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# Annual Report for FY2022\* Overview

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June 2023

Securities and Exchange Surveillance Commission



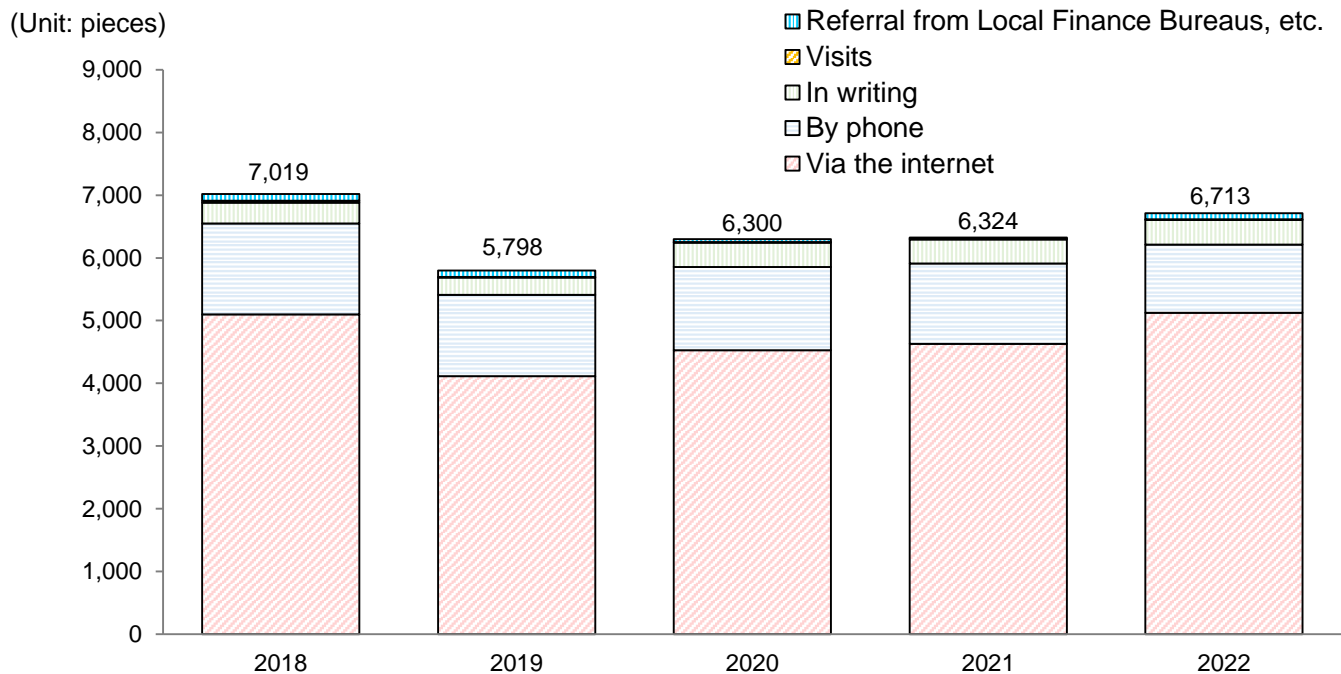
*"for investors, with investors"*

\*The period from April 1, 2022 to March 31, 2023

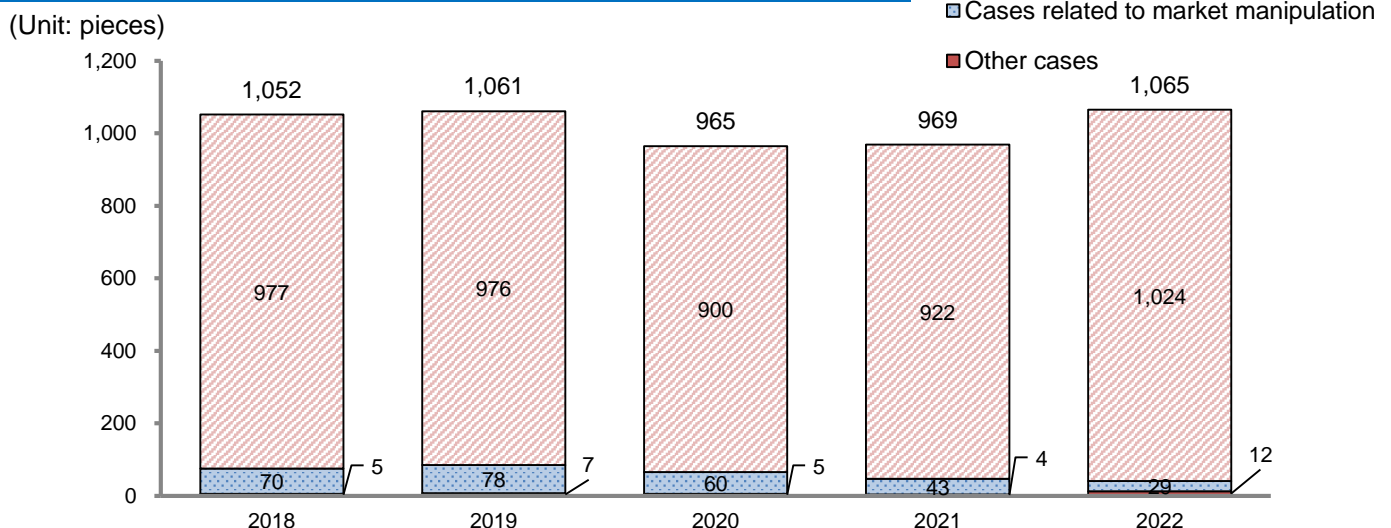
# 1 Outline of SESC's Activities in FY2022 (1)

