

CABINET OFFICE ORDINANCE ON FINANCIAL INSTRUMENTS BUSINESS, ETC.

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* This English version is a translation of the original Japanese text. The original Japanese text will prevail should there be any difference in meaning between the English and Japanese versions.

CHAPTER I GENERAL PROVISIONS

Article 1. — Definitions

1.1. The term "security," "public offer of a security," "private placement of a security," "public sale of a security," "issuer," "underwriter," "securities notification," "financial instruments business," "financial instruments firm," "prospectus," "financial instruments intermediary business," "financial instruments intermediary firm," "approved financial instruments firms association," "financial instruments market," "financial instruments exchange," "on-exchange financial instruments market," "trading participant," "derivatives transaction," "market derivatives transaction," "over-the-counter derivatives transaction," "foreign market derivatives transaction," "financial instrument," "financial index," "foreign financial instruments exchange," "securities, etc. clearing broking," "financial instruments liability assumption business," "financial instruments clearing organization," "foreign financial instruments clearing organization," "securities finance company," "specific investor," "credit rating," "credit rating business," and "credit rating firm" as used in this Cabinet Office Ordinance shall mean security, public offer of a security, private placement of a security, public sale of a security, issuer, underwriter, securities notification, financial instruments business, financial instruments firm, prospectus, financial instruments intermediary business, financial instruments intermediary firm, approved financial instruments firms association, financial instruments market, financial instruments exchange, on-exchange financial instruments market, trading participant, derivatives transaction, market derivatives transaction, over-the-counter derivatives transaction, foreign market derivatives transaction, financial instrument, financial index, foreign financial instruments exchange, securities, etc. clearing broking, financial instruments liability assumption business, financial instruments clearing organization, foreign financial instruments clearing organization, securities finance company, specific investor, credit rating, credit rating business and credit rating firm, respectively as defined in Article 2 of the Financial Instruments and Exchange Act (hereinafter referred to as "Act").

1.2 The term "first-type financial instruments business," "second-type financial instruments business," "investment advisory and agent business," "investment management business," "securities, etc. custody business," "investment advisory business," "primary underwriting of a security" and "security related business" as used in this Cabinet Office Ordinance shall mean first-type financial instruments business, second-type financial instruments business, investment advisory and agent business, investment management business, securities, etc. custody business, investment advisory business, primary underwriting of a security and security related business, respectively as defined in Article 28 of the Act.

1.3. The term referred to in each of the following items shall have the meaning provided in such item in this Cabinet Office Ordinance (excluding, in respect of the term referred to in (16), Article 199 (13), 201 (24), 202 (18), CHAPTER II Section 4-2 and Forms 17-2 to 17-6):

- (1) option — option as defined in Article 2.1 (19) of the Act;
- (2) capital contribution object project — capital contribution object project as defined in Article 2.2 (5) of the Act;
- (3) eligible institutional investor — eligible institutional investor as defined in Article 2.3 (1) of the Act;
- (3-2) solicitation of sale, etc. to specific investors — solicitation of sale, etc. to specific investors as defined in Article 2.6 of the Act;
- (4) foreign financial instruments market — foreign financial instruments market as defined in Article 2.8 (3) (b) of the Act;
- (5) over-the-counter derivatives transaction, etc. — over-the-counter derivatives transaction, etc. as defined in Article 2.8 (4) of the Act;
- (6) underwriting of a security — underwriting of a security as defined in Article 2.8 (6) of the Act;
- (7) over-the-counter traded security — over-the-counter traded security as defined in Article 2.8 (10) (c) of the Act;
- (8) contract of investment advice — contract of investment advice as defined in Article 2.8 (11) of the Act;
- (9) contract of discretionary investment — contract of discretionary investment as defined in Article 2.8 (12) (b) of the Act;
- (10) registered financial institution — registered financial institution as defined in Article 2.11 of the Act;

- (10-2) security intended to be placed with specific investors — security intended to be placed with specific investors as defined in Article 4.3 of the Act;
- (10-3) solicitation of subscription to specific investors — solicitation of subscription to specific investors as defined in Article 4.3 (1) of the Act;
- (11) officer — officer as defined in Article 21.1 (1) of the Act;
- (12) securities related derivatives transaction — securities related derivatives transaction as defined in Article 28.8 (6) of the Act;
- (13) parent bank, etc. — parent bank, etc. as defined in Article 31-4.3 of the Act;
- (14) parent juridical person, etc. — parent juridical person, etc. as defined in Article 31-4.3 of the Act;
- (15) subsidiary bank, etc. — subsidiary bank, etc. as defined in Article 31-4.4 of the Act;
- (16) subsidiary juridical person, etc. — subsidiary juridical person, etc. as defined in Article 31-4.4 of the Act;
- (17) derivatives transaction, etc. — derivatives transaction, etc. as defined in Article 33.3 of the Act;
- (18) securities related derivatives transaction, etc. — securities related derivatives transaction, etc. as defined in Article 33.3 of the Act;
- (19) market derivatives transaction, etc. — market derivatives transactions, etc. as defined in Article 33.3 (1) of the Act;
- (20) foreign market derivatives transaction, etc. — foreign market derivatives transaction, etc. as defined in Article 33.3 (3) of the Act;
- (21) registered financial institution business — registered financial institution business as defined in Article 33-5.1 (3) of the Act;
- (22) financial instruments firm, etc. — financial instruments firm, etc. as defined in Article 34 of the Act;
- (23) financial instruments transactions act — financial instruments transactions act as defined in Article 34 of the Act;
- (24) financial instruments transaction contract — financial instruments transaction contract as defined in Article 34 of the Act;
- (25) properties under investment management — properties under investment management as defined in Article 35.1 (15) of the Act;
- (26) purchase or sale or other type of transaction of a security, etc. — purchase or sale or other type of transaction of a security, etc. as defined in Article 41-2 (4) of the Act;
- (27) interest holder — interest holder as defined in Article 42.1 of the Act;
- (28) capital requirement ratio* — capital requirement ratio as defined in Article 46-6.1 of the Act;
- * *Jioshihon kisei hiritsu can be translated as capital-to-risk ratio or capital adequacy ratio (capital to risk assets ratio).*
- (29) financial instruments business, etc. — financial instruments business, etc. as defined in Article 50.1 (1) of the Act;
- (29-2) special financial instruments firm — special financial instruments firm as defined in Article 57-2.2 of the Act;
- (29-3) object special financial instruments firm — object special financial instruments firm as defined in Article 57-12.3 of the Act;
- (29-4) designated parent corporation — designated parent corporation as defined in Article 57-12.3 of the Act;
- (29-5) ultimate designated parent corporation — ultimate designated parent corporation as defined in Article 57-12.3 of the Act;
- (30) foreign securities firm — foreign securities firm as defined in Article 58 of the Act;
- (31) on-exchange trading permit firm — on-exchange trading permit firm as defined in Article 60-4.1 of the Act;
- (32) eligible institutional investor, etc. — eligible institutional investor, etc. as defined in Article 63.1 (1) of the Act;
- (33) eligible institutional investor, etc. business subject to special provisions — eligible institutional investor, etc. business subject to special provisions as defined in Article 63.2 of the Act;
- (34) filing person of business subject to special provisions — filing person of business subject to special provisions as defined in Article 63.3 of the Act;
- (35) sales representative — sales representative as defined in Article 64.1 of the Act;

- (36) belonging financial instruments firm, etc. — belonging financial instruments firm, etc. as defined in Article 66-2.1 (4) of the Act;
 - (37) financial instruments intermediary act — financial instruments intermediary act as defined in Article 66-11 of the Act;
 - (38) over-the-counter traded securities market — over-the-counter traded securities market as defined in Article 67.2 of the Act;
 - (39) tradable security — tradable security as defined in Article 67-18 (4) of the Act;
 - (40) recognized financial instruments firms association — recognized financial instruments firms association as defined in Article 78.2 of the Act;
 - (41) recognized investor protection organization — recognized investor protection organization as defined in Article 79-10.1 of the Act;
 - (42) investor protection fund — investor protection fund as defined in Article 79-21 of the Act;
 - (43) link financial instruments liability assumption business — link financial instruments liability assumption business as defined in Article 156-20-16.1 of the Act;
 - (44) link clearing organization, etc. — link clearing organization, etc. as defined in Article 156-20-16.1 of the Act;
 - (45) margin transaction — margin transaction as defined in Article 156-24.1 of the Act.
 - (46) designated dispute resolution organization — designated dispute resolution organization as defined in Article 156-38.1 of the Act;
 - (47) dispute resolution procedures — dispute resolution procedures as defined in Article 156-38.10 of the Act;
 - (48) type of dispute resolution, etc. operations — type of dispute resolution, etc. operations as defined in Article 156-38.12 of the Act;
 - (49) procedures performance master contract — procedures performance master contract as defined in Article 156-38.13 of the Act; and
 - (50) financial instruments concerned firm — financial instruments concerned firm as defined in Article 156-38.13 of the Act;
- 1.4. The term referred to in each of the following items shall have the meaning provided in such item in this Cabinet Office Ordinance:
- (1) principal business office, etc. — the principal business office or other business office or other type of office (in the case where a financial instruments firm is a foreign juridical person or an individual residing in a foreign jurisdiction, the principal business office or other business office or other type of office in Japan);
 - (2) amount of unlocked capital — the total amount of the amount of core capital (which means the total amount of amounts of the items referred to in (1) to (6) of Article 176.1; hereinafter the same) and the amount of supplementary capital (which means the amount of the item referred to in Article 176.1 (7); hereinafter the same), net of the amount of assets required to be deducted (which means the total amount of amounts of the items referred to in Article 177.1; hereinafter the same);
 - (3) competent director-general of a local finance bureau, etc. — the director-general of a local finance bureau or the director of Fukuoka Finance Branch which has granted the currently effective registration to a financial instruments firm, registered financial institution or financial instruments intermediary firm or the currently effective permission to an on-exchange trading permit firm;
 - (4) competent Commissioner of the Financial Services Agency, etc. — the Commissioner of the Financial Services Agency in the case of a special financial instruments firm and a person designated by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 42.2 or 43.2 of the the Financial Instruments and Exchange Act Enforcement Order (hereinafter referred to as "Order") and the competent director-general of a local finance bureau, etc. in the case of other persons;
 - (5) contract of association — contract of association as defined in Article 667.1 of the Civil Code (Law No. 89 of 1896);
 - (6) contract of undisclosed association — contract of undisclosed association as defined in Article 535 of the Commercial Code (Law No. 48 of 1899);
 - (7) contract of investment business limited liability association — contract of investment business limited liability association as defined in Article 3.1 of the Law on Contract of Investment Business Limited Liability Association (Law No. 90 of 1998);
 - (8) contract of limited liability business association — contract of limited liability business association as defined in Article 3.1 of the Law on Contract of Limited Liability Business Association (Law No. 40 of 2005);

- (9) proprietary trading system management business — business to carry out the act referred to in Article 2.8 (10) of the Act;
- (10) cooperative financial institution — cooperative financial institution as defined in Article 2.1 of the Law on Preferred Capital Contribution to Cooperative Financial Institutions (Law No. 44 of 1993);
- (11) when-issued transaction — when-issued transaction as defined in Article 1.2 of the Cabinet Office Ordinance on Transaction as Defined in Article 161-2 of the Financial Instruments and Exchange Act and Guarantee Money Therefor (Ministry of Finance Ordinance No. 75 of 1953);
- (12) nonpublic information — nonpublic and important information, in respect of the management, business or property of a corporation which is an issuer, which is determined to have influence on investment judgment (which means investment judgment provided in Article 2.8 (11) (b) of the Act; hereinafter the same) of customers or information of customers' behavior regarding orders for purchase or sale or other type of transaction, etc. of a security or other special information that its officer or employee or an officer or employee of its parent juridical person, etc. or subsidiary juridical person, etc. (if the officer is a juridical person, including a person required to perform such duties) has obtained in the course of carrying out the duties;
- (13) nonpublic information of loan, etc. — nonpublic information or other special information in respect of business carried out by its customer that an officer (if the officer is a juridical person, including a representative in Japan; excluding CHAPTER II Section 5, the same) or employee, who is engaged in loan business (which means business of providing loans for business; hereinafter in (13) and Articles 123.1 (9) and 150 (5), the same) or financial institution agent business (among financial institution agent business as defined in Article 68 (13), business of acting as an agent or intermediary for entering into a contract of loans of funds or discount of bills for business; hereinafter the same), has obtained in the course of carrying out the duties, which is determined to have influence on investment judgment of customers of a security (excluding a security referred to in Article 33.2 (1) of the Act and a security referred to in Article 2.1 (17) of the Act having the nature of (1) or (2) of Article 2.1 of the Act; hereinafter in (13), the same) that an officer or employee engaging in financial instruments business or financial instruments intermediary business (which means business to perform financial instruments intermediary act; hereinafter the same) solicit or or information of customers' behavior regarding orders for purchase or sale or other type of transaction, etc. of a security or other special information that its officer or employee engaging in financial instruments business or financial instruments intermediary business has obtained in the course of carrying out the duties, which is determined to have important influence on loan business or financial institution agency business in respect of an issuer of such security; and
- (14) information of a juridical person — nonpublic and important information, in respect of the management, business or property of a listed corporation, etc. provided in Article 163.1 of the Act, which is determined to have influence on investment judgment of customers and nonpublic information of the decision of making or discontinuation of a tender offer as defined in Article 27-2.1 of the Act (limited to the case where the provisions of the main clause of said Article 27-2.1 are applicable), purchase a large number of share certificate, etc. (which means share certificate, etc. as defined in said Article 27-2.1) equivalent thereto and a tender offer as defined in Article 27-22-2.1 of the Act (limited to the case where the provisions of the main clause of said Article 27-22-2.1 are applicable).

