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# Annual Report

## (April 2021-March 2022)

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### Overview

June 24, 2022

Securities and Exchange Surveillance Commission

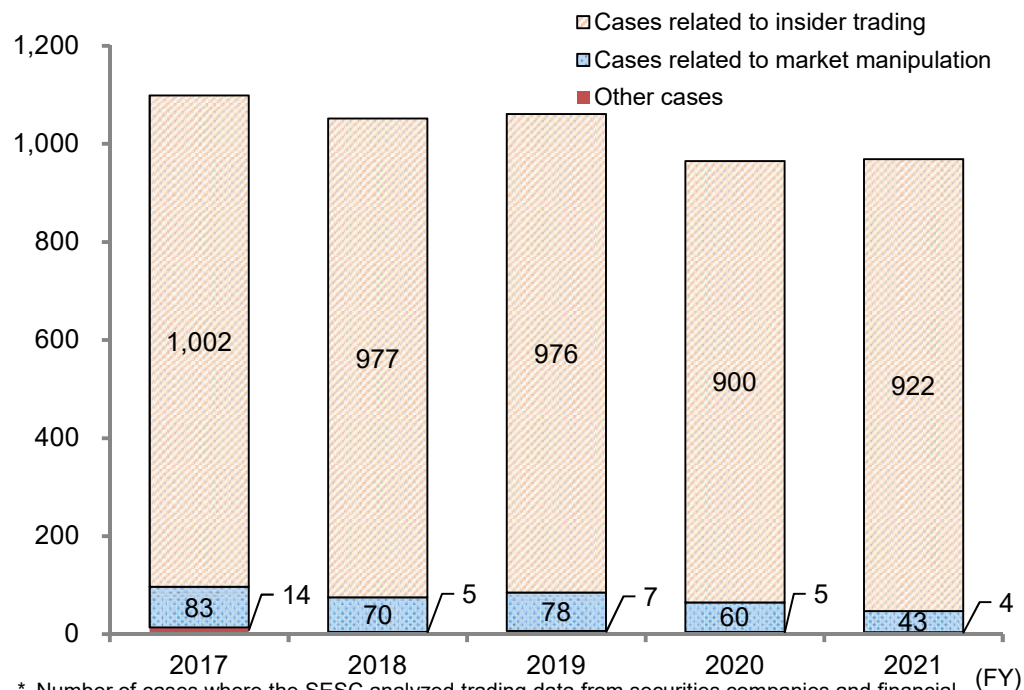
# 1 Outline of SESC's Activities in 2021/2022

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

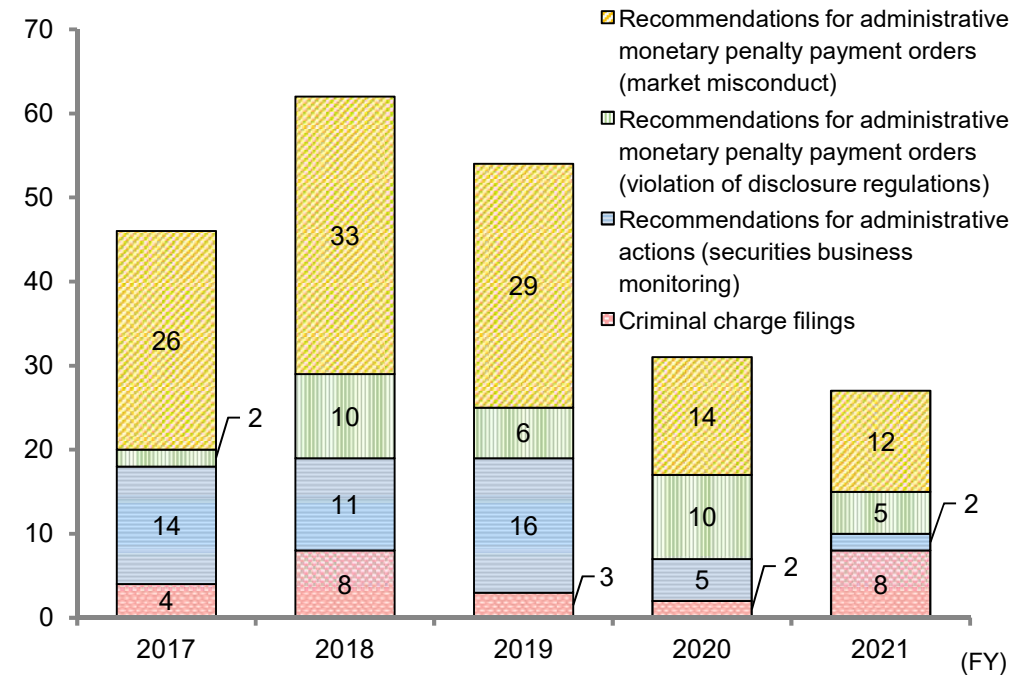
"FIBOs" refers to all business operators subject to securities business monitoring, including Financial Instruments Business Operators, Registered Financial Institutions, Financial Instruments Intermediary Service Providers, Qualified Institutional Investor Business Operators, and credit rating agencies.