- The SESC collected information broadly on the market as a whole, including 6,713 pieces of information received via the Contact Point for Providing Information, etc. Based on the collected information, it conducted 1,065 examinations of transactions that were suspected as market misconduct.
- The SESC made recommendations for administrative disciplinary actions for five cases, as a result of conducting inspections of Financial Instruments Business Operators (FIBOs) based on a risk-based approach.
- The SESC conducted rigorous criminal investigations against serious and malicious violations (filing of criminal charges for eight cases), while promptly responding to market misconduct (recommendations for administrative monetary penalty payment orders for 14 cases) and violation of disclosure regulations (the same for seven cases).
- The 11th term was inaugurated in December 2022, and the Strategy & Policy 2023-2025 was formulated under the new organizational structure.

## Number of pieces of information received



## Number of examined cases for market misconduct\*

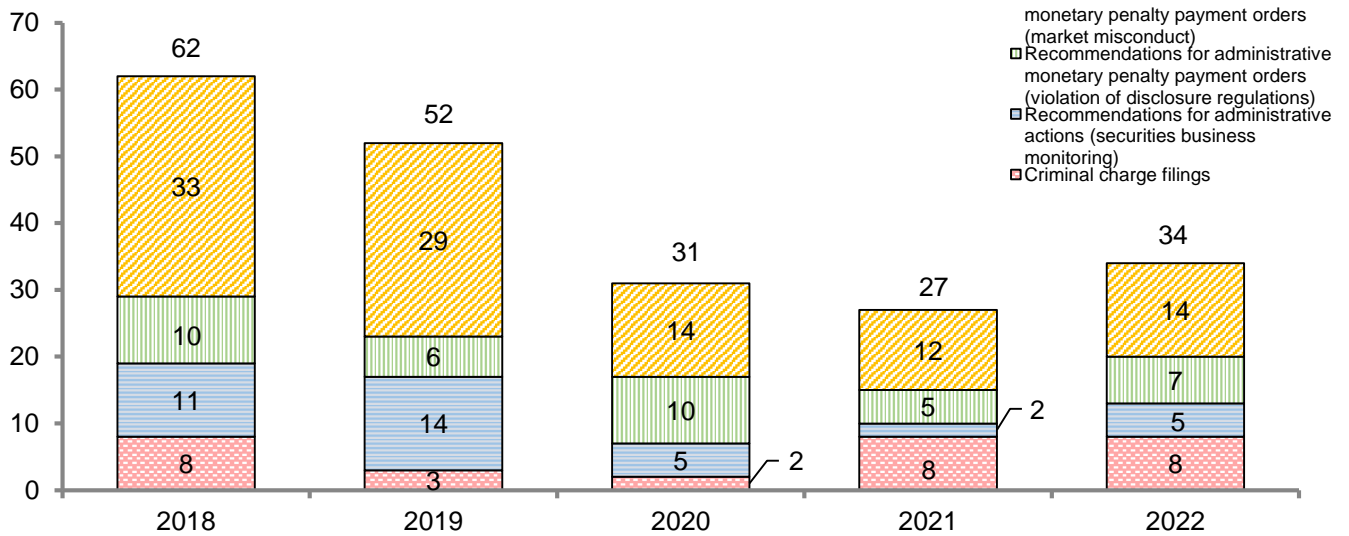


\* These numbers reflect the cases that the SESC examined as to whether the relevant transaction falls under a transaction suspected as market misconduct, with the trading data obtained from securities companies and financial instruments exchanges, etc., based on the information received via the Contact Point for Providing Information, etc. and other various types of information

