and securities companies or in criminal investigations targeting serious and malicious violations of laws and regulations. In addition, personnel with IT expertise play active roles in digital forensic operations.

2-7 EFFORTS TO ENHANCE MARKET DISCIPLINE

1. Enhancing Dissemination of Information

(1) Dissemination of information through news and various other media, such as websites

When recommending administrative actions or filing criminal charges as a result of its inspection or investigation, or making an important policy decision, the SESC publishes information on relevant cases through the media. In publishing the cases, the SESC actively responds to requests for interviews from media organizations, such as newspapers and TV stations. In addition, the SESC seeks to exchange opinions and has dialogue with media personnel to encourage them to disseminate information in the form of commentaries or opinions covering the implications and analysis of the cases.

From the viewpoint of strengthening market self-discipline, the SESC not only makes announcements concerning recommendations and criminal charges related to individual cases but also formulates and publishes annual casebooks¹¹ that identify the implications and details of specific cases as well as issues related to them. While using the casebooks, the SESC actively provides lectures and contributes commentaries to relevant journals to forestall violations and misconduct.

To make market participants, including retail investors, understand its activities more easily, the SESC also posts up-to-date information on its activities on its website, including summaries of cases in which the SESC made recommendations or filed criminal charges, as well as details of given lectures and published commentaries. For the complicated cases, diagrams visualizing relations between related parties as well as cash flow are added in the publications.

The SESC also issues "Message to the Markets," which summarizes the SESC's activities and perceptions in a simple, easy-to-understand format on its website and contributes such message to ACCESS FSA (a newsletter from the FSA). With respect to cases in which the SESC made recommendations or filed criminal charges in particular, the SESC strives to enhance the contents of the information released by using diagrams visualizing the implications, characteristics and causes of the cases and alert messages for investors so that the details of and issues related to those cases are accurately communicated. Latest information on the "Message to the Markets" can be checked with Twitter.

¹¹ "Casebook of administrative monetary penalties under the Financial Instruments and Exchange Act—Market Misconduct," "Casebook of Inspection of Disclosure Statements," and "Overview and Casebook of Monitoring of Securities Businesses."

The SESC will actively enhance external communications in order to reach out to the wider public in the future.

(2) Meetings at Local Finance Bureaus

To enhance market discipline for the fairness and transparency of financial markets and investor protection, it is important to raise the awareness of market participants on the SESC's market monitoring. Given that cases of market misconduct can take place throughout Japan due to the widening range of activities by problematic business operators and the prevalence of the Internet, it is necessary for the SESC to enhance its presence across Japan.

In this respect, the SESC has held its meetings at Local Finance Bureaus since FY2015. In FY2021, however, the SESC held no such meetings, in consideration of the impacts of the COVID-19 pandemic. Through the meetings, the SESC endeavors to communicate its views, enhance its presence and strengthen cooperation with the Local Financial Bureaus that undertake the practice of market surveillance.

Through such efforts, the SESC aims at implementing rigorous and appropriate market monitoring for the fairness and transparency of markets and investor protection, while strengthening cooperation with Local Finance Bureaus and regional market participants.

2. Active Contribution to the Enhancement of Market Environment

To establish highly fair and transparent financial markets and maintain investors' confidence in the markets, market rules should be aligned with changes in the environment surrounding the markets. To ensure fairness in transactions, investor protection and public interests, under Article 21 of the FSA Establishment Act, the SESC makes policy proposals to the Prime Minister, the FSA Commissioner or the Minister of Finance in order to facilitate the appropriate development of rules that reflect the status of markets, if they are considered necessary as a result of its inspection or investigation.

The policy proposals are intended to incorporate the SESC's views regarding laws, regulations and SROs' rules formed through comprehensive analyses of the outcomes of its inspection and investigation into various measures taken by the government and SROs. Thus, the SESC's proposals are treated as key information when regulatory authorities and SROs formulate their policy measures.

Specifically, when the SESC recognizes room for improvement in relevant laws, regulations or SROs' rules to reflect the actual practice of trading activities, the SESC points out its findings and, from the perspective of ensuring fair trading, investor protection or public interests, it presents issues to be

discussed with respect to how laws, regulations and SROs' rules should be enforced, and requests the revision of existing laws, regulations or SROs' rules.

In recent years, the SESC has made two such proposals, one concerning the provision of information to investors in loan-type funds (December 7, 2018) and the other concerning the establishment of procedures for gathering and analyzing evidence for criminal investigations (February 26, 2019). The SESC made a total of 26 such proposals from its establishment in 1992 to the end of FY2021.

The SESC will actively make proposals regarding measures that are deemed necessary as a result of inspection and investigation based on the FIEA.

3. Cooperation with Relevant Organizations

(1) Cooperation with SROs

SROs, such as Financial Instruments Firms Associations, Financial Instruments Exchanges, and Self-Regulatory Organization, are engaged in their own daily market monitoring activities, such as the examination of market transactions, the management of listed companies, and checks on the adequacy of their members' operations. The SESC works closely with SROs from the perspective of efficient and effective market monitoring.

For further collaboration towards enhancing market discipline and market monitoring functions, the SESC regularly holds meetings with Japan Exchange Regulation (JPX-R) and the Japan Securities Dealers Association (JSDA) to exchange views on emerging issues facing securities markets and to share issues of mutual interest. In FY2021, the SESC continued to strengthen the collaboration and shared information and perceptions in a timely manner through active discussions on challenges and issues regarding market monitoring.

Believing that these efforts will further promote the sharing of views between the SESC and SROs and contribute to enhancing market discipline functions through voluntary initiatives, the SESC will continue its active exchange of information and communicate its perceptions to achieve closer collaboration.

(2) Cooperation with relevant authorities (prosecutors, police, etc.)

In cases where the SESC, in the course of market misconduct inspection and investigation, identifies unregistered financial instruments business operators selling fraudulent financial instruments or activities that may be associated with anti-social forces, the SESC cooperates with police authorities by sharing information to deal with these cases. In criminal investigations, the SESC works in

cooperation on a daily basis with the prosecutors with whom the SESC files criminal charges, which is an example of how the SESC endeavors to strengthen relationships with relevant authorities.

The SESC expands and deepens cooperation with these authorities through the daily exchange of information and meetings, sharing awareness and information from a broad perspective and knowhow related to the collection and analysis of evidence.

To reinforce the market discipline function in financial markets through voluntary efforts by market participants, the SESC proactively has dialogue and shares awareness with market participants by offering lectures at and exchanging views with the Japan Audit and Supervisory Board Members Association, etc.

2-8 CONTRIBUTING TO GLOBAL MARKET SURVEILLANCE

1. International Market Surveillance Cooperation Initiatives

As the internationalization and sophistication of financial transactions have made progress in recent years, international cooperation in addressing market misconduct has grown even more important. Given such market environment, the SESC, in its 10th medium-term activity policy titled “Strategy & Policy 2020-2022” and published in January 2020, calls for enhancing intelligence gathering capabilities through closer cooperation with foreign authorities, for utilizing such capabilities for market surveillance and for strengthening international cooperation through contributions to global market surveillance, demonstrating its plans to step up cooperation with foreign authorities.

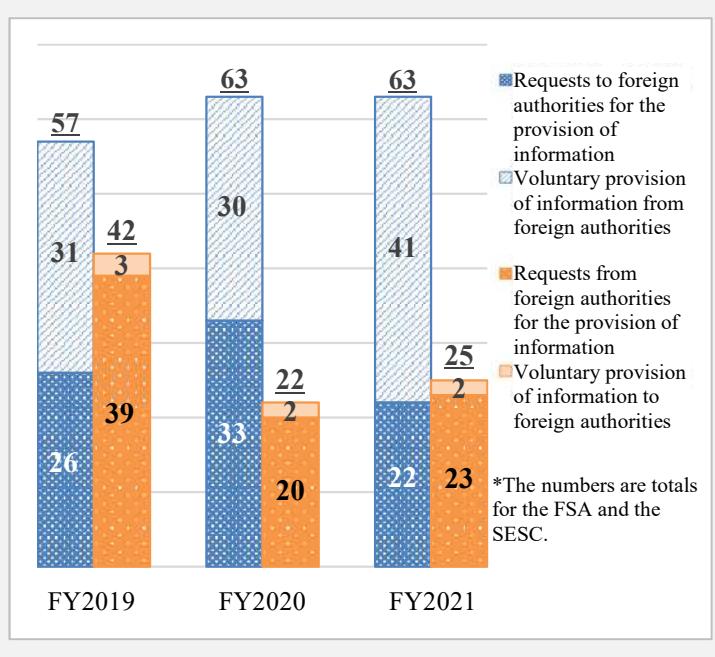
The SESC has so far exchanged information with overseas authorities based on the IOSCO MMoU and taken proactive law enforcement actions against violations through cross-border transactions.