Article 2. — Attachment of Japanese Translation

If there is a document which cannot be written in Japanese for special reasons among documents required to be submitted to the Commissioner of the Financial Services Agency, or the director-general of a local finance bureau or the director of Fukuoka Finance Branch (hereinafter, referred to as "Commissioner of the Financial Services Agency, etc.") pursuant to the provisions of the Act (limited to CHAPTER III to CHAPTER III-3 and Article 188 (limited to the portion related to a financial instruments firm, etc., designated parent corporation, financial instruments intermediary firm or credit rating firm), in Article 3, the same), the Order (limited to CHAPTER IV to CHAPTER IV-3, in Article 3, the same) or this Cabinet Office Ordinance (excluding Articles 236 and 239 to 243), Japanese translation shall be attached: *Provided*, That, in the case where such documents are the articles of incorporation or the minutes of a shareholders' meeting or a board meeting, etc. (which means a board meeting, etc. provided in Article 221 (1)) and are written in English, the attachment of the translation of the summary thereof shall suffice.

Article 3. — Translation of Foreign Currencies

If a document required to be submitted to the Commissioner of the Financial Services Agency, etc. pursuant to the provisions of the Act, the Order or this Cabinet Office Ordinance contains an amount denominated in a foreign currency, the amount translated into Japanese Yen and the basis rate for the translation shall be mentioned together.

CHAPTER II FINANCIAL INSTRUMENTS FIRM, ETC.

Section 1. General Provisions

Subsection 1. Common Provisions

Article 4.

Act prescribed by the Cabinet Order as provided in Article 15 of the Order shall, in entering into a primary underwriting agreement (which means a primary underwriting agreement as defined in said Article 15; hereinafter in Articles 4 and 147 (3), the same) be an act to hold a discussion to fix the details of the primary underwriting agreement with the issuer or holder of a security other than the following acts:

- (1) in the case where, in respect of the total issue amount or the total amount of public sale or solicitation of sale, etc. to specific investors of a security subject to such primary underwriting agreement, an amount of the portion underwritten by a financial instruments firm, etc. and a foreign securities firm (hereinafter in Article 4, referred to as "total amount of underwriting") exceeds 10 billion Yen, act to hold such discussion jointly with an other person (limited to a person having 3 billion Yen or more of an amount of capital, total amount of basic fund or total amount of capital contributions), of which the firm underwrites 10 billion Yen or less; and
- (2) act to hold the discussion in the case where the total amount of underwriting is 10 billion Yen or less.

Subsection 2. Financial Instruments Firm

Article 5. — Application for Registration

A person who wishes to register under Article 29 of the Act shall file an application for registration under Article 29-2.1 of the Act made on Form 1 with the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office, etc. of such person (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) together with one copy of such application for registration and documents or an electronic or magnetic record (which means an electronic or magnetic record as defined in Article 13.5 of the Act; hereinafter the same) required to be attached to such application for registration pursuant to the provisions of Article 29-2.2 or 29-2.3 of the Act.

Article 6. — Employee in Position Required to be Stated in Application for Registration

- 6.1. A person in a position prescribed by the Cabinet Office Ordinance as defined in (1) or (3) of Article 15-4 of the Order shall be a division manager, assistant division manager, section manager or any other employee, whatever title such person may hold, who is authorized to act as a person responsible for the overall control of the business provided in (1) or (3) of said Article 15-4.
- 6.2. A person in a position prescribed by the Cabinet Office Ordinance as defined in Article 15-4 (2) of the Order shall be a person who make an investment judgment on the basis of the analysis of values, etc. of financial instruments (which mean value, etc. of a financial instrument as defined in Article 2.8 (11) (b) of the Act; hereinafter, the same).

Article 7. — Entries in Application for Registration

Matters prescribed by the Cabinet Office Ordinance as provided in Article 29-2.1 (8) of the Act shall be:

- (1) the name or trade name of a designated dispute resolution organization which is the counterparty of a procedures performance master contract to take measures to enter into such procedures performance master contract for operations provided in (1) (a), (2) (a), (3) (a) or (4) (a) of Article 37-7.1 of the Act and the name of a financial instruments firms association (which means an approved financial instruments firms association or recognized financial instruments

- firms association; hereinafter the same) of which the applicant will become a member and the name of a recognized investor protection organization of which the applicant will become a covered firm (which means a covered firm as defined in Article 79-11.1 of the Act; hereinafter the same);
- (2) the name or trade name of a financial instruments exchange of which the applicant will become a member or trading participant (hereinafter referred to as "member, etc.");
 - (3) if the applicant carries out securities related business:
 - (a) such fact;
 - (b) if the applicant carries out the first-type financial instruments business, the name of an investor protection fund of which the applicant will become a member;
 - (4) if the applicant carries out commodity investment related business (which means commodity investment related business as defined in Article 37.2 of the Order; hereinafter the same):
 - (a) such fact;
 - (b) if the applicant carries out commodity investment related business in connection with for goods or articles referred to in Article 37.1 (2) (b) of the Order or commodity, etc. under the jurisdiction of the Ministry of Agriculture, Forestry and Fisheries (which means commodity, etc. under the jurisdiction of the Ministry of Agriculture, Forestry and Fisheries as defined in Article 11.2 (1) of the Law on Regulations of Business regarding Commodity Investment Enforcement Order (Order No. 45 of 1992); in Article 44 (6) (b), the same), such fact;
 - (c) if the applicant carries out commodity investment related business in connection with only goods or articles referred to in (c) to (e) of Article 37.1 (2) of the Order or commodity, etc. under the jurisdiction of the Ministry of Ministry of Economy, Trade and Industry (which means commodity, etc. under the jurisdiction of the Ministry of Ministry of Economy, Trade and Industry as defined in the proviso to Article 11.1 of the Law on Regulations of Business regarding Commodity Investment Enforcement Order; in Article 44 (6) (c), the same), such fact;
 - (d) if the applicant carries out racing horse investment related business (which means business to perform the acts referred to in the items of Article 194-6.1 of the Act in connection with any of the following interests; hereinafter the same), such fact;
 - (i) an interest based on a contract of undisclosed association for the purpose of acquiring a racing horse (limited to a racing horse registered or to be registered under Article 14 (including the *mutatis mutandis* application under Article 22 of the Act) of the Horse Racing Law (Law No. 158 of 1948); hereinafter the same) by the whole money (including money referred to in (1) to (3) of Article 1-3 of the Order) contributed by a person having such interest to run such racing horse in a race (limited to the national race or a local race as defined in Article 1.5 of said Law; in (ii), the same) by making capital contributions to the counterparty (limited to one specific person) based on a contract of undisclosed association in connection with the interest referred to in (ii); or
 - (ii) an interest based on a contract of undisclosed association for the purpose of running a racing horse for which capital contribution has been made by a business person (limited to one specific person) under the contract of undisclosed association in connection with the interest referred to in (i) having such interest;
 - (5) in the case of performing the acts referred to in the items of Article 194-6.2 of the Act as a business, such fact;
 - (6) in the case of carrying out the real estate related trust beneficial interest, etc. trade, etc. business (which means business of purchase or sale or other type of transaction of an interest in an investment in interests referred to in Article 2.2 (1) of the Act in housing land (which means housing land referred to in Article 2 (1) of the Real Estate Business Law (Law No. 176 of 1952); hereinafter the same) or building (hereinafter such interests are referred to as "real estate trust interest") or interests based on a contract of association, contract of undisclosed association or contract of investment business limited liability association, the capital contribution object project of which is primarily investment in real estate trust beneficial interest; hereinafter the same), such fact;
 - (7) in the case of carrying out the real estate related specific investment management business (which means, among investment management businesses (excluding business to perform the act referred to in (12) of Article 2.8 of the Act in connection with the contract referred to in (12) (a) of said Article 2.8 and the act referred to in (14) of said Article 2.8), business to invest in an investment in interests based on real estate trust beneficial interest or a contract of association, contract of undisclosed association or contract of investment business limited liability association, the capital contribution object project of which is primarily investment in real estate trust beneficial interest; hereinafter the same), such fact;
 - (8) in the case of performing a specific underwriting act (which means an act referred to in Article 16.1 (5) of the Cabinet Office Ordinance on Definition as defined in Article 2 of the

Financial Instruments and Exchange Act (Ministry of Finance Ordinance No. 14 of 1993)), such fact; and

- (9) in the case of performing a specific security, etc. custody act (which means an act referred to in Article 16.1 (14) of the Cabinet Office Ordinance on Definition as defined in Article 2 of the Financial Instruments and Exchange Act; in Article 181.1 (2) (b), the same), such fact.

Article 8. — Type of Business and Manner of Operation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 29-2.2 (2) of the Act shall be:

- (1) principles of business management;
- (2) manner of business operation;
- (3) the method to divide the duties;
- (4) types of financial instruments transactions acts performed as a business;
- (5) system to settle grievances (including details of grievances settlement measures and dispute resolution measures regarding operations provided in (1) (b), (2) (b), (3) (b) or (4) (b) of Article 37-7.1 of the Act);
- (6) in the case of carrying out the first-type financial instruments business:
 - (a) types of securities to be dealt and types of derivatives transactions to be conducted as a business;
 - (b) regarding the method to control the risk of loss:
 - (i) the method to compute risk of loss equivalent amounts (including market risk equivalent amounts as defined in (1) of Article 178.1, counterparty risk equivalent amounts as defined in (2) of Article 178.1 and operational risk equivalent amounts as defined in (3) of Article 178.1; hereinafter in (6), the same);
 - (ii) setting of and application method of the limit of risk of loss equivalent amounts;
 - (iii) the name and organization of a division responsible for the computation and the control of the limit of risk of loss equivalent amounts;
 - (iv) the method of preparation and retention of basic data for the computation of risk of loss equivalent amounts;
 - (v) the frequency of and the name and organization of the division in charge of investigation on risk of loss equivalent amounts and the application of the limit; and
 - (vi) other important matters to control the risk of loss;
 - (c) in the case of carrying out business to perform an act referred to as Article 2.8 (4) of the Act:
 - (i) the name and title of a person responsible to control the business;
 - (ii) the name and organization system of the division carrying out the business;
 - (iii) criteria for commencement of trading with a customer for the business;
 - (iv) the method to compute risk of loss equivalent amounts for the business and the frequency of computation (each of risk of loss arising from fluctuation of market prices, interest rate, prices of currencies and other indices on an on-exchange financial instruments market, risk of loss arising from nonperformance of contract or other reason by a counterparty and risk of loss arising from reasons other than the foregoing reasons shall be stated);
 - (v) setting of and application method of the limit of risk of loss equivalent amounts for the business and setting of and application method of such limit for each type of transaction and each type of customer;
 - (vi) the name and organization of the division responsible for the computation of risk of loss equivalent amounts and the control of the limit for the business;
 - (vii) the frequency of reports on the computation of the risk of loss equivalent amounts and the application of the limit for the business to a director or executive officer having the representative authorization (in the case of a foreign juridical person, a director or executive officer or its equivalent located in a business office or other type of office in Japan or the representative in Japan);
 - (viii) the method of preparation and retention of basic data for the computation of risk of loss equivalent amounts for the business;
 - (ix) the frequency of and the name and organization of the division in charge of investigation on operation of the business, risk of loss equivalent amounts and the application of the limit for the business; and
 - (x) other important matters to control the risk of loss for the business;
- (d) in the case of carrying out business to perform primary underwriting of securities:
 - (i) the name and title of the person responsible for the control of the business;
 - (ii) the name and organization system of the division carrying out the business;
 - (iii) the method to compute risk of loss equivalent amounts for the business;