# 1 Outline of SESC's Activities in FY2022 (2)

## Number of cases for recommendations and criminal charge fillings

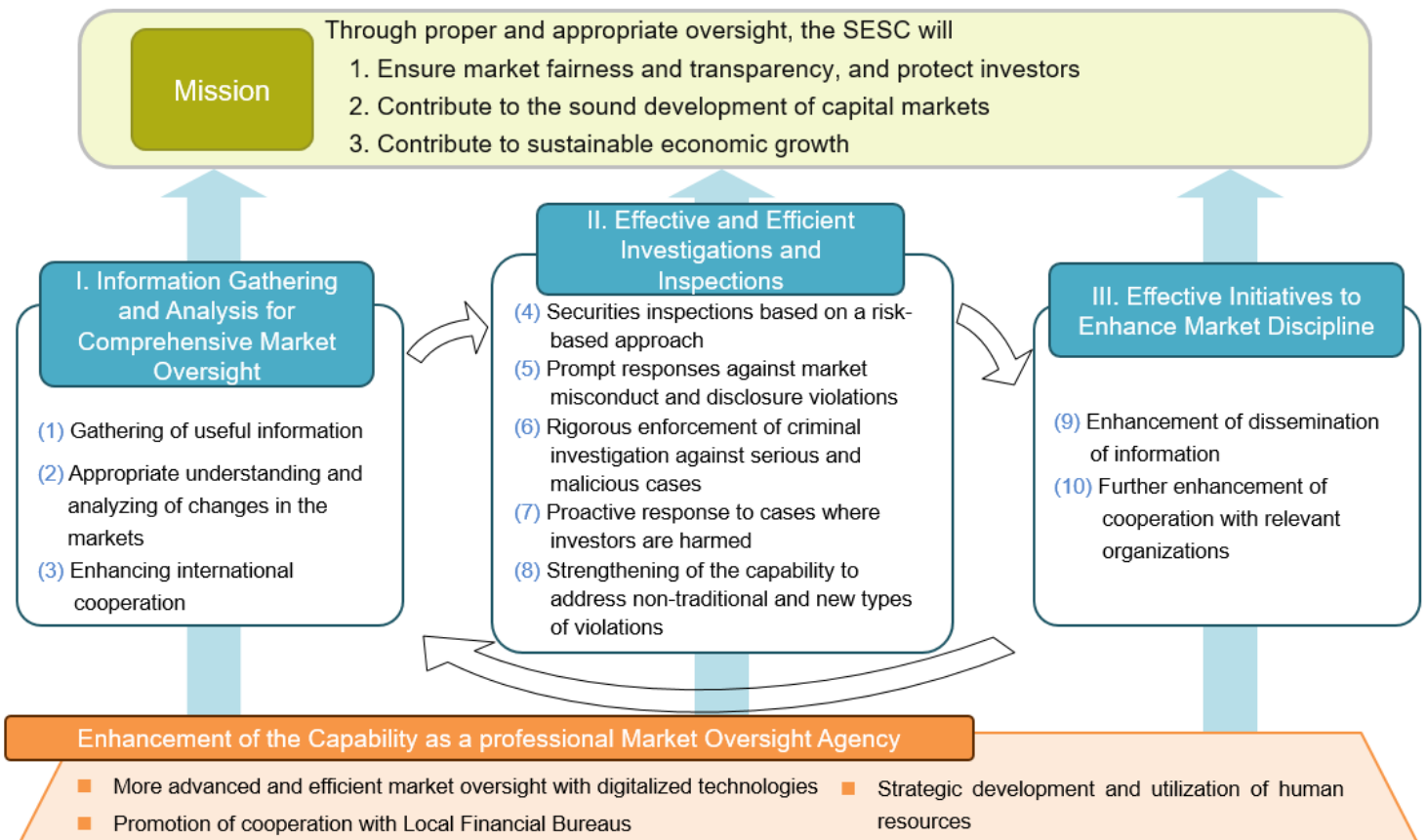
(Unit: pieces)



## Strategy & Policy of the SESC 2023-2025

### Strategy & Policy of the SESC 2023-2025 - For Trusted, Fair and Transparent Markets in Response to the Changing Times -

※Published on January 27, 2023



## Monitoring of FIBOs (Recommendations for Administrative Disciplinary Actions)

- 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 59 FIBOs based on the risk assessment and made five recommendations for administrative disciplinary actions to the 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 the notifications of completion of inspection in order to share awareness with the management of the inspected FIBOs