The SESC has been enhancing intelligence gathering capabilities through the promotion of information exchange based on the IOSCO MMoU and trying to build confidence with foreign authorities through its proactive participation in IOSCO activities and personal exchange with foreign authorities. Based on confidence built with foreign authorities, the SESC has also promoted the sharing of latest trends, knowledge and experiences regarding market surveillance and cooperation in investigation, inspection and law enforcement. For market surveillance in

Japan, furthermore, the SESC has tried to utilize useful intelligence gained through exchange with foreign authorities on foreign law enforcement actions and legal systems.

Regarding challenges for market surveillance involving cross-border transactions, the SESC proactively raises issues and shares information at IOSCO and other multilateral meetings. In this way, the SESC is seeking to enhance cooperation with foreign authorities through contributions to global market surveillance.

Fig. 8-1: Number of cases of information exchange with foreign authorities pursuant to IOSCO MMoU



2. Activities at IOSCO

IOSCO is an international organization that aims to internationally harmonize securities regulations and promote cooperation between securities regulators. It is comprised of 233 member organizations from various countries and regions, including 130 ordinary, 34 associate, and 69 affiliate members (all figures as of the end of March 2022). The SESC joined IOSCO as an associate member in October 1993. (Note: The FSA upon its establishment took over the position of an ordinary member from the Ministry of Finance.) In FY2021 as in the previous year, the SESC proactively participated in all IOSCO conferences that were held online due to the COVID-19 pandemic.

IOSCO holds its Annual Conference, where top officials of various countries' securities regulatory authorities discuss and exchange views on the current status and issues of securities regulations. SESC Commissioners and senior administrative staff members regularly participate in the Annual Conference. The secretary general and other SESC officials participated in the 2021 Annual Conference that took place in November. In addition to the Annual Conference, IOSCO holds meetings of the Asia-Pacific Regional Committee (APRC) to discuss regional securities-related issues, including market surveillance. The SESC participated in APRC meetings in November 2021 and March 2022. The APRC meeting in March 2022 coincided with a working-level conference of law enforcement officials that the SESC chaired. At the conference, participants exchanged information on relevant countries' trends of and responses to market misconduct under the COVID-19 pandemic and technologies used for market surveillance. Through these IOSCO meetings, the SESC endeavors to enhance cooperation with foreign authorities.

IOSCO also has the IOSCO Board, consisting of regulators from various countries and regions who discuss key regulatory issues in international markets and propose practical solutions to the issues. Under the board, there are eight Policy Committees discussing specific policy issues. The SESC has become a member of Committee 4 to discuss law enforcement and information sharing. The SESC participated in Committee 4 meetings in May and September 2021 and March 2022. Participants in these meetings shared responses to new financial instruments, such as crypto-assets, and to illegal investment solicitation and market manipulation using new communication tools, such as social networking services, and discussed how to effectively deter them. In addition, the SESC took part in a meeting organized by Committee 4 members to share information about data utilization for securities regulatory authorities' enforcement in October 2021.

The SESC has also become a member of the IOSCO Screening Group, which screens applications submitted by regulators to become signatories to the MMoU or the Enhanced MMoU (EMMoU). The Group's meetings coincide with Committee 4 meetings. As a result of screening in FY2021, five

regulators signed the EMMoU, including the Securities and Exchange Board of India, the Israel Securities Authority, and the Brazilian Securities and Exchange Commission.

3. Cooperation with Foreign Authorities

(1) Exchanging views with foreign authorities

The SESC proactively exchanges views with foreign authorities to promptly grasp international financial and capital market trends and foreign securities regulators' initiatives for ensuring market integrity and promote their understanding of the SESC's activities. In FY2021, the SESC participated in an online meeting of Asia-Pacific Regulators' Dialogue on Market Surveillance in November, sharing views and knowledge about working-level issues under the COVID-19 pandemic.

(2) Other personnel exchanges

In FY2021 as in the previous year, IOSCO and foreign authorities sponsored various workshops and enlightenment events on an online basis. The SESC proactively participated in World Investor Week events sponsored by the Philippine Securities and Exchange Commission, an international seminar hosted by the French Financial Markets Authority, the Singapore FinTech Festival, etc.

The SESC also offers regular training programs on Japan's market surveillance and investigation of market misconduct for selected trainees from financial regulatory authorities in emerging economies, who are invited to the Global Financial Partnership Center (GLOPAC) set up within the FSA or training programs run by the Japan International Cooperation Agency (JICA). In FY2021, SESC secretariat officials served as lecturers at GLOPAC securities workshops and JICA's online technical assistance seminar for Vietnam, cooperating in relevant authorities' human resources development and capacity building.

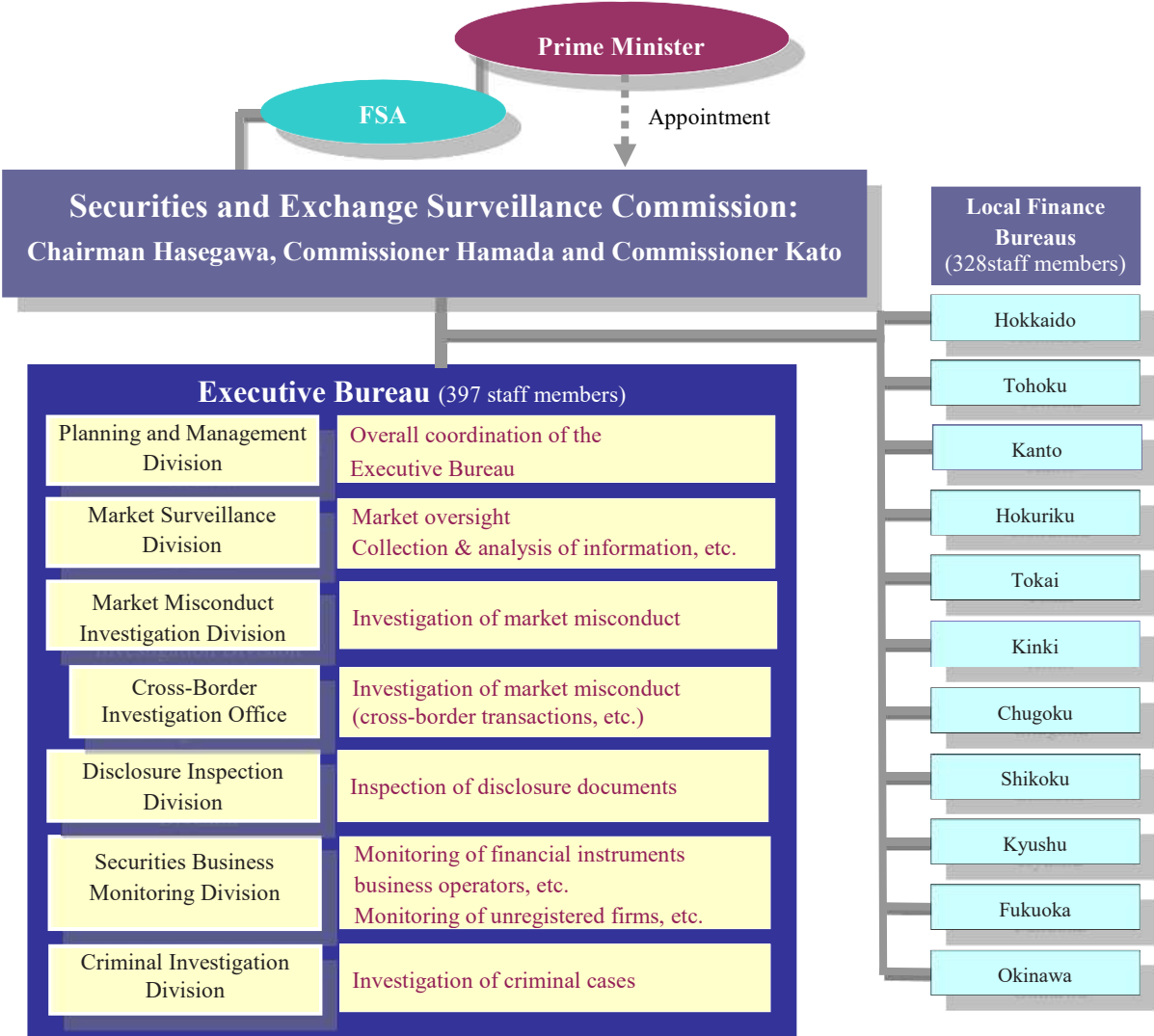
The SESC has sent staff members as secondees to the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the U.K. Financial Conduct Authority, the Hong Kong Securities and Futures Commission, the Thailand Securities and Exchange Commission, the Malaysia Securities Commission, and the Monetary Authority of Singapore. The aim of the secondment is to have them learn about and analyze foreign authorities' methodologies in surveillance, investigation and inspection, and introduce Japanese methods and knowledge to foreign authorities. In FY2021, as in the previous year, the SESC refrained from sending staff members to foreign authorities due to the prolonged COVID-19 pandemic.