- (iv) setting of and application method of the limit of risk of loss equivalent amounts for the business;
- (v) the name and organization of the division responsible for the computation of risk of loss equivalent amounts and the control of the limit for the business;
- (vi) the frequency of and the name and organization of the division in charge of investigation on operation of the business, risk of loss equivalent amounts and the application of the limit for the business; and
- (vii) other important matter to control the risk of loss for the business;
- (e) in the case of carrying out securities, etc. custody business, the method to keep in custody pursuant to the provisions of Article 43-2 or 43-3 of the Act;
- (f) in the case of carrying out securities related business, the following matters regarding the measures referred to in the items of Article 70-3.1:
 - (i) the method to enforce such measures;
 - (ii) the organization responsible for enforcing such measures and staff allocation;
- (g) in receiving or providing information in the cases provided in (18) (e) and (24) (d) of Article 123.1 and (g) and (i) of Article 153.1 (7), the following matters regarding business operations of maintenance and control of an electronic data processing and network system and business operations of internal control provided in Article 153.3:
 - (i) the name or trade name of a registered financial institution or a parent juridical person, etc. or subsidiary juridical person, etc. which receives or provide such information;
 - (ii) the method to execute business operation;
 - (iii) the organization responsible for such business and staff allocation;
- (7) in the case of carrying out the second-type financial instruments business:
 - (a) types of securities to be dealt and types of derivatives transactions to be conducted as a business;
 - (b) in the case of dealing an interest referred to in (1) or (2) of Article 2.2 of the Act, the type of trust properties in connection with such interest;
 - (c) in the case of dealing an interest referred to in (5) or (6) of Article 2.2 of the Act, the summary of capital contribution object project in connection with such interest;
- (8) in the case of carrying out investment advisory and agent business:
 - (a) the type of investment advisory and agent business (which means the type of business to perform the acts referred to in (11) and (13) of Article 2.8 of the Act);
 - (b) the type of interest in securities and derivatives transaction for which advisory is made;
 - (c) in the case of making advice regarding an interest referred to in (1) or (2) of Article 2.2 of the Act, the type of trust properties for such interest;
 - (d) in the case of making an advice regarding an interest referred to in (5) or (6) of Article 2.2 of the Act, the summary of capital contribution object project in connection with such interest;
- (9) in the case of carrying out investment management business:
 - (a) the type of investment management business (which means the type of business to perform the act referred to in (12) of Article 2.8 of the Act in connection with the contract referred to in (12) (a) of said Article 2.8, the act referred to in (12) of said Article 2.8 in connection with the contract referred to in (12) (b) of said Article 2.8, the act referred to in (14) of said Article 2.8 and the act referred to in (15) of said Article 2.8 in connection with the interests referred to in (15) (a) to (15) (c) of said Article 2.8);
 - (b) the type of interest in securities and derivatives transaction for which investment is made;
 - (c) in the case of investing in an interest referred to in (1) or (2) of Article 2.2 of the Act, the type of trust properties for such interest;
 - (d) in the case of investing in an interest referred to in (5) or (6) of Article 2.2 of the Act, the summary of capital contribution object project in connection with such interest;
 - (e) in the case of investing in assets other than an interest in securities or derivatives transaction, the type of such assets.

Article 9. — Attachments to Registration Application

Documents prescribed by the Cabinet Office Ordinance as provided in Article 29-2.2 (2) of the Act shall be:

- (1) a written statement containing business operation system including personnel structure and organization for business;
- (2) in the case of a juridical person:
 - (a) the resume of an officer (such officer includes a person who is an advisor or consultant, whatever title such person may hold and is determined to have the controlling power over such juridical person equivalent to or stronger than that of a director, executive officer or other person in a position equivalent thereto; hereinafter in (2), and (1), (2) and (4) of Article 13, Article 47.1

- (2), (1), (2) and (4) of Article 49, Article 199 (2), Article 201 (9), Article 202 (8), (2) to (5) of Article 208-20, Article 208-22 (2) (c), Article 208-31.1 (4), Article 208-31.2 (4) and Article 208-32 (2), the same) and an employee as defined in Article 15-4 of the Order (hereinafter, excluding Article 47.1 (2), Article 51.1 (4) and Article 91.1 (4), referred to as "important employee") (if an officer is a juridical person, a written statement containing the history of the officer);
- (b) an abridged copy of the resident's card or its equivalent of an officer and important employee (if an officer is a juridical person, a registration certificate of the officer or its equivalent);
- (c) a certificate issued by government offices or public offices, or its equivalent, that an officer or important employee falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
- (d) a written statement in which an officer or important employee swears that such officer or important employee falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (3) in the case of an individual:
- (a) the resume of each of the applicant for registration and an important employee;
- (b) an abridged copy of the resident's card, or its equivalent, of each of the applicant for registration and an important employee;
- (c) a certificate issued by government offices or public offices, or its equivalent, that the applicant for registration or an important employee falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
- (d) a written statement in which an important employee swears that such important employee falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (4) documents containing the following matters as the state of a specific person having special relationship (which means a parent juridical person, etc., subsidiary juridical person, etc. and holding company (which means a holding company as defined in Article 29-4.1 (5) (d) of the Act; hereinafter, excluding Article 198, the same) , and includes a connected corporation, (which means a connected corporation as defined in Article 177.6; in (f), the same) if such person is engaged in the first-type financial instruments business, in (e), the same):
- (a) the name or trade name;
- (b) the amount of capital, total amount of basic fund or total amount of capital contributions;
- (c) the location of the principal business office or the principal office;
- (d) the type of business;
- (e) capital relationship, personnel relationship and business relationship for the latest one year between the applicant for registration and the person having specific relationship; and
- (f) which of the parent juridical person, etc., a subsidiary juridical person, the holding company (the parent juridical person, etc., subsidiary juridical person, etc., holding company or connected corporation in the case of carrying out the first-type financial instruments business) is applicable;
- (5) in the case of carrying out commodity investment related business in which a racing horse is involved, a written statement certifying that the criteria referred to in Article 13 (3) are not applicable;
- (6) in the case of carrying out real estate trust beneficial interest, etc. trade, etc. business, a written statement certifying that the criteria referred to in Article 13 (4) are not applicable; and
- (7) in the case of carrying out the real estate related specific investment management business, a written statement containing matters regarding ability to carry on business.

Article 10.

10.1 Documents prescribed by the Cabinet Office Ordinance as provided in Article 29-2.2 (3) of the Act shall be:

- (1) the latest balance sheet (including related notes) and profit and loss statement (including related notes);
- (2) in the case of carrying out the first-type financial instruments business or investment management business:
- (a) a written statement describing the computation of the amount of net assets (which means the amount of net assets as defined in Article 29-4.1 (5) (b) of the Act; hereinafter the same);
- (b) a written statement containing the name or trade name, location of the principal business office or the principal office (in the case of an individual, the address or place of residence) of a major shareholder (which means a major shareholder as defined in Article 29-4.2 of the Act; hereinafter in (2), Articles 38-2 and 38-5, Article 199 (11) (c), Article 201 (20), (5) (b) and (16) of Article 202, Article 208-31.1 (11), Article 208-31.2 (8) and Article 208-32 (9), the same) and the number of eligible voting rights (which means eligible voting rights as defined in Article 29-4.2 of the Act and including eligible voting rights which are deemed to be held pursuant to the provisions of Article 29-4.4 of the Act) held by the major shareholder;

- (c) in the case of a foreign juridical person, a written statement certifying that confirmation provided in Article 29-4.1 (5) (f) of the Act has been made for a person equivalent to a major shareholder or its equivalent;
 - (3) in the case of carrying out the first-type financial instruments business:
 - (a) in the case of a foreign juridical person, a written statement certifying that such foreign juridical person carries out the same type of business as the first-type financial instruments business in a foreign jurisdiction in accordance with the laws and regulations in the foreign jurisdiction (including a person provided in Article 15-8 of the Order);
 - (b) a written statement describing the computation of the ratio provided in Article 29-4.1 (6) (a) of the Act;
 - (c) in the case of carrying out business related to an act referred to in Article 2.8 (4) of the Act or carrying out business related to primary underwriting of securities:
 - (i) the resume of a person responsible for the control of such business;
 - (ii) the internal rules regarding such business; and
 - (iii) contract documents used at the time of trading with a customer regarding such business.
- 10.2 In the case where documents referred to in Article 10.1 (1) are attached and the balance sheet (including related notes) has been prepared by an electronic magnetic record or the profit and loss statement (including related notes) has been prepared in the form of an electronic magnetic record in lieu of written statements, such electronic or magnetic record (limited to an electronic or magnetic record provided in Article 11) may be attached in lieu of documents.

Article 11. — Electronic or Magnetic Record

- 11.1. An electronic or magnetic record prescribed by the Cabinet Office Ordinance as provided in Articles 29-2.3 and 33-3.3 of the Act shall be a magnetic disk with the structure of 90 mm flexible disk cartridge conforming with Japanese Industrial Standards under the Industrial Standardization Law (Law No. 185 of 1949) (hereinafter referred to as "JIS") X6223.
- 11.2. An electronic or magnetic record under Article 11.1 shall be recorded by:
 - (1) with respect to the track format, the method specified in JIS X6225; and
 - (2) with respect to the volume and file composition, the method specified in the JIS X0605.
- 11.3. An electronic or magnetic record under Article 11.1 shall paste, on the label area prescribed in JIS X6223, a written statement containing:
 - (1) the name or trade name of the applicant for registration; and
 - (2) the filing date of the application.

Article 12. — Making Financial Instruments Firm Registry Book Available for Public Inspection

The competent director-general of a local finance bureau, etc. shall keep the financial instruments firm registry book for a financial instruments firm for which the currently effective registration has been made at the local finance bureau which has the jurisdiction over the location of the principal business office, etc. of the financial instruments firm (Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) and make it available for public inspection.

Article 13. — Examination Criteria for Personnel Resources

In examining whether the applicant for registration is a person whose personnel resources are insufficient to carry on financial instruments business provided in Article 29-4.1 (1) (d) of the Act (including the *mutatis mutandis* application under Article 31.5 of the Act) in an accurate manner, the Prime Minister shall examine whether the applicant for registration meets any of the following criteria shall be made:

- (1) in light of the state of ensuring the employment of an officer or employee having sufficient knowledge and experience of its business and the organization system, such person is determined to be unable to carry out the business in a proper manner;
- (2) because of the existence, among officers or employees, of a person having improper quality to manage business considering such person's career, relationship with an organized group of gangsters as defined in Article 2 (2) of the Law on Prevention, etc. of Unjustifiable Act by Gangster (Law No. 77 of 1991) or a gangster as defined in Article 2 (6) of said Law or other circumstances, such person is determined that such person will likely destroy the credibility of financial instruments business;
- (3) in the case of carrying out commodity investment related business in which a racing horse is involved, such person fails to meet the following requirements:
 - (a) such person is instructed by the Japan Racing Association or the National Association of

- Racing in advance;
- (b) either of racing horse investment related business in connection with the interest referred to in Article 7 (4) (d) (i) or racing horse related business in connection with the interest referred to in Article 7 (4) (d) (ii) is applicable to commodity investment related business carried out by such person;
 - (c) in the case of carrying out racing horse investment related business in connection with the interest referred to in Article 7 (4) (d) (ii), such person is registered under Article 13.1 of the Horse Racing Law (including the *mutatis mutandis* application under Article 22 of said Law);
 - (4) in the case of carrying out the real estate related beneficial interest, etc. trade, etc. business, such person fails to meet the following requirements:
 - (a) an officer or employee having professional knowledge and experience regarding trade of housing land or buildings are positioned in the following divisions:
 - (i) the division responsible for the overall control of real estate trust beneficial interest, etc. trade, etc. business;
 - (ii) the division responsible for internal audit; and
 - (iii) the divisions responsible for business regarding instruction to ensure compliance with the laws and regulations, etc. (which means the laws, orders, administrative dispositions under the laws or orders or the articles of incorporation and other regulations; in Articles 44 (1) (a), 49 (4) (a) (iii), 199 (7), 199 (13) (a), 200 (6), 208-31.1 (8) (a) and 223 (10), the same);
 - (b) an officer or employee carrying out real estate trust beneficial interest, etc. trade, etc. business has professional knowledge and experience regarding trade of housing land or buildings necessary to explain by the method and at the degree necessary to ensure a customer to understand in light of the customer's knowledge, experience, financial resources and the purpose to enter into a financial instruments transaction contract in respect of the matters referred to in the items of Article 85.1;
 - (5) in the case of carrying out the real estate related specific investment management business, such person fails to meet requirements prescribed by the Commissioner of the Financial Services Agency.