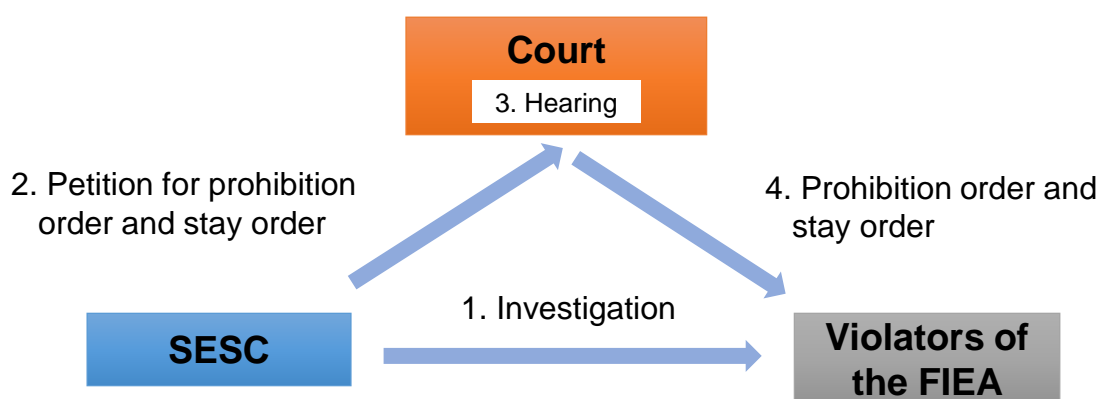
### Major cases for recommendation (securities business monitoring)

Company name	Date of recommendation	Overview
SMBC Nikko Securities Inc. (Type I financial instruments business)	Sep. 28, 2022	<p>[Conduct of making illegal purchases, etc. for the purpose of stabilizing market prices of listed shares]</p> <ul style="list-style-type: none"> <li>• In a "block offer" deal (BO), the company illegally made a series of purchases and offers to purchase for 10 issues of listed shares for the purpose of stabilizing the market prices of these shares.</li> </ul> <p>[Deficiency in the control environment for transaction screening]</p> <ul style="list-style-type: none"> <li>• The aforementioned series of transactions was not included in the coverage of transaction screening, showing that there was a deficiency in the company's control environment.</li> </ul> <p>[Deficiency in the control environment for business operations relating to BO]</p> <ul style="list-style-type: none"> <li>• The company made an inappropriate customer solicitation which could induce short selling, such as providing a buying customer with an explanation which makes the execution date of the BO inferable.</li> <li>• Additionally, since the time of introducing BO, the company had recognized concerns that buying customers' short selling of the issue subject to the BO would distort the price formation of the issue. However, the company conducted inappropriate business operations, such as commenced BO operations without appropriate discussions.</li> </ul> <p>[Inappropriate operations of the business handled in cooperation with a bank]</p> <ul style="list-style-type: none"> <li>• The company received from, or provided to the bank, which is its parent corporation, etc., undisclosed information on multiple corporate customers and shared such information within the company, despite recognizing that suspension of the information sharing was requested by those corporate customers.</li> </ul>
ES-CON Asset Management Ltd. (Investment management business)	Jun. 17, 2022	<p>[Failure to engage in investment management business faithfully on behalf of an investment corporation]</p> <ul style="list-style-type: none"> <li>• In managing assets entrusted by a real estate investment corporation, the company inappropriately urged a real estate appraisal company to raise the appraisal value of a piece of real estate owned by its parent company, etc., which is an interested party, for the purpose of having the real estate investment corporation purchase the real estate at the price recommended by the parent company.</li> <li>• Additionally, the company collected estimated appraisal values from multiple appraisal companies, and negotiated with the appraisal company that presented the highest amount so that the appraisal fee for the relevant appraisal company would become the lowest.</li> </ul>

## 2 Monitoring of FIBOs (Unregistered Business Operators, etc.)

- 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, Local Finance Bureaus, law enforcement authorities and the Consumer Affairs Agency.

### Flow of filing a petition



### Cases of a petition

Respondent	Date of petition filing	Overview
Thousand Ventures Co., Ltd. and its manager	Jun. 28, 2022 (Tokyo District Court)	<ul style="list-style-type: none"> <li>Targeting the members of the money school that the respondents organized, the respondents had (i) solicited shares in collective investment schemes, etc., (ii) engaged in intermediation for over-the-counter derivative transactions, and (iii) solicited a corporate bond issued by another company on a regular basis without statutory registration (i.e., unregistered business operation), thereby collecting around 1.7 billion yen from at least 1,100 general investors in total. Furthermore, they made a public offering of its corporate bonds without filing a Securities Registration Statement.</li> </ul>
President of Mt. light (MTL)	Dec. 9, 2022 (Tokyo District Court)	<ul style="list-style-type: none"> <li>The respondent had OS-Laugh Marketing Ltd., located in Labuan Island, Malaysia, offer foreign exchange margin transactions (over-the-counter derivative transactions) to general MTL investors in Japan under the name of Mt. light (MTL) on a regular basis without statutory registration (i.e., unregistered business operation), thereby collecting over 8.5 billion yen from at least 1,950 general investors in total.</li> </ul>