In the future, the SESC will further enhance cooperation with foreign authorities and contribute to global market surveillance through information and personnel exchanges with foreign authorities.

Appendices

Chart 1

Organization Chart

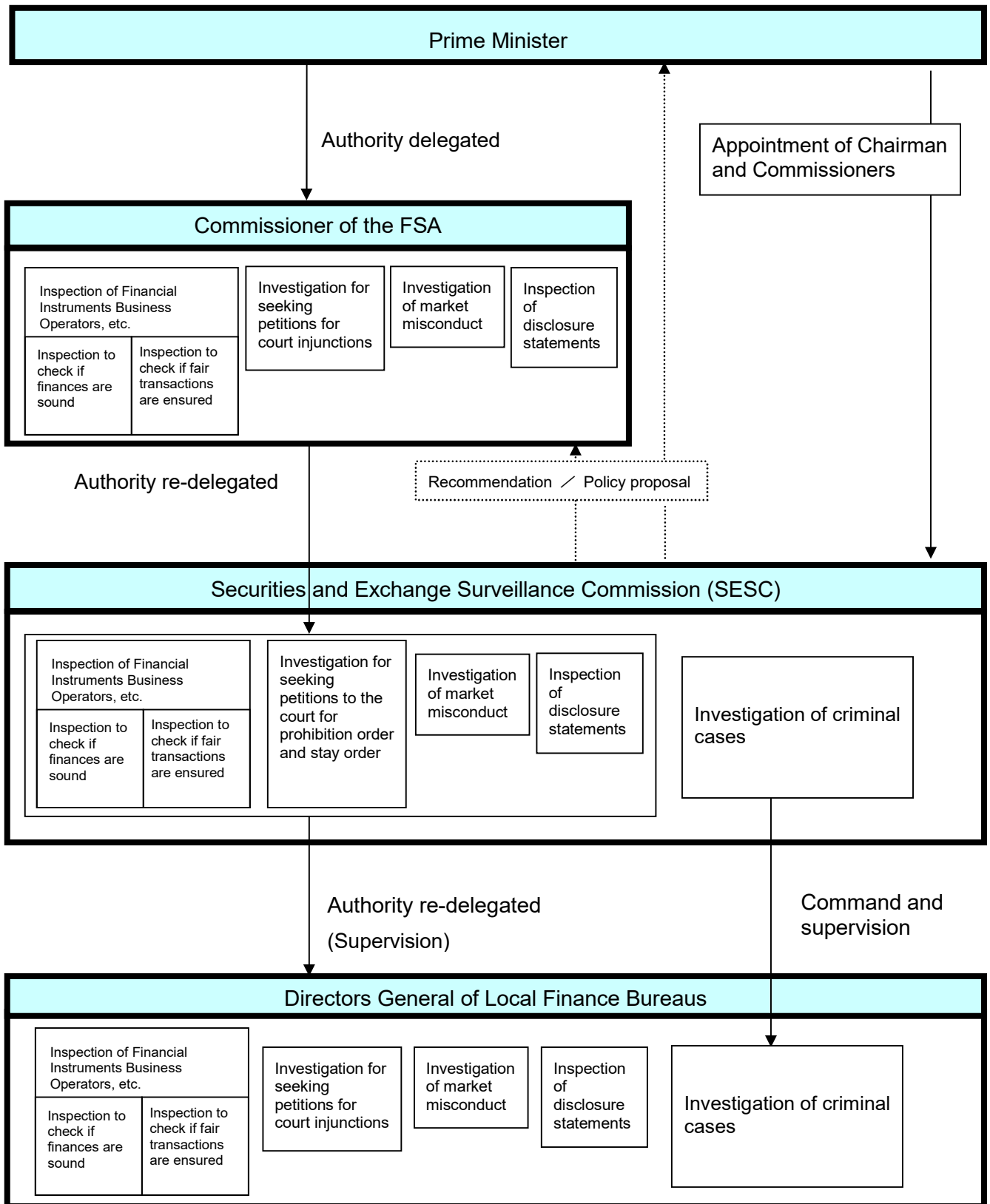


Note1: Staff members of Executive Bureau are quota as at the end of FY2022.

Note2: In July 2006, the SESC was transformed from two divisions (the Coordination and Inspection Division and the Criminal Investigation Division) and three offices (the Compliance Inspection Office, the Market Surveillance Office, and the Office of Penalties Investigation and Disclosure Documents Examination under the Coordination and Inspection Division) into five divisions (the Planning and Management Division, the Market Surveillance Division, the Securities Business Monitoring Division, the Civil Penalties Investigation and Disclosure Documents Inspection Division, and the Criminal Investigation Division). Furthermore, in July 2011, the Civil Penalties Investigation and Disclosure Documents Inspection Division was divided into two divisions (the Market Misconduct Investigation Division, and the Disclosure Inspection Division), meaning that the SESC was transformed into six divisions. In August 2011, Cross-Border Investigation Office was established within the Market Misconduct Investigation Division, to investigate transactions, etc. conducted by persons in foreign countries.

Chart 2

Relationship among the Prime Minister, the Commissioner of the FSA, the SESC, and Directors General of Local Finance Bureaus



(Note 1) For the authority that the SESC delegates to Director General of Local Finance Bureau or the Director of its branch office, the SESC directs and supervises Director General of Local Finance Bureau or the Director of its branch office. (FIEA: Article 194-7 (8))

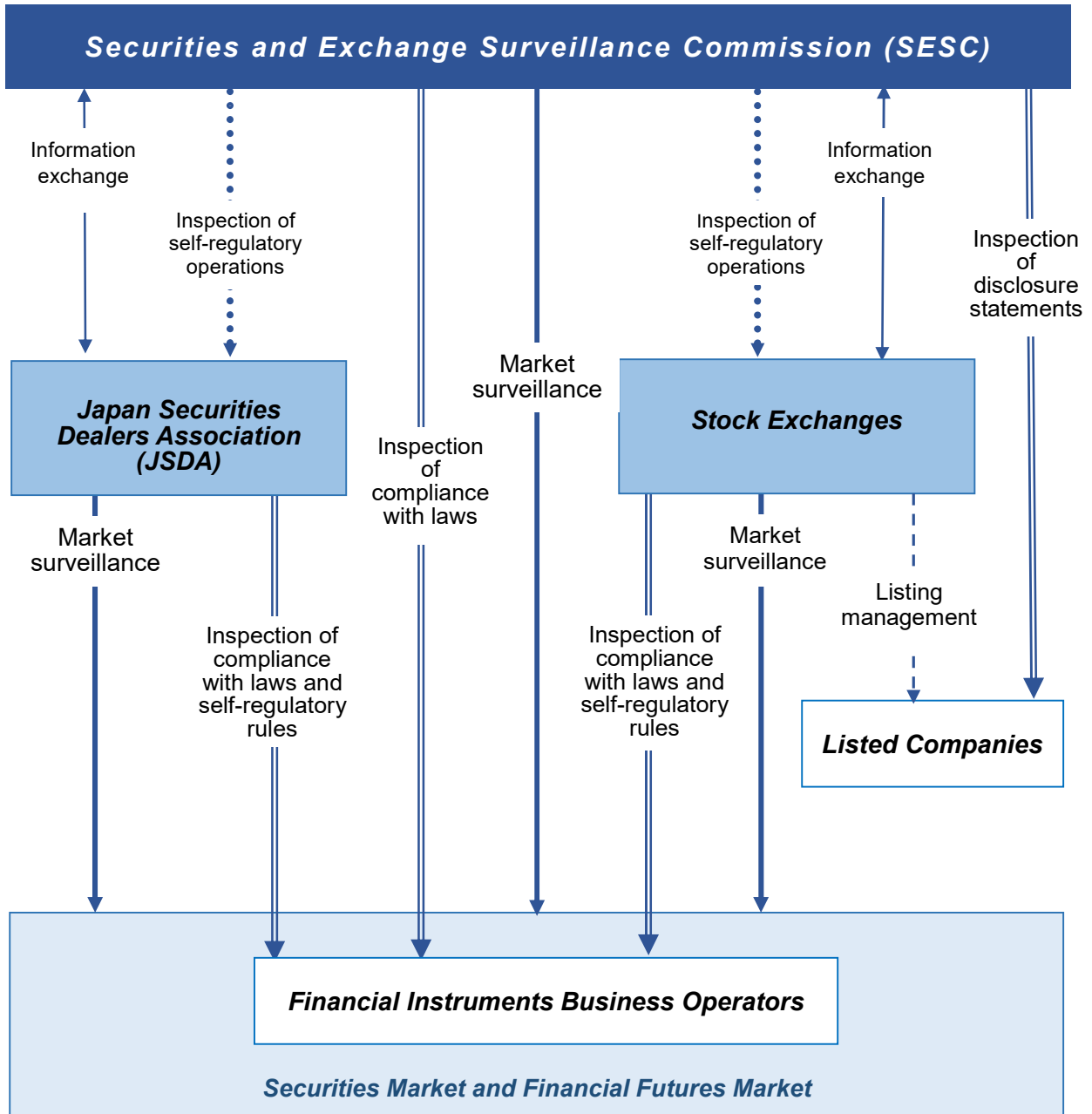
(Note 2) For an investigation of a criminal offence, the SESC directs and supervises the Director General of a Local Finance Bureau or the Director of its branch office. The SESC may, deeming it necessary for investigating a criminal offence, direct and supervise firsthand an official of a Local Finance Bureaus or the Director of its branch office. (FIEA: Article 224(4) and (5))