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"> <li>• 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.</li> </ul>
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"> <li>• The wrongdoer used brokerage accounts in other persons' names to repeat insider trading.</li> </ul>
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"> <li>• 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.</li> </ul>
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"> <li>• This was the first market manipulation case through over-the-counter derivatives transactions, for which an administrative monetary penalty order was made.</li> <li>• The SESC obtained assistance in finding facts from four foreign authorities.</li> </ul>

## 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"> <li>Round-tripping to overstate sales and understate sales costs</li> <li>Failure to book a special loss involving advances that were unlikely to be recovered</li> </ul>	Jun. 11, 2021 81,109,997 yen	<ul style="list-style-type: none"> <li>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.</li> <li>Auditors and the other internal audits had little awareness of misconduct risks.</li> </ul>
<ul style="list-style-type: none"> <li>Booking of fictitious sales</li> <li>Fictitious and premature revenue recognition, etc.</li> <li>The company has conducted such inappropriate accounting practices since before its listing.</li> </ul>	Feb. 22, 2022 24 million yen	<ul style="list-style-type: none"> <li>The previous chairman had set excessively high earnings targets.</li> <li>A corporate culture that gives top priority to earnings in defiance of compliance with law was dominant.</li> <li>Internal control and audit were dysfunctional.</li> </ul>

## 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"> <li>• 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.</li> </ul> <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"> <li>• 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.</li> <li>• In addition, the company conducted problematic practices regarding the provision of information to beneficiaries from the viewpoint of beneficiary fairness.</li> </ul>
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"> <li>• 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).</li> </ul> <p>[Lending of a name to unregistered business operators]</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul>



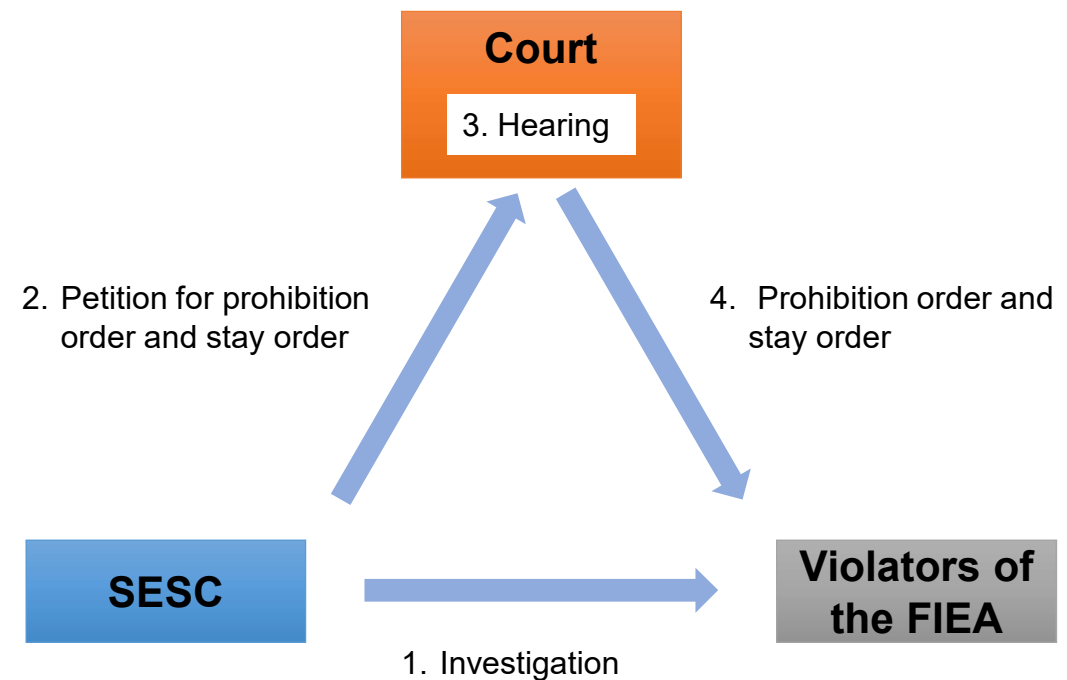
## Petitions to the court for prohibition order and stay order against acts in violation of the FIEA