## Investigations of Market Misconduct (Recommendations for Administrative Monetary Penalty Payment Orders)

- Violation of the insider trading regulations
  - Recommendations were made for eight cases.
  - The SESC made a recommendation for the case where an employee of a financial institution, misusing the information he had obtained in the course of his duties, conducted and encouraged insider trading.
  - Recommendations were made for one case of violating the regulations on the provision of insider information and three cases of violating the regulations on transaction encouragement
  - In many cases subjected to recommendations for administrative monetary penalty payment orders, material facts pertained to tender offers.
- Violation of the regulations on market manipulation
  - Recommendations were made for six cases (including one cross-border case)
  - Market manipulation schemes have become increasingly complicated and sophisticated as seen in the following cases: a wrongdoer, using multiple securities accounts, including those under other persons' names, repeated cross trades intended for share price hikes while supporting lower price levels by increasing buy orders, thereby inducing transactions of third parties; and traders engaged in spoofing in Japanese Government Bond (JGB) Futures while trading Options whose underlying assets were JGB Futures.

### Major cases where a recommendation was made (market misconduct)

Overview	Date of recommendation Amount of administrative monetary penalty	Key points
<p>[Violation of the regulations on market manipulation]</p> <p>(Overview) A retail investor repeatedly pushed up prices and conducted cross trades for shares of listed companies to manipulate market prices.</p>	<p>Jun. 28, 2022 4,150,000 yen</p>	<ul style="list-style-type: none"> <li>• The wrongdoer used three accounts under his/her name and one account under a name of his/her relative.</li> </ul>
<p>[Violation of the insider trading regulations and the regulations on encouragement of transaction]</p> <p>(Overview) An employee of a financial institution had obtained a material fact in the course of duties and purchased relevant shares prior to the announcement of the fact and also encouraged his/her relative to purchase them for the purpose of letting the relative earn profits.</p>	<p>Sep. 2, 2022 1,630,000 yen</p>	<ul style="list-style-type: none"> <li>• A violation by an employee of a financial institution</li> <li>• The wrongdoer used a securities account under another person's name.</li> <li>• The SESC made a recommendation for the violation of the insider trading regulations and the regulations on transaction encouragement.</li> </ul>
<p>[Violation of the regulations on transaction encouragement]</p> <p>(Overview) An employee of a listed company had come to know of a planned tender offer in the course of duties and encouraged his acquaintance to purchase relevant shares for the purpose of letting the acquaintance earn profits.</p>	<p>Sep. 9, 2022 210,000 yen</p>	<ul style="list-style-type: none"> <li>• Internal rules of the company did not contain the regulations on transaction encouragement, and the illegality had not been broadly disseminated in internal training or on other occasions.</li> </ul>
<p>[Violation of the regulations on market manipulation]</p> <p>(Overview) An overseas corporation engaged in market manipulation known as spoofing in JGB Futures.</p>	<p>Jun. 21, 2022 42,850,000 yen</p>	<ul style="list-style-type: none"> <li>• Traders, who worked for a registered High-Speed Trader, manually placed large orders without the intent to execute them.</li> </ul>

## Inspections of Violations of Disclosure Regulations (Recommendations for Administrative Monetary Penalty Payment Orders)

- Recommendations were made for seven disclosure regulation violation cases.
- The SESC made recommendations for the following cases:
  - Non-disclosure of related party transactions
  - Inappropriate accounting treatment, such as overstating sales to overseas subsidiaries that should be included in the scope of consolidation
  - Non-disclosure of material events, etc.\*
- The SESC discussed the backgrounds and causes of violations of disclosure regulations with management officials of the listed companies to share awareness of the issues in order to prevent the occurrence and recurrence of the violations.

### Major cases where a recommendation was made (violation of disclosure regulations)

Overview	Date of recommendation Amount of administrative monetary penalty	Background and cause of inappropriate accounting practices
<p>[False statement, etc. in annual securities report, etc.] (Overview)</p> <ul style="list-style-type: none"> <li>• Advanced booking of sales and booking of fictitious sales, etc.</li> <li>• Transactions, made by a person who is substantially a major stakeholder and equivalent to a corporate officer, with the company whose majority of voting rights are held by the said person were not disclosed in the Notes on "Transactions with Related Parties."</li> </ul>	<p>Apr. 26, 2022 46,050,000 yen</p>	<ul style="list-style-type: none"> <li>• The solar power generation business was considered a sanctuary.</li> <li>• Critical operations were executed without going through resolutions of the board of directors, or board resolutions were otherwise neglected.</li> </ul>
<p>[False statement, etc. in annual securities report, etc.] (Overview)</p> <ul style="list-style-type: none"> <li>• Overstatement of sales to overseas subsidiaries that should be included in the scope of consolidation</li> <li>• Existing material events, etc.* and the details thereof were not disclosed.</li> <li>• Upon amending the aforementioned inappropriate accounting treatment and non-disclosure of the material event, the company filed the amendment report where many false statements were found, such as inconsistencies between the balance sheet and profit-and-loss statement.</li> </ul>	<p>Dec. 9, 2022 205,730,000 yen</p>	<ul style="list-style-type: none"> <li>• The company's business attitude represented by its former chairman, who insisted on drawing up unrealistic sales budgets, put pressure on officers and employees under his control to achieve those sales budgets.</li> <li>• Strongly motivated to avoid disclosing the material event, the former chairman himself booked sales by using a company where he had effective control over the decision-making body, thereby making the said company appear to have achieved profitability.</li> <li>• The company did not have personnel with the capacity to prepare amendment reports, and therefore submitted an amendment report containing many false statements, without verifying the content sufficiently.</li> </ul>