(Note 3) The SESC does not delegate authority to the Director-General of local finance bureaus, etc. related to financial instruments business operators etc designated in the following public notices

- The public notice to designate a financial instruments business operator, etc. under paragraph 5, Article 44 of the Order for Enforcement of the FIEA and paragraph 2, Article 136 of the Order for Enforcement of Act on Investment Trust and Investment Corporation
- The public notice to designate a financial instruments business operators, etc. under paragraph 6, Article 28 of the Order for Enforcement of Act on the Prevention of Transfer of Crime Proceeds

Chart 3

Relationship with Self-Regulatory Organizations



Table

Activities in Figures

Table of Summary

Unit: Number of cases

Fiscal year		1992 to 2016	2017	2018	2019	2020	2021	Total
Criminal charges		188	4	8	3	2	8	213
Recommendations		990	38	54	49	29	20	1,180
Recommendations based on securities inspections		549	10	11	14	5	2	591
Recommendations for administrative monetary penalty payment orders (market misconduct)		338	26	33	29	14	12	452
Recommendations for administrative monetary penalty payment orders (false statements in disclosure statements, etc.)		99	2	10	6	10	5	132
Recommendations for order to submit correction report, etc.		4	0	0	0	0	1	5
Announcement of results of inspection of persons making notification for business specially permitted for qualified institutional investors		82	4	0	2	0	0	88
Petition to the court for prohibition order and stay order, etc., against unregistered business operator or solicitation without the filing of securities registration statements		18	2	2	3	1	1	27
Proposals		24	0	2	0	0	0	26
Securities inspections	Financial instrument businesses operators	3,053	25	55	64	41	37	3,275
	Type I financial instrument businesses operators	2,211	19	35	44	34	28	2,371
	Type II financial instrument businesses operators	285	2	7	4	1	1	300
	Investment management firms Investment advisories/agencies	557	4	13	16	6	8	604
	Registered financial institutions	346	0	3	2	0	2	353
	Persons making notification for business specially permitted for qualified institutional investors	134	0	4	0	2	0	140
	Financial instruments intermediaries	70	0	4	2	2	2	80
	Credit rating agencies	9	0	0	1	1	0	11
	Self-regulatory organizations	32	0	0	2	0	2	36
	Investment corporations	49	0	1	1	0	2	53
	Other	14	0	1	1	1	1	18
Total	3,707	25	68	73	47	46	3,966	
Market oversight		15,958	1,099	1,052	1,061	965	969	21,104

Notes

1. Total number of securities inspections refers to the number of cases that have been started.
2. In addition to the inspections of Type I financial instrument businesses operators (former domestic securities companies) above, Local Finance Bureaus and other organizations conduct inspections of individual branches of those Type I financial instrument businesses operators (former domestic securities companies) that are assigned to the SESC.

August 6, 2021

Securities and Exchange Surveillance Commission

Monitoring Priorities for Securities Businesses (July 2021 - June 2022)

Based on the recent environment surrounding financial instruments business operators (FIBOs), the Securities and Exchange Surveillance Commission (SESC) has compiled the Monitoring Priorities for Securities Businesses for Business Year 2021¹, setting out industry-wide monitoring priorities and those by size and type for the monitoring of securities businesses.²

1. Environment surrounding FIBOs

(1) Environment surrounding FIBOs

Amid the declining birthrate and aging population, securities companies focusing on face-to-face sales operations continue to see the aging of customers and an outflow of customer assets accompanying inheritance, etc. Given the intensifying race to cut brokerage commissions and the impact of the COVID-19 pandemic, the business environment is growing severer for securities companies that depend on face-to-face sales operations and brokerage commission revenue.

In line with digitalization, FIBOs are expanding sales operations through non-face-to-face channels and providing instruments using security tokens and other new technologies as well as new services using smartphone applications. In markets, high-speed traders' share of exchange-based transactions has remained high. Non-exchange-based transactions through dark pools and proprietary trading systems have been increasing.

International interest has remained high in Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) measures. Based on the fourth mutual evaluation of Japan by the Financial Action Task Force (FATF), FIBOs are required to take AML/CFT measures.

(2) Changes to regulatory frameworks for FIBOs

In the previous business year, the following changes to regulatory frameworks for

¹ Business Year 2021 is from July 2021 to June 2022

² "Monitoring of securities businesses" in this document covers both inspection and monitoring. "Inspection" means monitoring based on Article 56-2 of the FIEA, while "monitoring" refers to monitoring other than inspection.

FIBOs were seen:

- (i) New measures to further promote customer-oriented business conduct, reviewing financial services in the super-aged society

Based on discussions at the Capital Market Working Group of the Financial System Council, the Principles for Customer-Oriented Business Conduct (hereinafter, “FD [fiduciary duty] Principles”) and the Comprehensive Guidelines for Supervision of Financial Instruments Business Operators, etc. (hereinafter, “Supervision Guidelines”) have been revised to enhance the effectiveness of the FD Principles and clarify the principle of suitability, while follow-up for aged customers has been added to a self-regulatory organization (SRO) ’s guidelines concerning sale by solicitation to aged customers. These changes urge FIBOs to further develop customer-oriented business operations.

- (ii) Establishing guidelines for preventing illegal access in Internet transactions

Given that illegal access to online securities firms has led to illegal withdrawals of customers’ money and customer information leaks, SROs have formulated guidelines for preventing illegal access in Internet transactions to prevent such illegal acts and allow customers to conduct transactions with a sense of security, urging FIBOs to improve security levels of Internet-based trading systems.

- (iii) Measures to improve transparency in dark pool trading

Based on discussions at the Capital Market Working Group of the Financial System Council, the Cabinet Office Order on Financial Instruments Business, etc. (hereinafter, “Cabinet Office Order”) and the Supervision Guidelines have been revised to improve transparency in dark pool trading amid the growing availability of dark pool transactions for retail investors, requiring business operators routing customer orders to dark pools to develop their business management framework, etc..

- (iv) Measures accompanying the realization of an Integrated Exchange

As the realization of the Integrated Exchange paves the way for commodity derivatives traders to fully participate in the framework of the Financial Instruments and Exchange Act (hereinafter, “FIEA”), the SESC will cooperate with a SRO to monitor these traders’ development of internal control environments.

- (v) Establishing a notification system for financial service intermediary businesses and investment management businesses for foreign investors in Japan

As the Act on Sales, etc. of Financial Instruments and the FIEA have been amended to create a notification system for financial service intermediary

businesses and investment management businesses for foreign investors in Japan, these new businesses will be added to securities businesses subject to the SESC monitoring.

(3) Findings through monitoring of securities businesses in the previous business year

Through the monitoring of securities businesses in the previous business year, the SESC found that some FIBOs were transforming their business models or internal control environments in response to changes in their business environment.