Article 14. — Computation of Amount of Net Assets

- 14.1. The amount of net assets shall, pursuant to the provisions of Article 29-4.1 (5) (b) of the Act (including the *mutatis mutandis* application under Article 31.5 of the Act), be computed by reducing the total amount of items required to be accounted as liabilities (excluding the total amount of the following items) from the total amount of items required to be accounted as assets in the balance sheet:
- (1) financial instruments liability reserve; and
 - (2) in the case where, regarding other business engagement, there is allowance or reserve which is required to be accounted as liabilities pursuant to the provisions of the laws or regulations and has the nature of profit retention, such allowance or reserve.
- 14.2. The assets and liabilities under Article 14.1 shall be valued in accordance with the generally accepted accounting principles as of the date of accounting.
- 14.3. If, in the case of Article 14.2, the case referred to in each of the following items is applicable, the amount specified in such item shall be the fair value:
- (1) the case where money claims or bonds without market prices are likely uncollectable — the amount after the reduction of the estimated uncollectable amount;
 - (2) the case where the issuer of shares of stock without market prices has suffered significant deterioration on assets — the amount after the reasonable reduction;
 - (3) the case where the current value of liquid assets, other than liquid assets referred to in (1) or (2), are significantly lower than the book value and will unlikely recover to the book value — such current value;
 - (4) the case where there is a shortage of depreciation or unforeseeable impairment has occurred in respect of fixed assets other than fixed assets listed in (1) or (2) — the amount after the reduction of the shortage of depreciation or reasonable reduction; and
 - (5) the case where there is a shortage of depreciation in respect of deferred assets — the amount after the reduction of the shortage of depreciation.

Article 15. — Fact that is Assumed to Influence Significantly on Decisions of Financial and Business Policies of Corporation

Facts prescribed by the Cabinet Office Ordinance as provided in Article 29-4.2 of the Act (including the *mutatis mutandis* application under Article 31.5 of the Act) shall be:

- (1) a person who is or has been an officer or employee and is able to influence on a decision of financial and business policies of the corporation takes a position of a director or executive

- officer or equivalent position of the corporation;
- (2) providing important loans to the corporation;
- (3) providing important technology to the corporation;
- (4) doing an important business with the corporation; and
- (5) otherwise there is a fact that is assumed to influence significantly on decisions of financial or business policies of the corporation.

Article 16. — Voting Rights Excluded from Voting Right Holding after Considering Manner of Holding or Other Circumstances

Voting rights specified by the Cabinet Office Ordinance as provided in Article 29-4.2 (including the *mutatis mutandis* application under Article 31.5 of the Act) of the Act shall be:

- (1) voting rights held by a person engaging in trust business (which means trust business as defined in Article 2.1 of the Trust Business Law (Law No. 154 of 2004)) as trust assets (excluding voting rights having the power to allow such person to exercise or to direct to exercise the voting rights);
- (2) in the case where a person authorized to represent a juridical person or a manger authorized to act as an agent of a juridical person has the power to allow such person or manger to exercise voting rights or to direct to exercise the voting rights or the power necessary for investment under the representative authorization or proxy right, voting rights attached to stock or share owned by such juridical person;
- (3) in the case where an officer or employee of a corporation has acquired shares of stock in the corporation jointly with other officers or employees of the corporation (limited to an acquisition which is made continuously, according to a certain plan and without relying on an individual investment decision and for which the amount contributed by each officer or employee is less than ¥1,000,000 each time (if the corporation has acquired shares of stock other than shares of stock acquired under the provisions of Article 156.1 of the Corporation Law (Law No. 86 of 2005) (including the application after amended readings pursuant to the provisions of Article 165.3 of said Law), limited to an acquisition through a financial instruments firm which is commissioned by the corporation), voting rights attached to shares of stock in the corporation owned by a person with whom such shares of stock in the corporation so jointly acquired are trusted (excluding voting rights to which the power to allow such trusted person to exercise or to direct to exercise is attached);
- (4) voting rights attached to stock or share in a corporation owned by an heir as inherited property (limited to shares of stock acquired or owned on or before the date when the heir (excluding joint inheritance) has made absolute acceptance (including the case where the heir is deemed to have made absolute acceptance) or limited recognition or shares of stock of which the coheirs of the inherited property have not completed the division of inheritance);
- (5) voting rights attached to shares of stock owned by a person carrying out securities related business in connection with underwriting of securities (excluding shares of stock owned on or after the day immediately following the payment date (in the case of public sale of securities, the delivery date) of such shares of stock); and
- (6) voting rights held by the Banks' Shareholdings Purchase Corporation.

Article 17. — Type of Business and Manner of Operation for Approval

Matters prescribed by the Cabinet Office Ordinance as provided in Article 30-3.2 of the Act shall be:

- (1) types of trading conducted by the proprietary trading system management business;
- (2) the name and title of a person responsible for controlling the proprietary trading system management business;
- (3) the name of the division (in the case where a part of the proprietary trading system management business is commissioned to an other person, including such person) and the organization system of the proprietary trading system management business;
- (4) types and issue names of securities and minimum number of units of securities traded by the proprietary trading system management business;
- (5) criteria for commencement of trading with a customer for the proprietary trading system management business and method to control such customer;
- (6) method to determine the price of purchase and sale;
- (7) method to publish price indication, price of purchase and sale and other price information;
- (8) the summary, installment place, capacity and maintenance methods of an electronic data processing and network system used for the proprietary trading system management business and measures to encounter anything unusual of such electronic data processing and network system;
- (9) method of delivery or other settlement of securities for which the proprietary trading system management business is carried out and measures to encounter nonperformance of contract by a

- customer;
- (10) method to prepare and retain trading records of the proprietary trading system management business;
- (11) the name and organization of the division in charge of investigation of the state of operation of the proprietary trading system management business and the frequency of investigation; and
- (12) other important matters to control the risk of loss and ensure fairness of trading for the proprietary trading system management business.

Article 18. — Attachments to Application for Approval

Documents prescribed by the Cabinet Office Ordinance as provided in Article 30-3.2 of the Act shall be:

- (1) the resume of a person responsible for the control of the proprietary trading system management business;
- (2) the internal rules regarding the proprietary trading system management business;
- (3) contract documents used for trading with a customer regarding the proprietary trading system management business; and
- (4) a written evaluation report by a person who does not have special interest with the approval applicant regarding the matters referred to in Article 17 (8).

Article 19. — Types of Business and Manner of Operation to be Examined

Types of business and manner of operation prescribed by the Cabinet Office Ordinance as provided in Article 30-4 (5) and Article 31.6 of the Act shall be:

- (1) matters referred to (5), (8) and (10) of Article 17; and
- (2) other important matters regarding ensuring the fairness of trading for the proprietary trading system management business.

Article 20. — Notification of Change in Entries of Application for Registration

20.1. A financial instruments firm which notifies pursuant to the provisions of Article 31.1 of the Act shall file with a competent Commissioner of the Financial Services Agency, etc. a notification stating the details of, the date of and the reason for the change together with a written statement containing the details after the change made on Form 1 and a copy of such written statement and documents provided in each of the following items according to the classification of the case referred to in such item; *provided*, that, if there is an unavoidable reason, filing of documents provided in the following items without delay after the filing of such notification shall suffice:

- (1) the case where there has been a change in the matter referred to in Article 29-2.1 (1) of the Act — the registration certificate containing matters of such change (in the case of an individual, an abridged copy of the resident's card) or a written statement equivalent thereto;
- (2) the case where there has been a change in the matter referred to in Article 29-2.1 (2) of the Act — the registration certificate containing matters of such change or a written statement equivalent thereto;
- (3) the case where there has been a change in the matter referred to in (3) or (4) of Article 29-2.1 of the Act — the following documents:
 - (a) a written statement containing business operation system including personnel structure and organization for business;
 - (b) if there has been a change in an officer, the registration certificate containing matters of such change or a written statement equivalent thereto;
 - (c) the following documents for a person who has become an officer or important employee newly:
 - (i) the resume (if an officer is a juridical person, a written statement containing the history of the officer);
 - (ii) an abridged copy of the resident's card or a written statement equivalent thereto (if an officer is a juridical person, a registration certificate of the officer);
 - (iii) a certificate issued by government offices or public offices, or a written statement equivalent thereto, that an officer or important employee falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
 - (iv) a written statement in which an officer or important employee swears that such officer or important employee falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (4) the case where there has been a change in the matter referred to in Article 29-2.1 (6) of the Act (limited to the closure of a business office or other type of office) — a written statement containing the details of the settlement of a customer account associated with the change;
- (5) the case where there has been a change in the matter referred to in Article 7 (4) (d) (limited

- to the case of carrying out racing horse investment related business) — a written statement certifying that criteria referred to in Article 13 (3) are not applicable;
- (6) the case where there has been a change in the matter referred to in Article 7 (6) (limited to the case of carrying out real estate trust beneficial interest, etc. trade, etc. business) — a written statement certifying that the criteria referred to in Article 13 (4) are not applicable; or
- (7) the case where there has been a change in the matter referred to in Article 7 (7) (limited to the case of carrying out the real estate related specific investment management business) — a written statement containing matters regarding ability to carry on the the real estate related specific investment manage business.
- 20.2. Upon accepting a notification from a financial instruments firm that the location of the principal business office, etc. has been changed to the location under the jurisdiction different from the jurisdiction of the competent director-general of a local finance bureau, etc., the competent Commissioner of the Financial Services Agency, etc. shall send to the director-general of a local finance bureau (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) who has the jurisdiction over the location of the principal business office, etc. after the change for which the notification has been filed or require such director-general of a local finance bureau to send such notification and the part of the financial instruments firm registry book related to the financial instruments firm and other documents.
- 20.3. The director-general of a local finance bureau or the director of Fukuoka Finance Branch who has received documents pursuant to the provisions Article 20.2 shall register matters related to such financial instruments firm in the financial instruments firm registry book.

Article 21. — Notification of Change in Type of Business and Manner of Operation

A financial instruments firm which notifies pursuant to the provisions of Article 31.3 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. a notification stating the details of, the date of and the reason for the change together with documents containing the matters (limited to matters in which a change has been made) referred to in the items of Article 8.

Article 22. — Application for Registration of Change

- 22.1. A financial instruments firm which wishes to register the change under Article 31.4 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. an application for registration of change made on Form 1 together with a copy of such application for registration of change.
- 22.2. An application for registration of change under Article 22.1 shall be accompanied by a written statement containing the details of and the reason for the change and the following documents (limited to documents related to business that the applicant wishes to commence):
- (1) a written statement swearing that the applicant falls under none of the items of Article 29-4.1 of the Act (excluding (1) to (3) and (5) (c));
 - (2) documents stating the matters referred to in the items of Article 8; and
 - (3) documents referred to in the items of Article 9 and the items of Article 10.1.
- 22.3. The provisions of Article 10.2 shall be applied *mutatis mutandis* to the attachment of documents referred to in Article 22.2 (3) (limited to the documents referred to in Article 22.1 (1)).

Article 23. — Application for Approval for Change

- 23.1. A financial instruments firm which wishes to obtain an approval under Article 31.6 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. an application for approval stating:
- (1) the trade name;
 - (2) the date of registration and registration number; and
 - (3) the details of and the reason for the change.
- 23.2. An application for approval under Article 23.1 shall be accompanied by documents containing the matters referred to in the items of Article 17 (limited to matters in which a change has been made) and the documents referred to in the items of Article 18 (limited to documents in which a change has been made).

Article 24. — Criteria of Approval for Change

In granting an approval under Article 31.6 of the Act, the competent Commissioner of the Financial Services Agency, etc. shall examine whether the application meets the criteria referred to in (1) and (5) of Article 30-4 of the Act.

Article 25. — Notification of Deposit of Business Guarantee Money, etc.

- 25.1. A person who has deposited pursuant to the provisions of Articles 31-2.1, 31-2.4 or 31-2.8 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. a deposit notification made on Form 2 together with the original deposit certificate for such deposit.
- 25.2. When a financial instruments firm (limited to an individual engaged in the second-type financial instruments business and a person engaged only in investment advisory and agent business; in Articles 27 and 28, the same) replaces deposit articles which has been deposited, the financial instruments firm shall, after making the new deposit for the replacement, file a notification stating such fact with the competent Commissioner of the Financial Services Agency, etc. together with the original deposit certificate for such deposit after the replacement.
- 25.3. Upon accepting the original deposit certificate under Articles 25.1 and 25.2, the competent Commissioner of the Financial Services Agency, etc. shall furnish a depositor with a safekeeping certificate.

Article 26. — Counterparty of Contract as Replacement of Business Guarantee Money

A financial institution prescribed by the Cabinet Office Ordinance as provided in Article 15-13 of the Order shall be a cooperative financial institution and Business Corporation ShokoChukin Bank Limited.