\* A material event, etc. refers to an event or a situation that gives rise to any material doubt as to the assumption that the company will continue its business activities into the future.

## 5 Criminal Investigations (Filing of Criminal Charges)

- The SESC filed eight criminal charges.
  - Seven insider trading cases and one market manipulation case
- The SESC exercises its authority for criminal investigation to take rigorous actions against severe and malicious market misconduct in order to achieve fair and transparent markets.

### Major criminal charge cases

Case	Date of filing	Overview
Market manipulation by SMBC Nikko Securities Inc.	Apr. 12, 2022	<ul style="list-style-type: none"> <li>• Suspects engaged in transactions of shares that fall under an illegal stabilization operation in an attempt to avoid a significant decline in the closing price on the day of a BO handled by the suspected company (FIBO), compared to the closing price of the previous day. The closing price forms the base value for the deal price.</li> <li>* The SESC filed a criminal charge for the related case on March 23, 2022.</li> </ul>
Insider trading of the shares of SOFTBRAIN Co., Ltd.	Jun. 3, 2022	<ul style="list-style-type: none"> <li>• Suspect A, who was a manager of the internal audit office of a listed company, had come to know a fact concerning the launch of a tender offer for the company's shares in the course of his duties, and told this fact to Suspect B and Suspect D prior to the announcement of the fact for the purpose of letting them earn profits. Suspect B and Suspect D purchased the company's shares prior to the announcement. Additionally, Suspect A, in conspiracy with Suspect C and Suspect D, purchased the company's shares prior to the announcement.</li> </ul>
Insider trading of the shares of Aiming Inc.	Dec. 6, 2022	<ul style="list-style-type: none"> <li>• In the course of their duties, Suspect A and Suspect C had come to know a material fact having a significant influence on investors' investment decisions, which was that the development of a new game for mobile phones, which the listed company had been working on jointly with another company, had progressed to a stage where distribution would be expected to begin. They purchased the listed company's shares prior to the announcement of that fact. Additionally, Suspect A told this material fact to Suspect B prior to the announcement thereof for the purpose of letting Suspect B earn profits, and Suspect B purchased the company's shares prior to the announcement.</li> <li>* The SESC filed criminal charges for the case of Suspect A and Suspect B, and the case of Suspect C.</li> <li>* The SESC filed a criminal charge for the related case on December 26, 2022.</li> </ul>
Insider trading of the shares of Sogo Medical Holdings Co., Ltd. and the shares of Space Value Holdings Co., Ltd.	Mar. 3, 2023	<ul style="list-style-type: none"> <li>• A suspect who used to be an employee of a private equity fund operator had come to know facts concerning the launch of tender offers for the listed companies' shares in the course of duties and purchased those companies' shares prior to the announcement of those facts.</li> </ul>



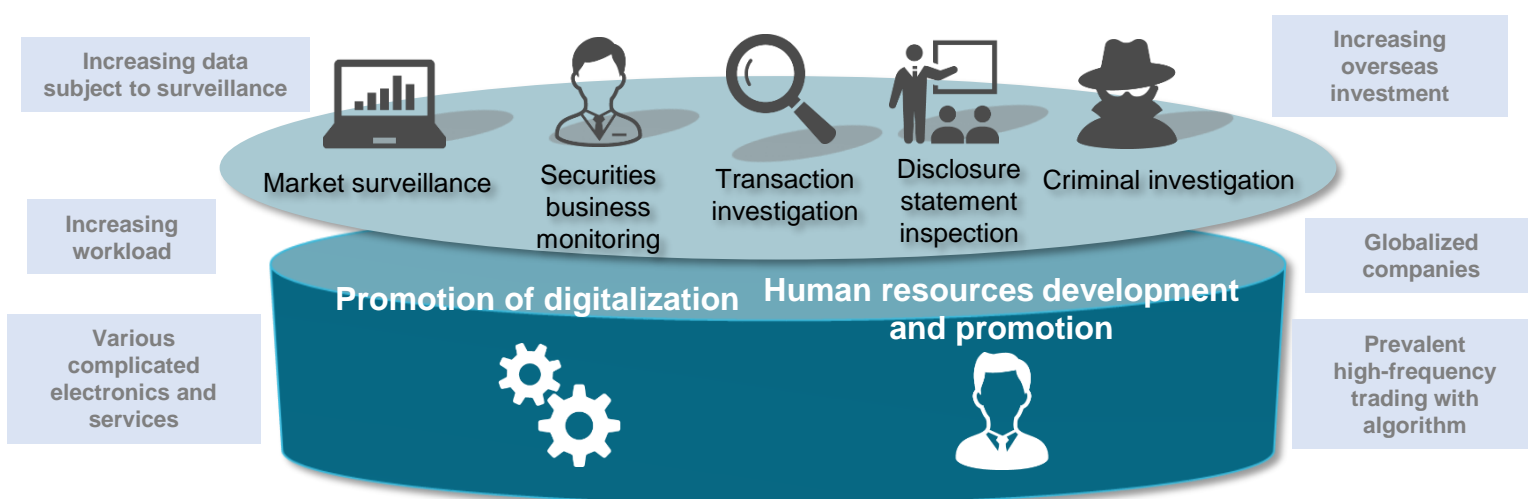
## Development of Infrastructure to Support Market Oversight (Utilization of Digital Technology and Human Resources)