In response to the impact of the COVID-19 pandemic, some FIBOs developed work-from-home measures for the purpose of preventing infections from spreading. In this respect, FIBOs are required to develop appropriate internal control environments regarding business operations, compliance management, and information management for employees working from home.

(i) Type I FIBOs

While the promotion of customer-oriented business conduct made progress, inadequate investment solicitation practices were identified, including salespersons' solicitation of customers to change investment policies and purchase high-risk financial instruments. Some major securities business groups had risk management issues, including massive losses on specific overseas transactions.

Some online securities firms proactively diversified products or services or promoted capital or business alliances with others to differentiate themselves from others and secure stable earnings sources amid an intensifying race to cut brokerage commissions. On the other hand, illegal access to online securities firms by outsiders leading to illegal withdrawals of customers' money and customer information leaks was seen, indicating the need for enhancing information security and cybersecurity management environments.

Some regional securities firms reformed business administration arrangements and models due to changes in major shareholders.

Some foreign currency margin transaction business operators were identified as making advertisements including indications that were significantly contradictory to the facts or as violating a ban on re-solicitation.

(ii) Investment management business operators

In an identified case, an investment management business operator was unaware of the investment arrangements, the substantiality of investment methods and the facts regarding management methods at an investment target

for an investment trust that the business operator established to invest in foreign securities in the form of fund of funds, failing to implement sufficient research for appropriate investment decisions and investment asset management. While most of the assets in the investment trust were to be deposited at a prime broker, the investment management business operator failed to check the prime broker's actual segregated management, remaining unaware of the facts regarding the management of investment assets. The investment management business operator was thus identified as failing to fulfil the duty of due care of a prudent manager for investment trust beneficiaries.

(iii) Type II FIBOs

A Type II FIBO that solicits customers to acquire shares of a fund for investment in a lending project was found to have failed to comply with the purpose of use of funds indicated to investors. The Type II FIBO had extremely defective control environments for governance and business operation, using false indications and misleading indications regarding important matters to solicit customers' investment in the absence of effective loan examination and monitoring.

(iv) Unregistered business operators

Without being registered as a FIBO, a business operator was soliciting customers to acquire financial instruments categorized as shares of an overseas collective investment scheme.

2. Industry-wide monitoring strategies

Based on the environment surrounding FIBOs and the "*JFSA priorities*" and other policies published by the Financial Services Agency (JFSA), the SESC will verify the following matters for all types of FIBOs in cooperation with relevant JFSA divisions:

(i) Customer services under the impact of COVID-19

For instance, the SESC will verify customer services, including follow-up for customers possessing financial instruments with wildly fluctuating prices, malicious transactions taking advantage of investor anxiety, and responses to fundraising demand under the impact of COVID-19.

(ii) Developing internal control environments focusing on appropriate investment solicitation based on the clarification of the principle of suitability and establishing customer-oriented business conduct

For instance, bearing in mind the possibility of inappropriate sales practices, such

as soliciting customers for financial instruments that fail to meet their attributes or investment purposes, and leading them to pay excessive brokerage commissions, the SESC will verify the development of internal control environments, including services for aged customers. The SESC will also examine initiatives for customer-oriented business conduct at the sales front as necessary.

- (iii) Business model and market changes under the falling birthrate and aging population, progress in digitalization, etc. and the development of internal control environments responding to such changes

For instance, the SESC will verify the impacts of business model changes, such as the expansion of non-face-to-face sales and the provision of new products and services on FIBOs' business management, and the development of internal control environments based on these impacts.

The SESC will also endeavor to grasp order routing and execution status across multiple markets (stock exchanges, proprietary trading systems and dark pools) and find any issues from the viewpoint of ensuring fairness and transparency of markets and protecting investors.

On the other hand, in case a FIBO continues depending on traditional face-to-face sales, the SESC will examine the sustainability of the business model and the impact of the falling birthrate and aging population on financial and other business management

- (iv) Sufficiency of cybersecurity measures, and the status of risk management in systems amid progress in digitalization
- (v) Firm establishment of internal control environments for AML/CFT
- (vi) Implementation of measures to improve or prevent the recurrence of matters pointed out in results of internal audits or examinations by SROs

In addition to the above, the SESC will flexibly examine FIBOs on other themes in response to changes in the environment surrounding them.

The SESC will also cooperate with relevant parties in considering monitoring approach in line with the revision of regulations regarding the firewall between banking and securities businesses.

3. Monitoring strategies for various FIBO business models

Based on the environment surrounding FIBOs, the SESC will examine a FIBO if the SESC has concerns regarding its violation of relevant laws and regulations or inadequate segregated management of customer assets, taking into considerations the scale of

FIBOs' businesses and type of service. The examination will be focus on the following points.

(1) Major securities business groups³

Given changes in customer services under the impact of COVID-19 and massive losses on specific overseas transactions for some major securities business groups, the SESC will verify the development of control environments for governance and risk management that support global business operations, and efforts to build sustainable business models, taking into account each group's business environment.

If it is necessary to confirm actual sales practices at sales offices, the SESC will swiftly inspect relevant sales offices.

In addition to the points listed above, as for the three mega banking groups' securities companies, the SESC will verify control environments for conflict-of-interest management, considering their efforts to expand their customer bases through cooperation between banking and securities businesses.

(2) Foreign securities firms

The SESC will verify the development of internal control environments that respond to the overseas outsourcing of back-office operations under group strategies and control environments for system risk management.

In light of the prolonged low interest rate environment, the SESC will also examine the development of control environments for managing sales of financial instruments to Japanese financial institutions and other investors.

(3) Online securities firms

As illegal withdrawals of customers' money through illegal access to online securities firms have been identified, SROs have formulated guidelines for preventing illegal access, requiring the securities industry as a whole to enhance security. In such a situation, the SESC will verify the development of control environments for system risk management, including cybersecurity measures, at online securities firms and other types of securities companies providing online trading.

The SESC will also examine the development of internal control environments at online securities firms in line with their business model changes, such as initiatives to eliminate brokerage commissions, increases in products, and launch and expansion of face-to-face sales activities in collaboration with independent financial

³ Major securities business groups: Japanese securities companies with global operations

advisors.

(4) Semi-major/regional securities firms

While semi-major and regional securities firms have faced a severe business environment, including the outflow of customers' assets through the aging of customers and inheritance, as well as the impact of COVID-19, the SESC in its inspections heretofore has identified inappropriate investment solicitation and other problems regarding investor protection. Given this, the SESC will examine steps taken to conform to the principle of suitability.

The SESC will also verify the effectiveness of internal control environments from the viewpoint of business models or governance at securities firms where major shareholders or business management systems have changed.

(5) Foreign currency margin transactions business operators

As for foreign currency margin transactions business operators that are required to enhance security along with online securities firms, the SESC will verify their control environments for system risk management, including cybersecurity measures.

Given that past inspections have identified advertising regulation violations and sales/solicitation problems at these business operators, the SESC will also examine their development of adequate internal control environments.

Furthermore, the SESC will verify their disclosure of risk information, the reflection of stress test results to capital and the development of transaction data storage and reporting arrangements.

(6) Investment management business operators

As for investment management business operators, the SESC will conduct risk-based examinations of their grasp of investment status and their development of control environments for investment management (including those outsourced) and conflict-of-interest management.

(7) Investment advisors/agencies

As for investment advisors/agencies, based on the past inspection results, the SESC will continue examining whether or not any problematic practices concerning investor protection are conducted, such as misleading advertisement and solicitation through false explanation.

(8) Type II FIBOs and business operators, etc. engaging in specially permitted businesses for qualified institutional investors

As for Type II FIBOs (including sellers of loan-type funds) and business operators, etc., engaging in specially permitted businesses for qualified institutional investors, the SESC will conduct risk-based examinations, including through analysis of information from investors, focusing on funds advertising high returns and the substantiality of investment target projects, considering a case that a Type II FIBO failed to comply with the purpose of use of funds indicated to investors.

(9) Independent financial advisors and other securities businesses subject to monitoring

As for independent financial advisors, the SESC will examine the adequacy of their investment solicitation and the sufficiency of their control by their entrusting FIBOs, considering online securities firms' launch and expansion of face-to-face sales activities in collaboration with these advisors.

As for other securities businesses, including registered financial institutions, credit rating agencies, securities finance companies and SROs, the SESC will conduct risk-based monitoring in light of their particular business types.

