

## SESC Activity Summary

### 1 Overview of activities in Fiscal Year 2021

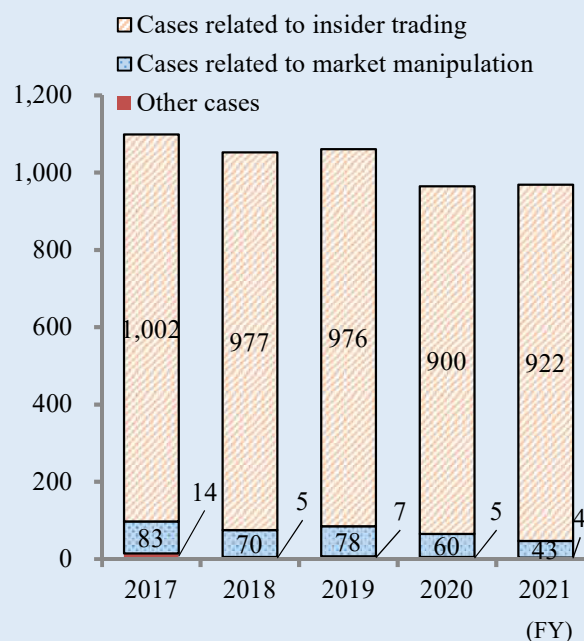
In FY2021 (April 2021-March 2022), the economic environment surrounding Japanese securities markets went through various changes. At the beginning of the fiscal year, although the Japanese economy, while remaining in a severe situation under the impact of the COVID-19 pandemic, continued to rebound, 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.

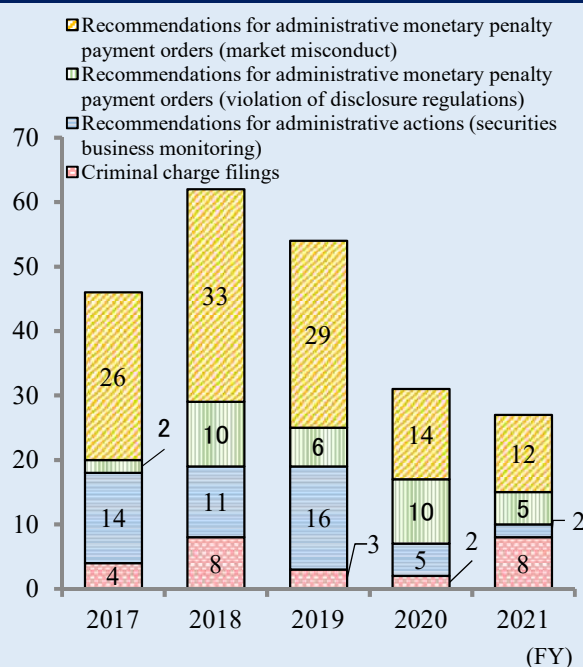
In FY2021, the total number of cases the SESC examined for detecting market misconduct was 969. The SESC made recommendations for administrative monetary penalty payment orders in 17 cases (12 market misconduct cases and five disclosure regulation violation cases<sup>1</sup>) and those for administrative

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



<sup>1</sup> 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 FIBOs<sup>2</sup>

### (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

<sup>2</sup> 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.