Article 27. — Notification of Entering into Contract as Replacement of Business Guarantee Money, etc.

- 27.1. When a financial instruments firm has entered into a contract under Article 31-2.3 of the Act, the financial instruments firm shall file with the competent Commissioner of the Financial Services Agency, etc. a notification of entering into a guarantee contract made on Form 3 together with a copy of the contract and show the original contract.
- 27.2. A financial instruments firm which wishes to make a change in or cancel the contract entered into as a replacement of business guarantee money shall apply the competent Commissioner of the Financial Services Agency, etc. for an approval by filing an application for approval of guarantee contract change made on Form 4 or an application for approval of guarantee contract cancellation made on Form 5.
- 27.3. When there has been an application for approval pursuant to the provisions of Article 27.2, the competent Commissioner of the Financial Services Agency, etc. shall examine whether the change in or cancellation of the contract entered into as a replacement of business guarantee money by the financial instruments firm which has filed such application for approval will unlikely constitute the failure of the protection of investors.
- 27.4. When a financial instruments firm has made a change in or cancel the contract entered into as a replacement of business guarantee money pursuant to the approval of the competent Commissioner of the Financial Services Agency, etc., the financial instruments firms shall file with the competent Commissioner of the Financial Services Agency, etc. a notification of change in a guarantee contract made on Form 6 together with a copy of the contract after the change or a notification of cancellation of a guarantee contract made on Form 7 together with a written statement certifying the fact of the cancellation of the contract and, in the case of a change in the contract, show the original contract after the change.

Article 28. — Commencement Date of Additional Deposit of Business Guarantee Money

Day prescribed by the Cabinet Office Ordinance as provided in Article 31-2.8 of the Act shall be the day provided in each of the following items according to the classification of the case referred to in such item for the reason that the amount of business guarantee money has fallen short:

- (1) the case where the amount of deposited business guarantee money (including a contract amount provided in Article 31-2.3 of the Act) provided in Article 31-2.10 of the Act has fallen short of the amount provided in Article 15-12 of the Order because a financial instruments firm has made a change in a contract under Article 31-2.3 of the Act (hereinafter in (1) and (2), referred to as "contract") after an approval under Article 15-13 (3) of the Order (in (2), referred to as "approval") — the date of the change in such contract;
- (2) the case where a financial instruments firm has canceled a contract after an approval — the day of cancellation of such contract;
- (3) the case where procedures for realization of a right under Article 15-14 of the Order has been made — the day on which the financial instruments firm has received a copy of the payment

instruction statement under Article 11.3 of the the Financial Instruments Firm Business Guarantee Money Regulations (Regulations jointly issued by the Cabinet Office and Ministry of Justice No. of 2007);

- (4) the case where the competent Commissioner of the Financial Services Agency, etc. has converted deposited securities (including transferred corporate debt securities, etc. as defined in Article 278.1 of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc.. (Law No. 75 of 1991)) into money for the purpose of taking procedures for realization of a right under Article 15-14 of the Order and deposited the amount of consideration as a result of the conversion less the conversion expense — the day on which the financial instruments firm has received the notice pursuant to the provisions of Article 12.4 of the Financial Instruments Firm Business Guarantee Money Regulations; or
- (5) the case where a financial instruments firm (limited to an individual engaged in investment advisory and agent business) has obtained a registration of change under Article 31.4 of the Act as a person carrying out the second-type financial instruments business — the day of registration of such change.

Article 29. — Type of Securities Which may be Used as Business Guarantee Money

Securities prescribed by the Cabinet Office Ordinance as provided in Article 31-2.9 of the Act shall be the following securities; in this case, if an interest represented by the following securities belongs according to the statement or record in a transfer account book pursuant to the provisions of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc., such interest shall be deemed to be such securities:

- (1) national government bond;
- (2) municipal bond;
- (3) government guaranteed bond (which means, among securities referred to in Article 2.1 (3) of the Act, securities for which the government guarantees the redemption of the principal and the payment of interest; in Article 65 (1) (c), the same);
- (4) corporate debt security or other type of debt securities designated by the Commissioner of the Financial Services Agency (excluding debt securities on which the name of a holder is stated and debt securities which are issued at a discount price and debt securities referred to in (3)).

Article 30. — Value of Securirites Which may be Used as Business Guarantee Money

30.1. When securities are used as business guarantee money pursuant to the provisions of Article 31-2.9 of the Act, the value of securities shall be the value provided in each of the following items according to the classification of securities referred to in such item:

- (1) securities referred to in Article 29 (1) — the face value (if an interest represented by the following securities belongs according to the statement or record in a transfer account book pursuant to the provisions of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc., such value stated or recorded in the transfer account book; hereinafter in Article 30, the same);
- (2) securities referred to in Article 29 (2) — the value is computed on the basis of 90 yen per face value 100 yen;
- (3) securities referred to in Article 29 (3) — the value is computed on the basis of 95 yen per face value 100 yen;
- (4) securities referred to in Article 29 (4) — the value is computed on the basis of 80 yen per face value 100 yen.

30.2. In the case of securities issued at a discount price, the issue price plus the value computed by the following formula shall be deemed to be the face value and the provisions of Article 30.1 shall apply.

$$\frac{(\text{face value} - \text{issue price})}{\text{number of years from the issue date to the deposit date}} \times \text{number of years from the issue date to the redemption date}$$

30.3. In the computation by the formula under Article 30.2, the fraction less than one year for the number of years from the issue date to the redemption date and the number of years from the issue date to the deposit date and the fraction less than one yen for the value of the difference of the face value and the issue price divided by the number of years from the issue date to the redemption date shall be discarded.

Article 31. — Notification of Concurrent Holding of Positions

31.1. A notification pursuant to the provisions of Articles 31-4.1 and 31-4.2 of the Act (excluding a notification of resignation provided in such provisons) shall be made by filing with the

competent Commissioner of the Financial Services Agency, etc. a notification stating:

- (1) the name;
 - (2) the trade name of the financial instruments firm;
 - (3) the title at the financial instruments firm;
 - (4) the trade name of the other corporation where the director or executive officer of a financial instruments firm holds a position;
 - (5) the title and whether the director or executive officer has the representative authorization or not at the other corporation where the director or executive officer holds a position; and
 - (6) the date of taking the position and the term of holding the position.
- 31.2. If, in the case of Article 31.1, there has been a change in the item referred to in (4) or (5) of Article 31.1, a notification of change in concurrent holding of positions stating the following matters shall be filed with the competent Commissioner of the Financial Services Agency, etc.:
- (1) the name;
 - (2) the trade name of the financial instruments firm;
 - (3) the title at the financial instruments firm;
 - (4) the details of the change;
 - (5) the date of the change.
- 31.3. A notification pursuant to the provisions of Articles 31-4.1 and 31-4.2 of the Act of the Act (limited to a notification of a resignation provided in such provisions) shall be filed with the competent Commissioner of the Financial Services Agency, etc. a notification stating:
- (1) the name;
 - (2) the trade name of the financial instruments firm;
 - (3) the title at the financial instruments firm;
 - (4) the trade name of the other corporation where the director or executive officer of a financial instruments firm has held a position;
 - (5) the title and whether the director or executive officer has had the representative authorization or not at the other corporation where the director or executive officer has held a position; and
 - (6) the date of the resignation.

Article 32. — Person Excluded from Parent Juridical Person, etc. and Subsidiary Juridical Person, etc.

A person prescribed by the Cabinet Office Ordinance as provided in Articles 15-16.1 and 15-16.2 of the Order shall be:

- (1) a person who carries out business exclusively for the purpose that any of the following persons carries out financial instruments business, etc. or financial instruments intermediary business:
 - (a) the financial instruments firm;
 - (b) the financial instruments firm and its parent juridical person, etc. and subsidiary juridical person, etc.;
- (2) a person who carries out business (excluding business related to nonpublic information (limited to information concerning a customer of financial instruments business, etc. or financial instruments intermediary business carried out by the issuer or the financial instruments firm)) exclusively for the purpose that any of the following persons carries out business (excluding financial instruments business, etc. or financial instruments intermediary business):
 - (a) the financial instruments firm;
 - (b) the financial instruments firm and its parent juridical person, etc. and subsidiary juridical person, etc.; or
- (3) a foreign juridical person or other type of organization, which do not have a business office, other type of office or its equivalent in Japan.

Article 33. — Person Who is Classified as Parent Corporation, etc.

33.1. A body prescribed by the Cabinet Office Ordinance as provided in Article 15-16.3 of the Order shall be the following corporation, etc. (which means a corporation, etc. as defined in said Article 15-16.3; hereinafter in Articles 33 to 35, the same); *provided*, that this shall not apply in the case where it is clear that a corporation, etc. does not control the decision making body (which means a decision making body as defined in said Article 15-16.3; in (2) (e), the same) of an other corporation, etc. in light of financial or business relationship:

- (1) a corporation, etc. holding the majority of voting rights of an other corporation, etc. (excluding an other corporation, etc. which is subject to the ruling of the commencement of bankruptcy proceedings, ruling of the commencement of rehabilitation proceedings or the ruling

of the commencement of reorganization proceedings or other operation, etc. equivalent thereto and is determined that there is no effecting controlling or dependency relationship; hereinafter in Article 33.1, the same) for its house account;

- (2) a corporation, etc. which holds 40/ 100 or more and 50/ 100 or less of voting rights of an other corporation, etc. for its house account and meets any of the following criteria:
 - (a) the total of voting rights held by such corporation, etc. for its house account and voting rights held by a person who is determined that such person makes an affirmative vote for the intention of the corporation, etc. because of close relationship in respect of capital contribution, personnel affair, finance, technology, trading, etc. with such corporation, etc. and a person who has agreed to make an affirmative vote for the intention of the corporation, etc. occupies a majority of voting rights of such other corporation, etc.;
 - (b) the majority of members of the board of directors or equivalent body of such other corporation, etc. are persons who are or have been officers or employees of such corporation, etc. and is able to influence the decisions of financial and business policies of such other corporation, etc.;
 - (c) there is a contract, etc. to control the decisions of important financial and business policies of such other corporation, etc. between such corporation, etc. and such other corporation, etc.;
 - (d) such corporation, etc. provides loans (including guarantee of liabilities and offering collateral; in (d) and Article 37 (2) (b), the same) for more than half of the total amount of finance (limited to finance accounted as liabilities of the balance sheet) of such other corporation, etc. (including the case where the total of such loans and loans provided by a person having close relationship in respect of capital contribution, personnel affair, finance, technology, trading, etc. with such corporation, etc. is more than half of the total amount of finance);
 - (e) in addition to the above, there is a fact that such corporation, etc. is assumed to control the decision making body of such other corporation, etc.;
- (3) in the case where the total of voting rights held by such corporation, etc. for its house account and voting rights held by a person who is determined that such person makes an affirmative vote for the intention of the corporation, etc. because of close relationship with such corporation, etc. in respect of capital contribution, personnel affair, finance, technology, trading, etc. and a person who has agreed to make an affirmative vote for the intention of the corporation, etc. occupies a majority of voting rights of an other corporation, etc. (including the case where such corporation, etc. does not own voting rights for its house account), such corporation, etc. which meets any of the criteria referred to in (2) (b) to (2) (e).

33.2. Notwithstanding the provisions of Article 33.1, a special purpose corporation (which means a special purpose corporation as defined in Article 2.3 of the Law on Securitization of Assets (Law No. 105 of 1998) and a business unit, engaged in similar business, which is restricted to change the business; hereinafter the same) shall be determined to be independent from a capital contributor to such special purpose corporation and a corporation, etc. which has assigned assets to such special purpose corporation (hereinafter in Article 33.2, referred to as "capital contributor, etc.") if such special purpose corporation is incorporated for the purpose of causing an owner of securities issued by such special purpose corporation (including a creditor on special purpose borrowing as defined in Article 2.12 of said Law) benefitted from revenue arising from assets assigned at an appropriate price and the business of such special purpose corporation is carried out properly in accordance with such purpose, and shall be assumed not to be a subsidiary corporation, etc. (which means a subsidiary corporation, etc. as defined in Article 15-16.3 of the Order; in Article 34, the same) of a capital contributor, etc.

Article 34. — Person Who is Affiliate Corporation, etc.