(10) Unregistered business operators

To prevent the expansion of damage to investors caused by unregistered business operators, the SESC will proactively exercise its investigative authority to seek court injunctions on their illegal conduct. The SESC will also enhance information dissemination, including the public disclosure of their names, their representatives' names and their illegal conduct, as well as the issuance of alerts and messages to investors regarding transactions with unregistered business operators. The SESC will also proactively collaborate with relevant JFSA divisions, Local Finance Bureaus (LFBs), investigative authorities and the Consumer Affairs Agency.

In addition to the above, the SESC will verify FIBOs' responses to changes in regulatory frameworks cited in 1. (2).

4. Approach to monitoring securities businesses

(1) Inspection

Securities businesses subject to the SESC monitoring currently total approximately 7,700. These firms widely differ in size, services and products, and some of them

have yet to introduce adequate basic control environments for compliance and investor protection. Therefore, it is important for the SESC, with its limited human resources and based on *“the Basic Principles of Securities Business Monitoring”*, to conduct effective, efficient monitoring of securities businesses according to their risk characteristics and promptly identify risks.

The SESC will continue to select FIBOs for inspection based on risk assessment from various viewpoints, including business types and sizes as well as business models, in cooperation with relevant JFSA divisions. Inspection will be mainly conducted in cases where it is necessary to comprehend further details, such as:

- (i) a relevant law and/or regulation is breached or there is a deficiency in business operations that requires a prompt in-depth examination;
- (ii) a financial instrument is offered with an unclear risk profile, necessitating an examination of its solicitation activities;
- (iii) the actual situation of business operations is not fully comprehended from an information analysis based on monitoring (including where there is a long period between examinations); or
- (iv) there is a possible serious problem concerning investor protection (e.g., inadequacy in the segregated management of customer assets).

On the occasion of inspection, the SESC will conduct digital forensics for in-depth verification according to the characteristics of individual FIBOs and matters for verification.

The SESC aims not only to point out problems and take actions, such as making recommendation for administrative disciplinary actions, but also to analyze the whole picture of the problems to identify their root causes, so that effective measures to prevent problems will be developed. Furthermore, if the need to improve business operations is identified before any potential issues materialize, the SESC will describe it as “Items to be noted” in the notification of completion of inspection to share the awareness with the inspected businesses and urge them to build effective internal control environments or take other actions to address the issues.

To prevent the spread of COVID-19 infections, the SESC will, for the time being, conduct inspection with the utmost care for the inspection targets’ COVID-19 infection prevention measures, including through using remote conference systems.

Also, to keep the depth of securities business monitoring, the SESC will further enhance cooperation with SROs, including through mutual complementation regarding inspection and matters for verification by business type.

(2) Cooperation with relevant organizations

To make maximum use of their respective functions, the SESC and LFBs will work closely from the planning stage of monitoring and inspection, including information sharing and exchange of opinions, and conduct joint inspection as needed. If a case that involves multiple LFBs occurs, the SESC will exercise its guidance and coordination functions by, for instance, collecting and sharing information and considering appropriate monitoring methods. The SESC will also focus on necessary training to support such activities of LFBs.

The SESC, relevant JFSA divisions and LFBs will collaborate to share information and conduct simultaneous inspection regarding the inspection of financial service intermediary businesses as well as cryptocurrency exchange service providers trading in over-the-counter cryptocurrency derivatives.

The SESC will also continue collaborating closely with SROs and share detected matters and current awareness with them by exchanging information in a timely manner, promoting securities business monitoring effectively and efficiently to ensure market fairness and transparency, and to protect investors.

5. Dissemination of inspection results and other initiatives

The SESC will encourage voluntary improvement efforts by providing FIBOs with feedback on problems and their root causes found in the inspection, and sharing inspection results with inspected FIBOs' audit-related officials and outside directors at review meetings, in cooperation with relevant JFSA divisions as needed.

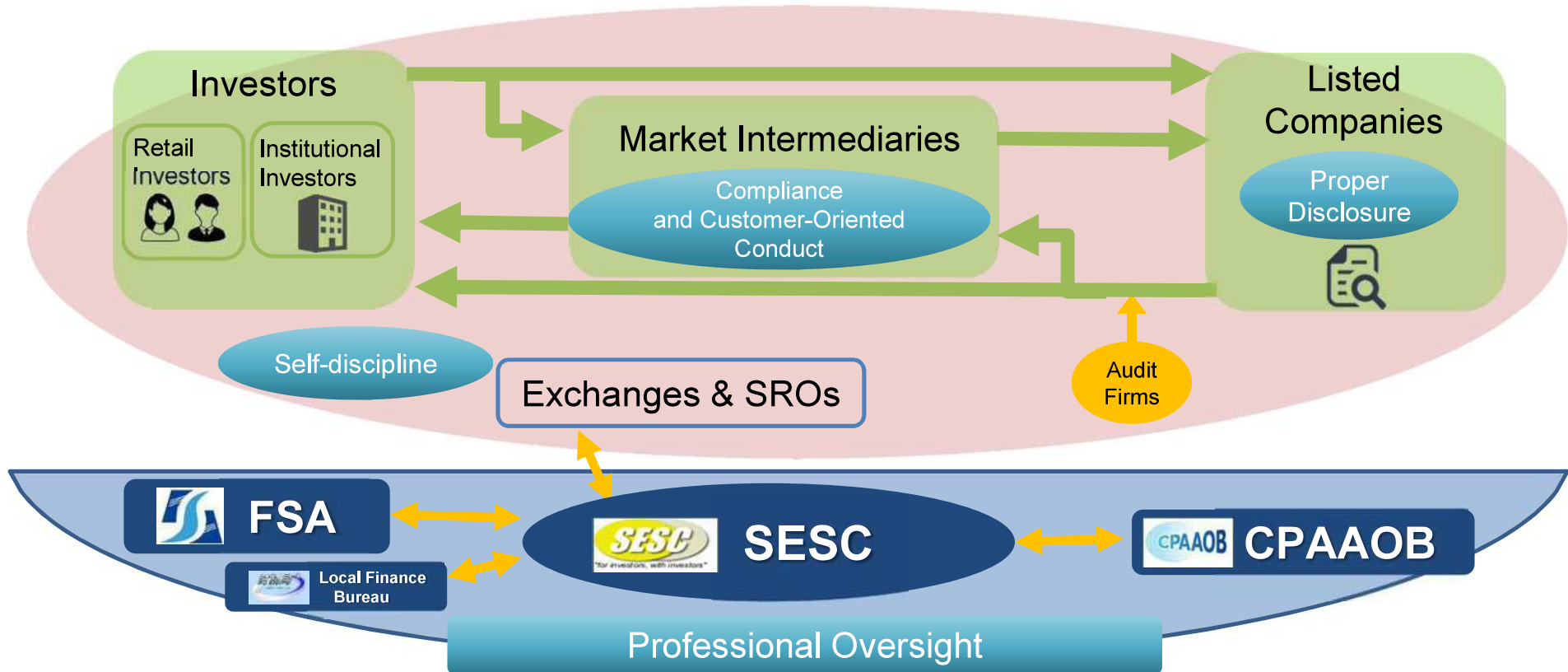
.The SESC will also endeavor to provide the public with information about the SESC's perspectives in a specific and straightforward manner, including through the publication of the *"Overview of Monitoring of Securities Businesses and Case Studies."*

Strategy & Policy of the SESC 2020-2022

SESC's Vision on Market

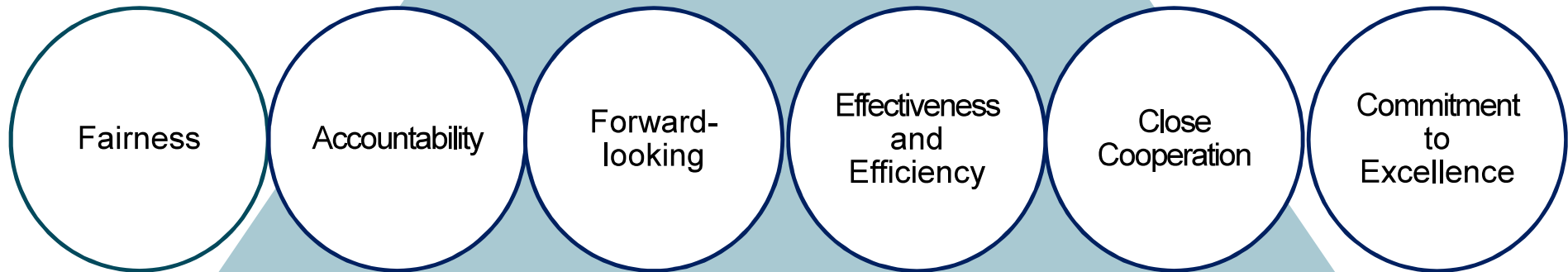
Markets with strong confidence, where market participants share the goal of sound market development and secured investor protection, fulfill their expected roles and deliver their expertise

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Strategy & Policy of the SESC 2020-2022 (Cont.)