- 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

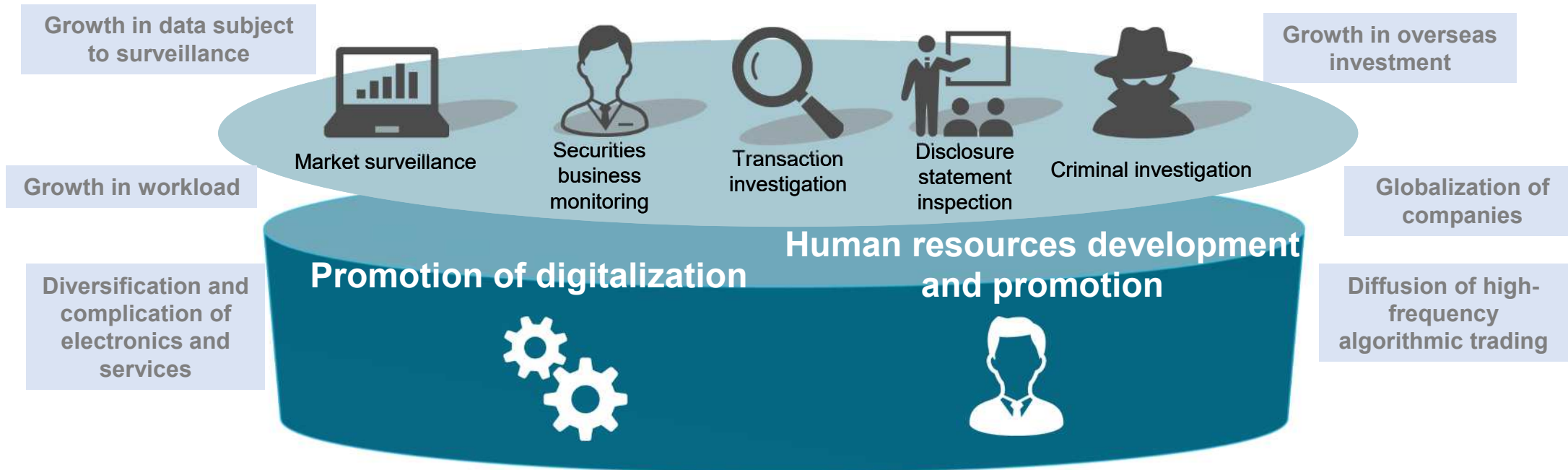


## Development of infrastructure to support surveillance (digitalization and human resources)

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



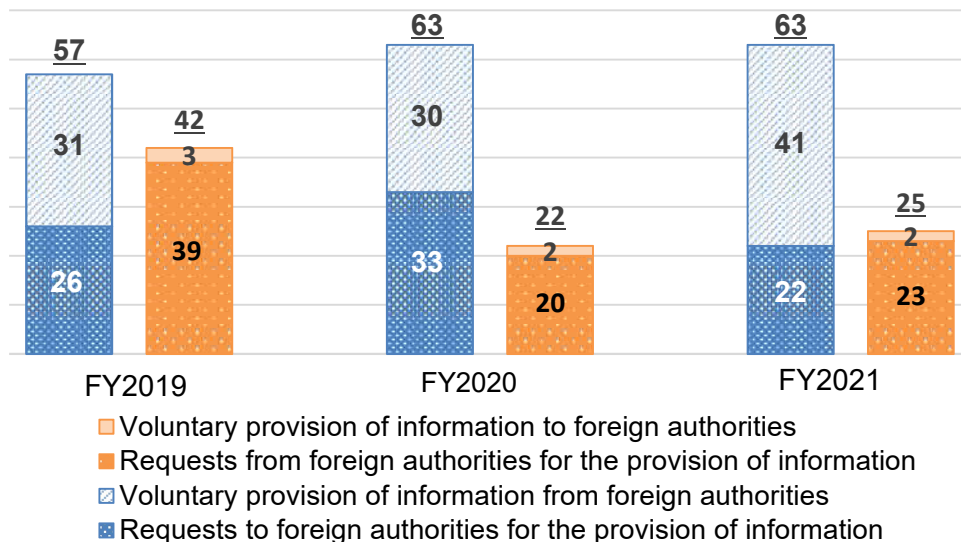


## 8 SESC's initiatives to enhance market discipline

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.