A body prescribed by the Cabinet Office Ordinance as provided in Article 15-16.4 of the Order shall be the following corporation, etc.; *provided*, that this shall not apply in the case where it is clear that a corporation, etc. (including a subsidiary corporation, etc. of such corporation, etc.) is not able to have important influence on the decisions of financial and business policies of an other corporation, etc. other than a subsidiary corporation, etc. in light of financial or business relationship:

- (1) in the case where a corporation, etc. (including a subsidiary corporation, etc. of such corporation, etc.) holds 20/ 100 or more of voting rights of an other corporation, etc., other than a subsidiary corporation, etc., (excluding an other corporation, etc. , other than a subsidiary corporation, etc., which is subject to the ruling of the commencement of bankruptcy proceedings, ruling of the commencement of rehabilitation proceedings or the ruling of the commencement of

reorganization proceedings or an other corporation, other than a subsidiary corporation, etc., equivalent thereto and is determined that such corporation, etc. is not able to have important influence on the decisions of financial and business policies of such other corporation, etc., other than a subsidiary corporation, etc.; hereinafter in Article 34, the same) for its house account, such other corporation, other than a subsidiary corporation, etc.;

- (2) in the case where a corporation, etc. (including a subsidiary corporation, etc. of such corporation, etc.) holds 15/ 100 or more and less than 20/ 100 of voting rights of an other corporation, etc. other than a subsidiary corporation, etc. for its house account, such other corporation, etc., other than a subsidiary corporation, etc., which meets any of the following criteria:
 - (a) a person who is or has been an officer or employee of such corporation, etc., which have ability to influence the decisions of financial and business policies of such other corporation, etc., holds a position of a director, executive officer or its equivalent of such other corporation, etc.;
 - (b) such corporation, etc. provides important loans to such other corporation, etc.;
 - (c) such corporation, etc. provides important technology to such other corporation, etc.;
 - (d) such other corporation, etc. has important business relationship with such corporation, etc. including sale to or purchase from such corporation, etc.;
 - (e) otherwise, there is a fact that such corporation, etc. is assumed to have important influence on the decisions of financial or business policies of such other corporation, etc.;
- (3) in the case where the total of voting rights held by such corporation, etc. (including a subsidiary corporation, etc. of such corporation, etc.) for its house account and voting rights held by a person who is determined that such person makes an affirmative vote for the intention of the corporation, etc. because of close relationship with such corporation, etc. in respect of capital contribution, personnel affair, finance, technology, trading, etc. and a person who has agreed to make an affirmative vote for the intention of the corporation, etc. occupies 20/ 100 or more of voting rights of such other corporation, etc., other than a subsidiary corporation, etc., (including the case where such corporation, etc. does not own voting rights for its house account), such corporation, etc., other than a subsidiary corporation, etc., which meets any of the criteria referred to in (2) (a) to (2) (e).

Article 35. — Judgment of Holding of Voting Rights

35.1. In the case of judgment of holding of voting rights provided in Article 15-16.5 of the Order, voting rights held shall include voting rights held for the name of an other person (including a temporary nominee; in Article 203.1, the same) and voting rights attached to shares of stock or capital contributions (hereinafter referred to as "shares of stock, etc.") in the following cases:

- (1) the case of having authorization to execute voting rights or authorization to direct the exercise of such voting rights of a corporation, etc. based on the provisions of a trust contract of money or other contract or laws;
- (2) the case where a person having special relationship provided in Article 15-10 of the Order holds voting rights of a corporation, etc.; or
- (3) the case of impossibility to counter the issuer of shares of stock, etc. (including shares of stock, etc. carrying voting rights which are deemed to be included in voting rights held by a specific individual shareholder under Article 15-16.1 (4) of the Order pursuant to the provisions of Article 35.1) held by the person pursuant to the provisions of Article 147.1 or 148.1 of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc. (including the *mutatis mutandis* application of these provisions under Articles 228.1, 235.1, 239.1 and 276 (limited to the portion related to (2)) of said Law).

35.2. Notwithstanding the provisions of Article 35.1, voting rights attached to the following shares of stock, etc. shall be excluded from voting rights held under Article 35.1:

- (1) in the case where a person authorized to represent a juridical person or a manager authorized to act as an agent of a juridical person is authorized to exercise voting rights or direct the exercise of voting rights or is given authorization necessary to make investment under such authorization of representation or authorization to act as an agent, shares of stock, etc. held by such juridical person;
- (2) shares of stock, etc. owned by an heir as an inherited property (limited to shares of stock, etc. acquired or owned on or before the date when the heir (excluding joint inheritance) has made absolute acceptance (including the case where the heir is deemed to have made absolute acceptance) or limited recognition or shares of stock, etc. of which the coheirs of the inherited property have not completed the division of inheritance).

Subsection 3. Major Shareholders

Article 36. — Filing of Eligible Voting Right Holding Notification

In filing an eligible voting right holding notification under Article 32.1 of the Act pursuant to the provisions of said Article 32.1, the filing person shall file the eligible voting right holding notification made on Form 8 with, in the case where such person is a resident in Japan (which means a resident in Japan as defined in the first close of Article 6.1 (5) of the Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949); hereinafter in Subsection 3, the same), the director-general of a local finance bureau which has the jurisdiction over the location of the filing person's principal business office, etc. (in the case of an individual, the person's address or place of residence) (in the case where such location is within the jurisdiction of Fukuoka Finance Branch, the director of Fukuoka Finance Branch), and in the case where such person is a non-resident (which means a non-resident as defined in Article 6.1 (6) of said Law; in Article 208, the same), the director-general of Kanto Finance Bureau together with one copy of the eligible voting rights holding notification and documents required to be attached to such eligible voting right holding notification under Article 32.2 of the Act.

Article 37. — Entries, etc. in Eligible Voting Right Holding Notification

37.1. Matters specified by the Cabinet Office Ordinance as provided in Article 32.1 of the Act shall be:

- (1) the name or trade name;
- (2) the location of the principal business office or the principal office (in the case of an individual, the address or place of residence);
- (3) in the case of a juridical person, the name of the representative; and
- (4) the number of voting rights held.

37.2. The number of voting rights held by all of shareholders, etc. under Article 32.1 of the Act shall be the number of voting rights held by all of shareholders, etc. (which means voting rights held by all of shareholders, etc. as defined in Article 29-4.2 of the Act; hereinafter the same) as of the date that the major shareholder has become a holder of eligible voting rights (which mean eligible voting rights as defined in Article 29.2 of the Act): *Provided*, That, if it is difficult to know the number of voting rights held by all of shareholders, etc., the number of voting rights held by all of shareholders, etc. stated in the latest securities report, etc. (which means a securities report as defined in Article 24.1 of the Act, a quarterly report as defined in Article 24-4-7.1 of the Act or an interim report as defined in Article 24-5.1 of the Act; hereinafter in Article 37.2, the same) (if the securities report, etc. has not been submitted, the number of voting rights held by all of shareholders, etc. computed based on the commercial registry certificate or other documents) may be used.

Article 38. — Attachments to Eligible Voting Right Holding Notification

Documents prescribed by the Cabinet Office Ordinance as provided in Article 32.2 of the Act shall be:

- (1) in the case of an individual, an abridged copy of the resident's card (limited to those stating the domicile of origin) or a written statement equivalent thereto; or
- (2) in the case of a juridical person, a registration certificate or a written statement equivalent thereto.

Article 38-2. — Notification of Becoming Specific Major Shareholder

A major shareholder other than a specific major shareholder (which means a specific major shareholder defined in Article 32.4 of the Act; hereinafter in Article 38-2 and 38-5, the same) of a financial instruments firm notifying pursuant to the provisions of Article 32.3 of the Act shall file a notification of becoming a specific major shareholder made on Form 8-2 together with a copy of such notification with the general-manager of a local finance bureau having the jurisdiction over the location of the principle business office in the case of a resident (in the case of an individual, the address or place of residence) (the Director of Fukuoka Finance Branch in the case where such location is within the jurisdiction of the Fukuoka Finance Branch, or the Director-General of Kanto Finance Bureau in the case of a nonresident).

Article 38-3. — Person Who is Parent Corporation, etc.

Person prescribed by the Cabinet Office Ordinance as provided in Article 15-16-2.2 of the Order shall be any of the following persons (excluding a person who will not influence on the

documents regarding financial account):

- (1) parent corporation as defined in Article 8.3 of the Regulations for Terms, Forms and Preparation Method of Financial Statements, etc. (Ministry of Finance Order No. 59 of 1963); hereinafter referred to as "Financial Statements Regulations"); or
- (2) person who is deemed to be the person referred to in (1) for the purpose of preparing documents regarding financial account in accordance with the designated international accounting standards (which means the designated international accounting standards as defined in Article 93 of the Regulations for Terms, Forms and Preparation Method of Consolidated Financial Statements (Ministry of Finance Order No. 28 of 1976); hereinafter the same)) or in accordance with the standards or practices of fair and reasonable corporate accounting in foreign jurisdictions.

Article 38-4. — Person Who is Affiliate Corporation, etc.

Person prescribed by the Cabinet Office Ordinance as provided in Article 15-16-2.3 of the Order shall be any of the following persons (excluding a person who will not influence on the documents regarding financial account):

- (1) affiliate corporation as defined in Article 8.5 of the Financial Statement Regulations; or
- (2) person who is deemed to be the person referred to in (1) for the purpose of preparing documents regarding financial account in accordance with the designated international accounting standards or the standards or practices of fair and reasonable corporate accounting in foreign jurisdiction.

Article 38-5. — Notification of Major Shareholder Other than Specific Major Shareholder

A specific major shareholder of a financial instruments firm notifying pursuant to the provisions of Article 32-3.3 of the Act shall file a notification of becoming a major shareholder other than a specific major shareholder made on Form 8-3 together with a copy of such notification with the general-manager of a local finance bureau having the jurisdiction over the location of the principle business office in the case of a resident (in the case of an individual, the address or place of residence) (the Director of Fukuoka Finance Branch in the case where such location is within the jurisdiction of the Fukuoka Finance Branch, or the Director-General of Kanto Finance Bureau in the case of nonresident).

Article 39. — *Mutatis Mutandis* Application

The provisions of Articles 36 to 38 shall apply *mutatis mutandis* in the *mutatis mutandis* application of the provisions of Articles 32.1 and 32.2 of the Act under Article 32-4 of the Act.

Subsection 4. Registered Financial Institutions

Article 40. — Securities Equivalent to Specific Corporate Debt Securities

Securities prescribed by the Cabinet Office Ordinance as provided in Article 15-17.1 (2) of the Order shall be securities which meet all of the following requirements:

- (1) there are assets assigned from an owner of the assets directly or indirectly to a juridical person incorporated or managed for the purpose of issuing such securities (in (2), referred to as "assigned assets"); and
- (2) a juridical person provided in (1) issues the securities and money obtained from control, management or disposal of assigned assets is used to perform the liabilities under such securities (including securities issued to refinance such securities).

Article 41. — Securities Equivalent to Short-term Corporate Debt Securities, Shares of Stock, etc.

Securities prescribed by the Cabinet Office Ordinance as provided in Article 15-17.3 of the Order shall be:

- (1) book transfer foreign debt securities (which mean book transfer foreign debt securities as defined in Article 66 (excluding (1)) of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc. which is applied *mutatis mutandis* under Article 127 of said Law; hereinafter in (1), the same), which meet all of the following requirements:
 - (a) it is denominated in Yen;
 - (b) the amount of each book transfer foreign debt securities is equal to or more than ¥100,000,000;
 - (c) there are provisions that redemption of the principal is made on a fixed date within one year since the day of payment of the total issue amount of the book transfer foreign debt securities

- and there is no provisions for partial redemption; and
- (d) there are provisions that payment of interests shall be made on the same day of the redemption date of the principal under (c); or
- (2) securities which meet all of the requirements referred to in the items of Article 40 (excluding securities referred to in (1)).

Article 42. — Securities Equivalent to Shares of Stock, etc.

A security prescribed by the Cabinet Office Ordinance as provided in Article 15-18 (1) of the Order shall be corporate debt securities which, by special provisions, may be redeemed by a share certificate (including a preferred capital contribution certificate (which means preferred capital contribution certificate as defined in the Law on Preferred Capital Contribution to Cooperative Financial Institutions; hereinafter the same)), share warrant certificate or corporate debt securities with share warrants (limited to securities which, by special provisions, be redeemed by such types of securities issued by a corporation other than a corporation which is the issuer of such corporate debt securities).

Article 43. — Application for Registration

A person who wishes to register under Article 33-2 of the Act shall file an application for registration under Article 33-3.1 of the Act made on Form 9 with the director-general of a local finance bureau which has the jurisdiction over the location of the principal business office, etc. of such person (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch) together with one copy of such application for registration and documents or electronic or magnetic records required to be attached to such application for registration pursuant to the provisions of Article 33-3.2 or 33-3.3 of the Act.