The SESC is promoting initiatives

- to upgrade and enhance the efficiency of market oversight operation through the utilization of digital technology
  - (e.g.) Preparation for the commencement of the use of online deposit account inquiry services provided by private business operators to financial institutions (signing in April 2023)\*
- to strengthen system functions to support market oversight
- to further enhance its capability of digital forensics and upgrade the digital forensics system
- to improve SESC staff members' professional skills through on-the-job training and to hire personnel with high expertise

\* Approximately 100 financial institutions participate in the services (as of March 2023). Digitalizing operational work on inquiring and responding will reduce workloads of both financial institutions and the SESC.

### Development of infrastructure to support market oversight



### Active participation by outside experts

(Unit: Persons)

	As of April 2022	As of April 2023
Attorneys	9	10
Certified public accountant	19	18
Real estate appraisers	1	2
Information processing engineers	6	7
Personnel with practical financial experience	13	14
<b>Total</b>	<b>48</b>	<b>51</b>

## 7 SESC's Initiatives to Enhance Market Discipline

The SESC is promoting the following initiatives:

- disseminating information through various channels
    - communicate the implications and key takeaways of the cases on which the SESC made recommendations via its website, public speeches and articles, etc.
    - call attention through the casebooks and columns (in the annual report) for preventing recurrence and occurrence of misconduct
  - making a positive contribution to the development of the market environment
    - In FY 2022, the SESC issued one policy proposal as shown below
  - close cooperation with self-regulatory organizations
    - work regularly with self-regulatory organizations in market surveillance activities, etc. and exchange opinions periodically to share awareness of issues on a timely basis
  - making a request to securities companies regarding their transaction monitoring systems
    - request securities companies to conduct self-check for their transaction monitoring systems to enhance the effectiveness of their transaction monitoring
  - close cooperation with foreign authorities
    - proactively participate in discussions on issues concerning securities regulations at the International Organization of Securities Commissions (IOSCO), and engage in swift enforcement against misconduct in cross-border transactions through information exchange under the IOSCO MMoU\*
    - enhance networks and share awareness with foreign authorities through training programs for staff of foreign authorities
- \* IOSCO MMoU: Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information formulated by the IOSCO

### Policy proposal

Case title	Overview
Solicitation by a limited liability company to acquire its membership rights (Jun. 21, 2022)	Recently, numerous inquiries and complaints have been received from outside sources that limited liability companies with unknown business conditions solicit investments from a large number of investors in an inappropriate manner, by asking them to invest in the membership rights of those companies, through a large number of employees/hired persons who do not always understand their business. Considering the situation, the SESC submitted a policy proposal to take appropriate measures, such as expanding the requirements for registration as a financial instruments business operator, to cover solicitation to acquire a limited liability company's membership rights by persons other than its executives, such as employees and hired persons.