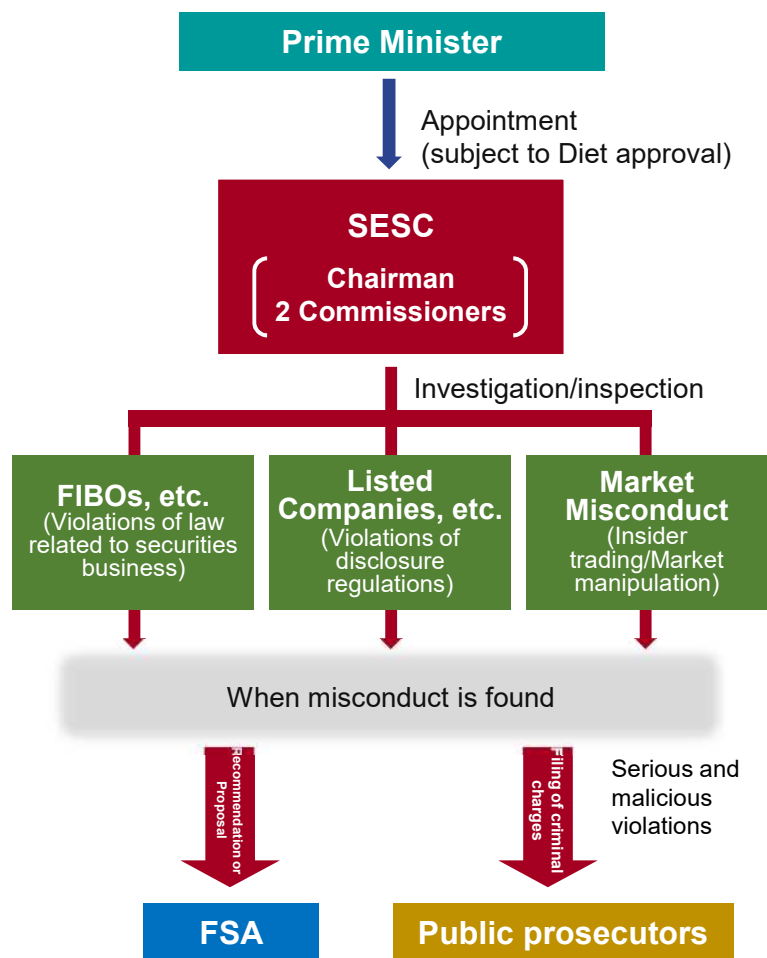
\*The numbers are totals for the FSA and the SESC.

Communications using Twitter



# 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<sup>(\*)</sup>

(\*) 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

Environmental  
Scan

Further globalization of markets and corporate activity and closer integration of various financial markets

Heightened uncertainty concerning the outlook for the world economy

Rapid advance of digitalization

Stronger measures to promote stable asset accumulation by citizens and the smooth circulation of funds

Five policy  
priorities  
to achieve  
the goals

### (1) Enhanced Intelligence Gathering

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

### (3) Effective Measures for Strengthened Market Discipline

- Multi-dimensional/directional use of outputs from investigations and inspections
- Enhancement of root-cause analysis and engagement with stakeholders to prevent recurrence of market abuse
- Enhanced outreach domestically and globally for pre-emptive measure against market misconduct
- Extensive measures for seamless surveillance

### (2) In-depth Analysis and Swift, Effective and Efficient Investigations /Inspections

- Multi-directional/dimensional analysis and review
- Swift recommendation for administrative monetary penalty payment orders
- Effective and efficient investigation and inspections of cross-border cases
- Rigorous enforcement of criminal investigation against market misconduct
- Effective and efficient securities business monitoring based on risk approaches
- Proactive response to cases where investors are harmed

### (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

### (5) Cooperation with Various Stakeholders

- Closer cooperation with SROs
- Enhanced cooperation with stakeholders
- Enhanced contribution to global market oversight



Continuous Review of Oversight Approach through PDCA Cycle