Values and Goals



Holistic oversight

- Vigilance against emerging products and transactions
- Surveillance of multiple markets and cross-markets activities
- Protection of investors in consideration of their diverse characteristics (e.g. age, life stage)
- Comprehensive analysis of cases and cross-sectoral application of findings
- Enhanced outreach to stakeholders

Timely oversight

- Early detection of potential market misconduct
- Preemptive actions against market abuse
- Effective investigation and early corrective action

In-depth oversight

- Identifying root causes of the problems
- Recognition of structural issues of the markets through in-depth and cross-sectoral analysis

Strategy & Policy of the SESC 2020-2022 (Cont.)

Market Environment & Challenges

Capital Markets

Globalization and
Integration of
Financial Markets

Digitalization

Policy Actions for Stable
Asset Building of
Household

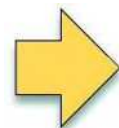
Uncertainty of the
Global Economic
Outlook

Money Flow into High-risk
and Low-liquidity Funds
under Low Interest Rate
Environment

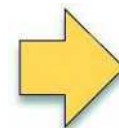
Strategy & Policy of the SESC 2020-2022 (Cont.)

Mid-term Policy Priorities

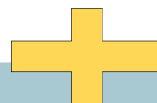
(1) Enhanced
Intelligence
Gathering



(2) In-depth Analysis and
Swift, Effective and
Efficient
Examination/Investigation



(3) Effective
Measures for
Strengthened
Market Discipline



(4) Response to Digitalization and Strategic HR Development

(5) Cooperation with Various Stakeholders



Continuous Review of Oversight Approach through PDCA Cycle

Mid-term Policy Priorities

(1) Enhanced Intelligence Gathering

- Forward-looking surveillance from macro-economic perspectives
- Cross-sectoral surveillance across financial markets
- Intelligence gathering through closer cooperation with foreign authorities

Information gathering with due attention to the risk of potential misconduct, such as money flow into high-risk, low-liquidity investment funds

Equity / fixed income, cash / derivative, primary/secondary markets, etc.



Mid-term Policy Priorities

(2) In-depth Analysis and Swift, Effective and Efficient Examination/Investigation

- Multi-directional/dimensional analysis and review
- Swift recommendation of administrative penalty
- Effective and efficient examination and investigation of cross-border cases
 - Active information exchange through IOSCO MMoU
- Rigorous enforcement of criminal investigation against market misconduct
- Risk-based monitoring of securities business
 - Monitoring of compliance with rules and customer oriented business
 - Analysis of group-wide strategies, business type and size.
- Proactive response to cases where investors are harmed
 - Petitions for court injunction against unregistered firms to suspend the violation
 - Monitoring of inappropriate sales and solicitations of financial products

Mid-term Policy Priorities

(3) Effective Measures for Strengthened Market Discipline

- Multi-dimensional/directional use of outputs from monitoring activities

Policy proposals to the FSA

- Enhancement of root-cause analysis and engagement with stakeholders to prevent recurrence of market abuse

Preventing misconducts by sharing identified issues with managements of entities under examination/investigation

- Enhanced outreach domestically and globally for pre-emptive measure against market misconduct

- Website, casebooks, articles, etc.
- Investor alerts on recent investment frauds/scams

- Extensive measures for seamless surveillance

Vigilance against emerging products and transactions



Mid-term Policy Priorities

(4) Response to Digitalization and Strategic HR Development

- Advanced and efficient surveillance with digitalized technologies
- Swift response to rapid digitalization in the capital market



- Strategic HR development (market abuse, corporate disclosure and securities business monitoring)



(5) Cooperation with Various Stakeholders

- Closer cooperation with SROs
- Enhanced cooperation with stakeholders

Foreign authorities and other organizations including those relevant to investor protection

- Enhanced contribution to global market oversight

Proactive participation in international discussions, e.g. IOSCO





Strategy & Policy 2020-2022

- For Trusted and Attractive Capital Markets -

January 24, 2020

Securities and Exchange Surveillance Commission

Mission

Through proper and appropriate oversight, the SESC

1. Ensures market fairness and transparency, and protects investors
2. Contributes to the sound development of capital markets
3. Contributes to sustainable economic growth

SESC's Market Vision

Markets with strong confidence, where market participants share their commitment towards the sound development of capital markets and solid investor protection, fulfill their expected roles and exercise their professionalism

Philosophy

- Fairness
- Accountability
- Forward-looking
- Effectiveness and Efficiency
- Close Cooperation
- Commitment to Excellence



Market Environment and Challenges

In December 2019, the SESC, whose mission is to protect investors and market integrity, inaugurated its 10th term under new leadership.

Since its inception, the SESC has pursued criminal prosecutions against flawed and material market misconduct and has made recommendations for administrative monetary penalty payment orders and administrative actions for violations of securities laws. The SESC has also conducted oversight through exercising its authority over investigations and inspections in an effort to ensure the fairness and transparency of the markets and protection of investors.

At present, capital markets are undergoing substantial changes:

- Regarding structural changes, an increase in the number of offshore investments and the globalization of companies (diversifying corporate operations towards overseas subsidiaries, outsourcing, etc.) are further accelerating the globalization of capital markets and closer integration of various financial markets.
- Regarding fund flows, the global ultra-low interest rate environment is driving the flow of funds into higher-risk and lower-liquidity funds, which exacerbates the uncertainty of the global economic outlook in the face of geopolitical risks.
- Furthermore, rapid digitalization is having a significant impact on all capital markets and market participants. Financial institutions are being pressed to overhaul their business models due to progress in technology, such as AI and in the utilization of data, and the market landscape is being transformed as a result of the proliferation of high-speed algorithmic trading. In addition, new products and transactions, such as crypto-assets are emerging.

In addition, the policy priorities of the Financial Services Agency (FSA) are encouraging financial institutions to accommodate the diverse needs of users. For its part, the SESC will make a greater contribution to enabling households' stable asset building and realizing a virtuous circle of fund flow through the solid protection of investors' interests and market integrity.

Keeping up with such substantial changes in the environment, in the 10th term, the SESC will focus on achieving three goals based on its values: holistic, timely,



and in-depth oversight. In order to attain these goals, the SESC will pursue five policy priorities.

Goals

1. Holistic oversight

(1) Vigilance against new financial products and transactions

Extensive monitoring and analysis of risks relating to new products and transactions

(2) Surveillance of multiple markets and cross-market activities

Comprehensive surveillance of a wide range of market transactions, in equity/fixed-income markets, cash/derivative markets, and primary/secondary markets

(3) Protecting investors of diverse characteristics

Promoting investor protection that reflects diverse investors in terms of knowledge, experience and competence, including elderliness

(4) Holistic and comprehensive investigation of cases and cross-sectoral application of findings

Exercising holistic and comprehensive investigation referring to cross-sectorial relevant precedents and to reveal the root cause of misconduct

(5) Enhanced outreach to stakeholders

Enhancing outreach to stakeholders with the aim of preventing misconduct

2. Timely oversight

(1) Early detection of market misconduct

Early detection and timely investigation and inspection of potential misconduct in the markets

(2) Preemptive actions against market misconduct

Before identified problems are materialized, if necessary, urging entities under investigation or inspection to take necessary measures for prevention of violations

(3) Effective investigation and inspection, and swift corrective action

Early and effective identification of issues and swift responses to them

in investigation and inspection

3. In-depth oversight

(1) Identifying root causes of problems

When a violation of a securities law is identified, focusing on the substance of the problems, unravelling their root causes and engaging in an in-depth discussion with the entities involved, so that they can take actions proactively for improvements and prevent recurrences of similar violations

(2) Recognizing structural issues of the markets through in-depth and cross-sectoral analysis

Identifying structural issues in the markets and contributing to the improvement of relevant regulations through root causes analysis of the misconduct and cross-sectoral application of the findings

Five policy priorities to achieve the goals

1. Enhanced intelligence gathering

(1) Forward-looking surveillance with macro-economic perspectives

- The SESC will conduct forward-looking market oversight through constant market monitoring and industry sector analysis with macro-economic perspectives.
- Specifically, to detect clues for investigation and inspection, the SESC will analyze the sectors and companies that might have potential risks of misconduct based on its insight of macro-economic trends. The findings will be shared with relevant divisions within the SESC for their investigations and inspections.