Article 44. — Entries in Application for Registration

Matters prescribed by the Cabinet Office Ordinance as provided in Article 33-3.1 (7) of the Act shall be:

- (1) if there is an employee who falls under any of the following items, the name of such employee:
 - (a) regarding registered financial instruments business, a person who is responsible for the overall control of operations regarding instruction to ensure compliance with the laws and regulations, etc. and a general manager, assistant general manager, division manager, whatever title such person may hold, who is in a position to act as the first-mentioned person;
 - (b) regarding investment advisory business and investment management business, a person who is responsible for the overall control of the division to make an advice or management (including direction of an advice or management; hereinafter the same) and a person who make an investment judgment on the basis of the analysis of values, etc. of financial instruments;
 - (c) regarding investment advisory and agent business, a person who is responsible for the overall control of business at a business office or other type of office under Article 33-3.1 (5) of the Act and a general manager, assistant general manager, division manager, whatever title such person may hold, who is in a position to act as the first-mentioned person;
- (2) the name or trade name of a designated dispute resolution organization which is the counterparty of a procedures performance master contract to take measures to enter into such procedures performance master contract for operations provided in (5) (a) of Article 37-7.1 of the Act and the name of a financial instruments firms association of which such person becomes a member and a recognized investor protection organization of which such person becomes a covered firm;
- (3) the name or trade name of a financial instruments exchange of which such person becomes a member, etc.;
- (4) in the case of performing the act referred to in (1) or (2) of Article 33-2 of the Act as a business:
 - (a) such fact; and
 - (b) in the case of performing the act provided in Article 33.2 (5) of the Act as a business for the transaction referred to in said Article 33.2 (5), such fact;
- (5) in the case of carrying out financial instruments intermediary business, the trade name of a commissioning financial instruments firm (which means a financial instruments firm carrying out the first-type financial instruments business to which financial instrument intermediary business is commissioned; hereinafter, excluding Article 275.1 (27), the same);
- (6) in the case of carrying out commodity investment related business:
 - (a) such fact;
 - (b) in the case where its commodity investment related business relates to goods and articles referred to in (b) of Article 37.1 (2) of the Order or only commodity, etc. under the jurisdiction

- of the Ministry of Agriculture, Forestry and Fisheries, such fact;
- (c) in the case where its commodity investment related business relates to goods and articles referred to in (c) to (e) of Article 37.1 (2) of the Order or only commodity, etc. under the jurisdiction of the Ministry of Ministry of Economy, Trade and Industry, such fact;
- (d) in the case of carrying out racing horse investment related business, such fact;
- (7) in the case of performing the acts referred to in the items of Article 194-6.2 of the Act as a business, such fact;
- (8) in the case of carrying out real estate trust beneficial interest, etc. trade, etc. business, such fact; and
- (9) in the case of carrying out the real estate related specific investment business, such fact.

Article 45. — Type of Business and Manner of Operation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 33-3.2 (2) of the Act shall be:

- (1) principles of business management;
- (2) manner of business operation;
- (3) the method to divide the duties;
- (4) types of financial instruments transactions acts performed as a business;
- (5) system to settle grievances (including details of grievances settlement measures and dispute resolution measures regarding operations provided in (5) (b) of Article 37-7.1 of the Act);
- (6) in the case of performing the acts referred to in the items of Article 33-2 of the Act as a business:
 - (a) types of securities to be handled and types of derivatives transactions to be conducted as a business;
 - (b) in the case of handling the interest referred to in (1) or (2) of Article 2.2 of the Act, the type of trust assets for such interest;
 - (c) in the case of handling the interest referred to in (5) or (6) of Article 2.2 of the Act, the summary of capital contribution object project for such interest;
 - (d) method to control the risk of loss;;
 - (e) in the case of carrying out business to perform primary underwriting of securities for securities referred to in Article 33.2 (1) of the Act:
 - (i) the name and title of a person responsible for the control of the business;
 - (ii) the name and organization system of the division carrying out the business;
 - (iii) the method to compute risk of loss equivalent amounts for the business;
 - (iv) setting of and application method of the limit of risk of loss equivalent amounts for the business;
 - (v) the name and organization of the division responsible for the computation of risk of loss equivalent amounts and the control of the limit for the business;
 - (vi) the frequency of and the name and organization of the division in charge of investigation on operation of the business and risk of loss equivalent amounts and the application of the limit thereof for the business; and
 - (vii) other important matter to control the risk of loss for the business;
 - (f) in the case of carrying out business to perform the act provided in Article 33.2 (5) of the Act in respect of the transaction referred to in said Article 33.2 (5):
 - (i) the name and title of a person responsible to control the business;
 - (ii) the name and organization system of the division carrying out the business;
 - (iii) criteria for commencement of trading with a customer for the business;
 - (iv) the method to compute risk of loss equivalent amounts for the business and frequency of computation (entries shall be made for each of risk of loss arising from movement of market prices, interest rate, prices of currencies and other indices on an on-exchange financial instruments market, risk of loss arising from nonperformance of contract or other reason by a counterparty of the transaction and risk of loss arising from reasons other than the foregoing reasons);
 - (v) setting of, and application method of, the limit of risk of loss equivalent amounts for the business and setting of and application method of such limit for each type of transaction and each type of customer;
 - (vi) the name and organization of the division responsible for the computation of risk of loss equivalent amounts and the control of the limit for the business;
 - (vii) the frequency of reports on risk of loss equivalent amounts and the application of the limit for the business to a director or executive officer having the representative authorization (in the case of a foreign juridical person, a director or executive officer, or its equivalent, located in a business office or other type of office in Japan or a representative in Japan);

- (viii) the method of preparation and retention of basic data for the computation of risk of loss equivalent amounts for the business;
- (ix) the frequency of, and the name and organization of the division in charge of, investigation on operation of the business, risk of loss equivalent amounts and the application of the limit; and
- (x) other important matters to control the risk of loss for the business;
- (7) in the case of carrying out investment advisory and agent business, the matters referred to in (a) to (d) of Article 8 (8);
- (8) in the case of carrying out investment management business, the matters referred to in (a) to (e) of Article 8 (9);
- (9) in the case of carrying out securities, etc. custody business, method of custody pursuant to the provisions of Articles 43-2 or 43-3 of the Act.
- (10) following matters regarding the measures referred to in the items of Article 70-3.1:
 - (a) the method to enforce such measures;
 - (b) the organization responsible for enforcing such measures and staff allocation;
- (11) in receiving or providing information in the cases provided in (18) (e) and (24) (d) of Article 123.1, the following matters regarding business of maintenance and control of an electronic data processing and network system and business of internal control provided in Article 153.3:
 - (a) the name or trade name of a commissioning financial instruments firm which receives or provides such information;
 - (b) the method to execute business operation;
 - (c) the organization responsible for such business and staff allocation;
- (12) in the case of providing information in the cases provided in (g), (i) and (j) of Article 154 (4), the name or trade name of its parent juridical person, etc. or subsidiary juridical person, etc. which receives such information.

Article 46. — Attachments to Registration Application

State prescribed by the Cabinet Office Ordinance as provided in Article 33-3.2 (3) of the Act shall be the following matters as the state of a connected corporation (which means a parent juridical person, etc., subsidiary juridical person, etc. or holding company; in (5), the same):

- (1) the name or trade name;
- (2) the amount of capital, total amount of basic funds or total amount of capital contributions;
- (3) the location of the principal business office or principal office;
- (4) the type of business
- (5) capital relationship, personnel relationship and business relationship for the latest one year between the applicant for registration and the connected corporation; and
- (6) the distinction of a parent juridical person, etc., subsidiary juridical person, etc. or holding company.

Article 47.

47.1 Documents prescribed by the Cabinet Office Ordinance as provided in Article 33-3.2 (4) of the Act shall be:

- (1) a written statement containing business operation system including personnel structure and organization for business;
- (2) the resume of each of officers and important employees (which mean employees who fall under any of (a) to (c) of Article 44 (1); in Article 51.1 (4), the same) responsible for registered financial institution business (if the officer is a juridical person, a written statement containing the history of the officer);
- (3) in the case of carrying out commodity investment related business in which a racing horse is involved, a written statement certifying that the criteria referred to in Article 49 (3) are not applicable;
- (4) in the case of carrying out real estate trust beneficial interest, etc. trade, etc. business, a written statement certifying that the criteria referred to in Article 49 (4) are not applicable;
- (5) in the case of carrying out the real estate related specific investment management business, a written statement containing matters regarding ability to carry on business;.
- (6) notes to the balance sheet and notes to the profit and loss statements;
- (7) in the case of carrying out business of primary underwriting of securities for the securities referred to in Article 33.2 (1) of the Act or the case of carrying out business to perform acts provided in Article 33.2 (5) of the Act for the transactions referred to in said Article 33.2 (5), the following documents:
 - (a) the resume of a person who is responsible for the control of such business;
 - (b) the internal rules for such business;

- (c) contract documents used at the time of trading with a customer regarding such business;
 - (8) in the case of carrying out financial instruments intermediary business, the following documents:
 - (a) a copy of the contract of commissioning of financial instruments intermediary business with a commissioning financial instruments firm; and
 - (b) if the applicant is not a member of a financial instruments firms association, the internal rules for financial instruments intermediary business.
- 47.2 In the case where the documents referred to in Article 47.1 (6) are attached and notes to the balance sheet or notes to the profit and loss statements are prepared by an electronic magnetic record, such electronic or magnetic record (limited to an electronic or magnetic record provided in Article 11) may be attached in lieu of documents.

Article 48. — Public Disclosure of Financial Institution Registry Book

The competent director-general of a local finance bureau, etc. shall keep the financial institution registry book for a registered financial institution which are registered by the competent director-general of a local financial bureau, etc. at a local financial bureau which has the jurisdiction over the location of the principal business office, etc. of the registered financial institution (Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch) and make it available for public inspection.

Article 49. — Examination Criteria for Personnel Resources

In examining whether the applicant for registration is a person whose personnel resources are insufficient to carry out registered financial institution business provided in Article 33-5.1 (3) of the Act in an accurate manner, the Prime Minister shall examine whether the applicant for registration meets any of the following criteria:

- (1) in light of the state of ensuring the employment of an officer or employee having sufficient knowledge and experience of its business and the organization system, such person is determined to be unable to carry out the business in a proper manner;
- (2) because of the existence, among officers or employees, of a person having improper quality to manage business in light of such person's career, relationship with an organized group of gangsters as defined in Article 2 (2) of the Law on Prevention, etc. of Unjustifiable Act by Gangster or a gangster as defined in Article 2 (6) of said Law or other circumstances, such person is determined that such person will likely destroy the credibility of registered financial institution business;
- (3) in the case of carrying out commodity investment related business in which a racing horse is involved, such person fails to meet the following requirements:
 - (a) such person is instructed by the Japan Racing Association or the National Association of Racing in advance;
 - (b) either of and one of racing horse investment related business in connection with the interest referred to in Article 7 (4) (d) (i) or racing horse related business in connection with the interest referred to in Article 7 (4) (d) (ii) is applicable to commodity investment related business carried out by such person;
 - (c) in the case of carrying out racing horse investment related business in connection with the interest referred to in Article 7 (4) (d) (ii), such person is registered under Article 13.1 of the Horse Racing Law (including the *mutatis mutandis* application under Article 22 of said Law);
- (4) in the case of carrying out real estate beneficial interest, etc. trade, etc. business, such person fails to meet the following requirements:
 - (a) such person allocate an officer or employee having professional knowledge and experience of trade of housing land and buildings to each of the following divisions:
 - (i) the division responsible for the overall control of real estate trust beneficial interest, etc. trade, etc. business;
 - (ii) the division responsible for internal audit;
 - (iii) the division responsible for operation regarding instruction to ensure compliance with laws and or regulations, etc; or
 - (b) an officer or employee carrying out real estate trust beneficial interest, etc. trade, etc. business has professional knowledge and experience regarding trade of housing land or buildings necessary to explain by the method and at the degree necessary to ensure a customer to understand in light of the customer's knowledge, experience, financial resources and the purpose to enter into a financial instruments transaction contract in respect of the matters referred to in the items of Article 85.1;
- (5) in the case of carrying out the real estate related specific investment management business,

such person fails to meet requirements prescribed by the Commissioner of the Financial Services Agency.