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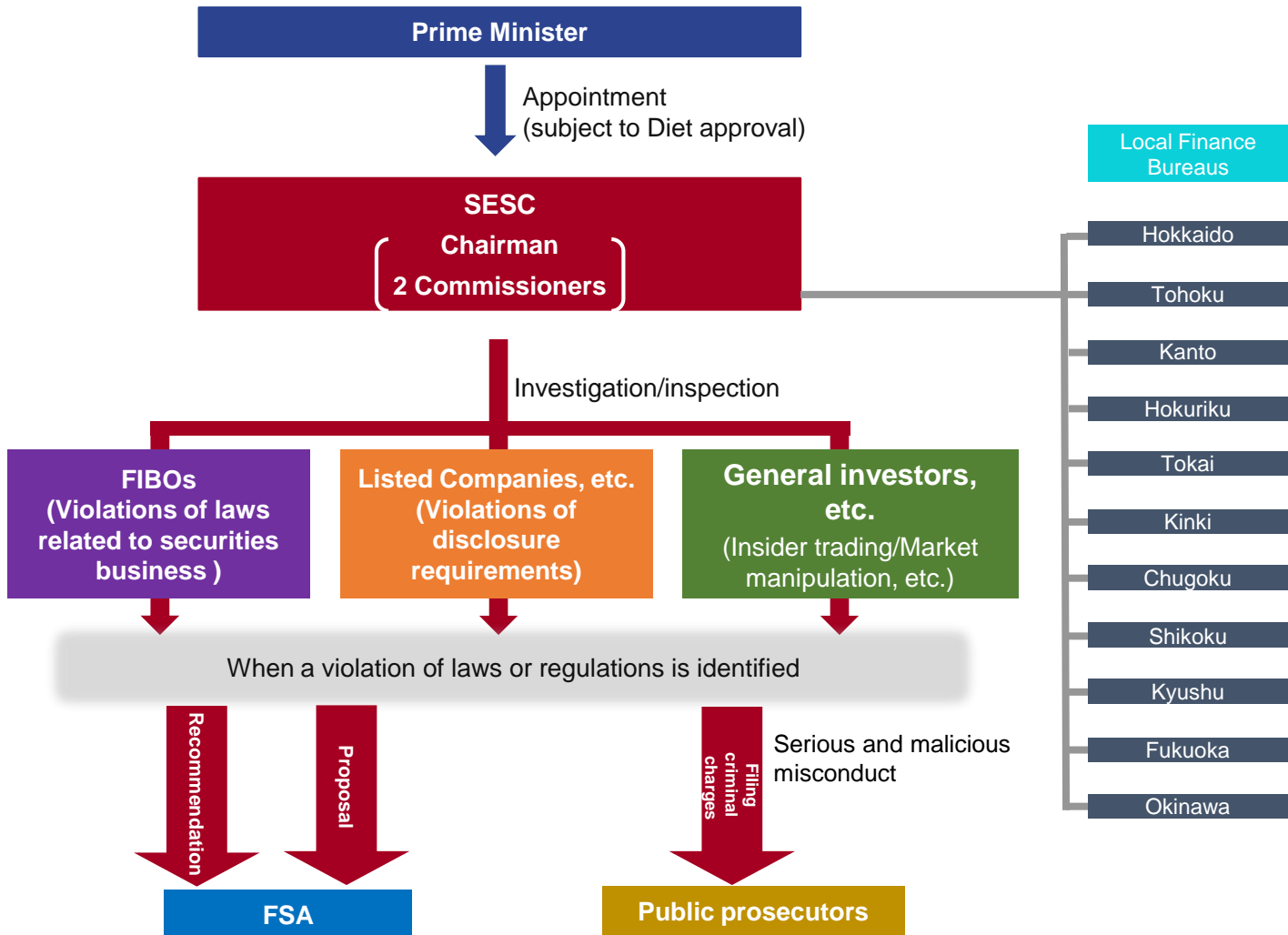
### Changes in the numbers of information exchange cases under MMoU

	FY2020	FY2021	FY2022
<b>Cases of receiving information from foreign authorities</b>	<b>64</b>	<b>64</b>	<b>76</b>
Requests to foreign authorities for the provision of information	32	22	20
Voluntary provision of information from foreign authorities	32	42	56
<b>Cases of providing information to foreign authorities</b>	<b>9</b>	<b>8</b>	<b>4</b>
Requests from foreign authorities for the provision of information	7	6	1
Voluntary provision of information to foreign authorities	2	2	3

(\*1) Excluding the number of cases of information provision pertaining to inquiries for eligibility screening by the authorities (regarding persons who assume important positions in financial institutions or local corporations that file applications for approval, etc.)

# Reference Overview of the SESC

## Organization



## Chairman and Commissioners



**Commissioner  
KATO Sayuri**

KATO Sayuri was appointed as SESC Commissioner in December 2019 (reappointed in 2022). Previously, she served as Director of the Consumer Affairs Agency, Vice-Governor of the National Consumer Affairs Center of Japan, and Executive Vice President of the National Consumer Affairs Center of Japan.

**Chairman  
NAKAHARA Ryoichi**

NAKAHARA Ryoichi was appointed as SESC Chairman in December 2022. Previously, he served as the Chief Public Prosecutor of the Hiroshima and Fukuoka High Public Prosecutors Offices.

**Commissioner  
HASHIMOTO Takashi**

HASHIMOTO Takashi was appointed as SESC Commissioner in December 2022. Previously, he served as a professor at Nihon University College of Commerce and at Aoyama Gakuin University Graduate School of Professional Accountancy.