(2) Cross-sectoral surveillance across financial markets

- The SESC will exercise multi-dimensional monitoring and conduct cross-sectoral surveillance of equity/fixed-income markets, cash/derivative markets, and primary/secondary markets.

(3) Intelligence gathering through closer cooperation with foreign authorities

- The SESC will further strengthen fostered relationships with foreign

authorities, especially among enforcement divisions, and bolster cooperation in the surveillance, investigations and inspections, and enforcement. The SESC will leverage information obtained from foreign authorities, such as insights on enforcement and regulatory frameworks, in its own oversight activities.

2 . In-depth analysis and swift and effective investigations and inspections

(1) Multi-directional/dimensional analysis and review

- Transactions are increasingly complex, corporate operations are more globalized, and the business models of financial firms are undergoing structural transformation. In these circumstances, untraditional and new types of violations of securities laws are emerging. The SESC will be attentive to potential risks to investors and respond to them without being fixed to the past precedents¹.

(2) Swift recommendation for administrative monetary penalty payment orders

- As the nature of violations becomes more varied and complex, the SESC will proactively and flexibly conduct investigations and inspections, so that it can swiftly bring recommendations for an administrative monetary penalty payment order. By doing so, the SESC will also reveal the facts of market misconduct and disclosure violations and contribute to their prevention.

(3) Effective and efficient investigations and inspections of cross-border cases

- The SESC will actively pursue cases involving cross-border transactions as well as misstatements of multi-national corporations through working with foreign authorities. Through those operations, the SESC will perform effective and efficient investigations and inspections corresponding to the nature of respective cases.

¹ Notably, in the term 2017-2019, the SESC pursued a case of unique method of spoofing (as "the use of fraudulent means" specified in Article 158 of the Financial Instruments and Exchange Act), cases of manipulation in listed derivative markets, cases of false statements in non-financial information, and cases of exaggerated or false claims in website advertisements.

(4) Rigorous enforcement of criminal investigation against market misconduct

- Serious cases of insider trading, market manipulation, spreading rumors, fraudulent means and false statements in financial reporting can be subject to the criminal penalties. The SESC will take rigorous enforcement actions against material and egregious violations by exercising its powers of criminal investigation. In such instances, the SESC will cooperate with criminal investigators and prosecutors as well as foreign authorities in order to effectively reveal the facts, including who is to blame.

(5) Risk-based examination of financial instruments business operators

- The SESC will conduct risk-based and integrated examination of financial instruments business operators (FIBOs).
- Regarding off-site examination, the SESC will work with supervisory divisions of the FSA and the Local Finance Bureaus to assess risks of violations of securities laws by FIBOs, taking into account not only business types and scales of the FIBOs, but also their business models, group-wide strategies and management policies. Based on the risk assessments, the SESC will select entities for on-site inspection.
- Regarding on-site inspection, the SESC will perform in-depth analysis of the products and transaction schemes offered by the FIBOs. To ensure such products are provided to investors appropriately, the SESC will review the appropriateness of the FIBO's business operation from the viewpoint of investor protection, including compliance with rules and customer-oriented business conduct.

(6) Proactive response to cases where investors are harmed

- The SESC will identify and respond to the FIBOs' inappropriate selling and promotion of financial products as well as insufficient internal management systems that could harm investors. Also, in the case of unregistered business operators, the SESC will actively file petitions with the courts to issue prohibition orders. In this way, the SESC will proactively fulfill its mission of investor protection.

3. Effective measures for strengthened market discipline

(1) Multi-dimensional/directional use of insights from investigations and inspections



- In its investigations and inspections, the SESC will not limit itself to narrowly defined “exits,” such as recommendations for administrative actions or criminal prosecutions. Rather, the SESC will make full use of all intelligence² gathered from each case in its oversight activities and engagement with stakeholders.
- The SESC will conduct investigations and inspections based on extensive perspectives. If the findings of investigations and inspections suggest structural problems in the markets, the SESC will take actions to realize better market environments through providing inputs to relevant policymaking.

(2) Root-cause analysis and engagement with stakeholders to prevent recurrence of market abuse

- When the SESC identifies a violation of a securities law during its investigation or inspection, it will not only pursue administrative actions or monetary penalty payment orders, but will also assess the problem in a holistic manner and pursue the root causes. Thus, the SESC will engage in in-depth discussions with the management of the entities under investigation or inspection and prevent recurrence of violations.
- When the SESC identifies potential market abuse during its investigation or inspection before it is materialized, the SESC will share its view on the issue with the management of entities under investigation or inspection to prevent violations from occurring.

(3) Enhanced outreach domestically and globally as pre-emptive measures against market misconduct

- The SESC will highlight the significance, focus and details of the case in the press release of specific cases at the time of the recommendations as well as in the casebooks it publishes³. The aim is to strengthen market integrity through providing information that is both concrete and comprehensive.
- To prevent investors from being harmed by market misconduct, the SESC will enhance issuance of warnings, such as investor alerts.

(4) Extensive measures for seamless surveillance

- The SESC will always keep a close eye on developments in the markets,

² Information which could have add-value for other cases

³ “Casebook of Administrative Monetary Penalties Imposed under the Financial Instruments and Exchange Act – Market Misconduct Section,” “Casebook of Inspection of Disclosure Documents,” and “Securities Monitoring Overview and Casebook”

including emerging products and transactions as well as those that might be outside its surveillance. Through outreach and policy proposals, the SESC will take necessary actions in order to conduct seamless surveillance.

4. Response to digitalization and strategic HR development

(1) Advanced and efficient surveillance with digitalized technologies

- The SESC will develop a more effective and efficient surveillance mechanism in light of technological advancements in markets and the use of digitalized technologies for the surveillance activities by other regulatory authorities and enforcement organizations. To this end, the SESC will work with its peer organizations to leverage digitalization in its market surveillance systems.

(2) In-time response to rapid digitalization in the capital market

- To achieve comprehensive market surveillance, the SESC will analyze and respond in a timely manner to new products and transactions that emerge as a result of rapid progress in digitalization.
- To adapt to the rapid progress of digitalization and increases in the volume of handled data, the SESC will further utilize digital forensics technology⁴ in its overall technological environment.

(3) Strategic HR development

- As digitalization is advancing, transactions are more complex, and companies are significantly globalizing, the SESC will work to equip its human resources with specialized skills and broad perspectives in market surveillance so that the SESC can duly fulfill its mission.

5. Cooperation with various stakeholders

(1) Closer collaboration with SROs

- To support proactive oversight by self-regulatory organizations (SROs), the SESC will share its intelligence with them in a timely manner and reinforce the self-disciplinary mechanism of the market.
- In order to realize more effective and efficient market surveillance, the SESC will also continue to review the way it cooperates with the SROs.

⁴ Technology for analyzing electronic data and preserving it as evidence



- To keep up cross-sectoral surveillance that covers multiple financial markets, the SESC will work with the width and quality of its market monitoring.

(2) Enhanced cooperation with stakeholders

- To reinforce its existing cooperative relationship with SROs, foreign authorities and peer organizations, the SESC will expand its coordination with other stakeholders, including those involved in market fairness/transparency and investor protection, and thereby strengthen overall surveillance functions.

(3) Enhanced contribution to global market oversight

- As for oversight issues relating to cross-border transactions, the SESC will raise and share emerging issues both at the bilateral and multilateral venues with foreign authorities by proactively participating in the discussions at, for example, the International Organization of Securities Commissions. By doing so, the SESC aims to contribute to global market surveillance and international cooperation.
- By being closely involved in global market surveillance activities among regulators, the SESC will be attentive to emerging issues and major market developments, including key enforcement cases by other regulators. The SESC will apply those insights to its market oversights.

Moving forward

The SESC keeps its initiative towards “holistic, timely and in-depth” oversight.

This paper is based on our current observation on the capital market conditions and, in view of the rapidly evolving market environment, the SESC will review its Strategy & Policy through the PDCA cycle⁵, for accurately identifying challenges and proactively taking necessary actions. The SESC will continue to closely engage with outside advisors and other stakeholders to fulfill its mission.

⁵ A method for continuous improvement by repeating the “Plan, Do, Check, Act” cycle



"for investors, with investors"

The two ellipses crossing each other symbolize the securities markets and financial futures markets, which are both subject to our surveillance, the cooperation between the SESC and other domestic authorities concerned, and moreover our relationship with investors.

The slogan "for investors, with investors" represents the principle position of the SESC, which was established to protect investors and respect its relationship with them.