Article 50. — Conditions for Registration in Respect of Over-the-Counter Derivatives Transaction of Securities

Conditions prescribed by the Cabinet Office Ordinance as provided in Article 33-5.2 of the Act shall be the following conditions:

- (1) in the case where a bank, insurance company (which means an insurance company as defined in Article 2.2 of the Insurance Business Law (Law No.105 of 1995) and includes a foreign insurance company, etc. as defined in Article 2.7 of said Law; hereinafter the same), Central Shinkin Bank, Norinchukin Bank or Business Corporation ShokoChukin Bank, Limited, which is a registered financial institution, conducts share certificate related over-the-counter derivatives transaction (which means the transaction referred to in Article 33.2 (5) of the Act which the market price of which moves according to the movement of the prices of share certificates or stock index (which means an index computed based on the price of a share certificate; in (4), the same); hereinafter in Article 50, the same) as a business, such share certificate related over-the-counter derivatives transaction shall be accounted for a specific transaction account (which means a specific transaction account (in the case of a branch of a foreign bank as defined in Article 47.2 of the Banking Law (Law No. 59 of 1981) or a foreign insurance company, etc. as defined in Article 2.7 of the Insurance Business Law, an account similar to a specific transaction account) as defined in Article 13-6-3.1 of the Banking Law Enforcement Regulations (Ministry of Finance Ordinance No. 10 of 1982), Article 12-4-3.1 of the Long Term Credit Banking Law Enforcement Regulations (Ministry of Finance Ordinance No. 13 of 1982), Article 53-6-2.1 of the Insurance Business Law Enforcement Regulations (Ministry of Finance Ordinance No. 5 of 1996), Article 107.1 of the Shinkin Bank Law Enforcement Regulations (Ministry of Finance Ordinance No. 15 of 1982), Article 65.1 of the Norinchukin Bank Law Enforcement Regulations (Ordinance jointly issued by the Cabinet Office and Ministry of Agriculture, Forestry and Fisheries No. 16 of 2001) or Article 24-5-2.1 of the Shokochukin Bank Law Enforcement Regulations (Ordinance jointly issued by the Ministry of Commerce and Industry and the Ministry of Finance of 1936); hereinafter Article 50, the same);
- (2) in the case where a registered financial institution other than a registered financial institution provided in (1) conducts share certificate related over-the-counter derivatives transaction as a business, such share certificate related over-the-counter derivatives transaction shall be accounted for an account equivalent to a specific transaction account;
- (3) notwithstanding the provisions of (1) and (2), a registered financial institution conducting share certificate related over-the-counter derivatives transaction as a business may account only share certificate related over-the-counter derivatives transaction meeting all of the following conditions for an account other than a specific transaction account (in the case of a registered financial institution provided in (2), an account equivalent to a specific transaction account):
 - (a) the counterparty of such share certificate related over-the-counter derivatives transaction shall a financial instruments firm which conducts the transactions referred to in Article 28.8 (4) of the Act or acts as an intermediary, broker (excluding securities, etc. clearing broker) or agent therefor as a business or a registered financial institution which performs the act provided in Article 33.2 (5) of the Act as a business for the transaction referred to in said Article 33.2 (5);
 - (b) the counterparty of such share certificate related over-the-counter derivatives transaction shall account such share certificate related over-the-counter derivatives transaction for a specific transaction account (the same type of account as a specific transaction account in the case of a financial instruments firm, or an account equivalent to a specific transaction account in the case of a registered financial institution provided in (2)); and
- (4) when a registered financial institution has conducted share certificate related over-the-counter derivatives transaction as a business, the registered financial institution shall, immediately thereafter, conduct transactions (limited to transactions accounted for a specific transaction account (an account equivalent to a specific transaction account in the case of a registered financial institution provided in (2); hereinafter in (4), the same) effectively to decrease a loss arising from the movement of the price of a share certificate or a stock index associated with such share certificate related over-the-counter derivatives transaction in order to depress the amount of loss for a specific transactions account arising from movement of the price of a share certificate or a stock index associated with such share certificate related over-the-counter derivatives transaction as much as possible.

Article 51. — Notification of Change in Entries in Application for Registration

51.1. A registered financial institution which notifies pursuant to the provisions of Article 33-6.1 of the Act shall file a notification stating the details of, the date of and the reason for the change with the competent Commissioner of the Financial Supervisory Agency, etc. together with a written statement containing the details after the change made on Form 9 and a copy of such written statement and documents provided in each of the following items according to the classification of the case referred to in such item; *provided*, that, if there is an unavoidable reason, filing of documents provided in the following items without delay after the filing of such notification shall suffice:

- (1) the case where there has been a change in the matter referred to in (1) or (2) of Article 33-3.1 of the Act — the registration certificate stating matters concerning such change or a written statement equivalent thereto;
- (2) the case where there has been a change in the matter referred to in (3) or (4) of Article 33-3.1 of the Act — the following documents:
 - (a) a written statement containing business operation system including personnel structure and organization for business;
 - (b) the registration certificate containing matters concerning such change or a written statement equivalent thereto;
 - (c) the resume of the newly installed officer (limited to a person responsible for registered financial institution business and an accounting partner) (if an officer is a juridical person, a written statement containing the history of the officer);
- (3) the case where there has been a change in the matter referred to in Article 33-3.1 (5) of the Act (limited to the closure of a business office or other type of office) — a written statement containing the details of the settlement of a customer account associated with the change;
- (4) the case where there has been a change in the matter referred to in Article 44 (1) of the Act — the resume of the newly installed important employee;
- (5) the case where there has been a change in the matter referred to in Article 44 (5) of the Act (limited to the case where financial instruments intermediary business is commissioned newly) — the following documents:
 - (a) a copy of the contract of commissioning of financial instruments intermediary business; and
 - (b) if the applicant is not a member of a financial instruments firms association, the internal rules for financial instruments intermediary business;
- (6) the case where there has been a change in the matter referred to in Article 44 (6) (d) (limited to the case of carrying out racing horse investment related business) — a written statement certifying that the criteria referred to in Article 49 (3) is not applicable;
- (7) the case where there has been a change in the matter referred to in Article 44 (8) (limited to the case of carrying out real estate trust beneficial interest, etc. trade, etc. business) — a written statement certifying that the criteria referred to in Article 49 (4) is not applicable; and
- (8) the case where there has been a change in the matter referred to in Article 44 (9) (limited to the case of carrying out the real estate related specific investment management business) — a written statement containing matters regarding ability to carry on the the real estate related specific investment manage business.

51.2. If the competent Commissioner of the Financial Services Agency, etc. has accepted from a registered financial institution a notification that the location of the principal business office, etc. has been changed to the location under the jurisdiction different from the jurisdiction of the competent director-general of a local finance bureau, etc., the competent Commissioner of the Financial Services Agency, etc. shall send to the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office after the change for which the notification has been filed (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch), or require such director-general of a local finance bureau or the director of Fukuoka Finance Branch to send, such notification and the part of the financial institution registry book related to the registered financial institution and other documents.

51.3. The director-general of a local finance bureau or the director of Fukuoka Finance Branch who has received the documents pursuant to the provisions Article 51.2 shall register matters related to such registered financial institution in the financial institution registry book.

Article 52. — Notification of Change in Type of Business and Manner of Operation

A registered financial institution which notifies pursuant to the provisions of Article 33-6.3 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. a notification containing the details of, the date of and the reason for the change together with

documents containing the matters referred to in the items of Article 45 (limited to matters in which a change has been made).

Subsection 5. Specific Investors

Article 53. — Types of Contract

Contract prescribed by the Cabinet Office Ordinance as provided in Article 34 of the Act shall be:

- (1) a contract for the performance of the acts referred to in (1) to (10) of Article 2.8 of the Act or the act referred to in (16) of said Article 2.8 or the act referred to in (17) of said Article 2.8 performed in connection with the first-mentioned acts for securities;
- (2) a contract for the performance of the acts referred to in (1) to (5) of Article 2.8 of the Act, or the act referred to in (16) of said Article 2.8 or the act referred to in (17) of said Article 2.8, performed in connection with the first-mentioned acts for derivatives transactions;
- (3) an investment advisory contract and a contract for the performance of the act referred to in (13) of Article 2.8 of the Act (limited to an act performed under an investment advisory contract); and
- (4) a contract of discretionary investment and a contract for the performance of the act referred to in of Article 2.8 (13) of the Act (limited to an act performed under a contract of discretionary investment).

Article 54. (Reserved)

Article 55. — Entries in Written Statement Furnished to Specific Investor Who has Offered

Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-2.3 (4) of the Act shall be:

- (1) the statement that only financial instruments firm, etc. which has accepted pursuant to the provisions of Article 34-2.2 of the Act shall treat an offeror (which means an offeror as defined in Article 34-2.3 of the Act; in (2), the same) as a customer other than a specific investor regarding an eligible contract (which means an eligible contract as defined in Article 34-2.2 of the Act; in (2) and Article 57-2, the same);
- (2) the statement that, with respect to a financial instruments transaction contract entered into as an agent of the offeror between the financial instruments firm, etc. and an other financial instruments firm, etc. based on an eligible contract on or after the accepting date (which means an accepting date as defined in Article 34-2.3 (1) of the Act), such other financial instruments firm, etc. shall treat the offeror as a customer other than a specific investor.

Article 56. — Method Using Information Technologies

56.1. Methods prescribed by the Cabinet Office Ordinance as provided in Article 34-2.4 of the Act (including the *mutatis mutandis* application under Articles 34-3.12 (including the *mutatis mutandis* application under Articles 34-4.6 of the Act), 34-4.3, 37-3.2, 37-4.2, 37-5.2, 40-2.6, 40-5.3 and 42-7.2 of the Act; hereinafter in Article 56, the same) shall be the following methods (hereinafter referred to as "electronic or magnetic method"):

- (1) among methods using an electronic data processing and network system, either of:
 - (a) a method to transmit matters required to be contained in a written statement (hereinafter in Article 56, referred to as "statements") through the telecommunication network connecting a computer used by a financial instruments firm, etc. (including a person who keeps the file in a computer managed by the person pursuant to the contract with the financial instruments firm, etc. which furnishes the matters provided in Article 34-2.4 of the Act and furnishes it for the use of the counterparty to whom such matters are furnished (hereinafter in Article 56, referred to as "customer") or the financial instruments firm, etc.; hereinafter in Article 56, the same) with a computer used by a customer, etc. (which means a customer or a person who keeps the customer file (which mean a file furnished for the exclusive use of such customer; hereinafter in Article 56, the same) in a computer managed by the person pursuant to the contract with the customer; hereinafter in Article 56, the same), and record in the customer file in the computer used by the customer, etc. (in the case of agreeing that the customer accepts, or making an offer to the effect that the customer does not accept, methods provided in Article 34-2.4 of the Act, method to record such fact in a file in a computer used by a financial instruments firm, etc. which furnishes matters provided in said Article 34-2.4);
 - (b) a method to make the statements recorded in a file in a computer used by a financial instruments firm, etc. available for a customer's browsing through the telecommunication

network and to record such matters in a customer file of the customer in a computer used by a customer, etc. (in the case of agreeing to be furnished, or offering not to be furnished, by the method provided in Article 34-2.4 of the Act, a method to record such agreement or offering in a file in the computer used by the financial instruments firm, etc.);

- (c) a method to make statements recorded in a customer file kept in a computer used by a financial instruments firm, etc. available for a customer's browsing through the telecommunication network; and
 - (d) a method to make statements recorded in a browsing file (which means a file, kept in a computer used by a financial instruments firm, etc., which records such statements in order to make them available for browsing of multiple customers simultaneously; hereinafter in Article 56, the same) available for a customer's browsing through the telecommunication network.
- (2) a method to use a magnetic disk, CD-ROM or other similar methods and to furnish an instrument which has recorded statements in a file, if such instrument can produce a file which with certainty records certain matters.

56.2. The methods referred to in the items of Article 56.1 shall meet the following criteria:

- (1) the method shall allow a customer to prepare a written statement by outputting the record in customer file or a browsing file;
- (2) the methods referred to in (a), (c) and (d) of Article 56.1 (1) (excluding a method recording statements in a customer file kept in a computer used by a customer) shall be a method to give to a customer the notice that statements are recorded or have been recorded in a customer file or browsing file: *Provided*, That this shall not apply if it has been confirmed that the customer has browsed the statements;
- (3) the methods referred to in (c) and (d) of Article 56.1 (1) shall not permit the following matters to be erased or changed for five years since the day on which the last transactions referred to in the statements have been conducted (if a grievance has been filed for such statements by the end of such period, the period until the date of the end of the period or the date of the settlement of such grievance, whichever the later): *Provided*, That in the case of furnishing statements which are made available for browsing by a written statement, the case of furnishing by the method referred to in (a) or (b) of Article 56.1 (1) or Article 56.1 (2) after obtaining an agreement of a customer (which means an agreement by methods provided in Article 15-22 of the Order) or the case where a customer directs to erase such statements, the method may allow such statements to be erased:
 - (a) in the case of the method referred to in Article 56.1 (1) (c), statements recorded in a customer file; or
 - (b) in the case of the method provided in Article 56.1 (1) (d), statements recorded in a browsing file;
- (4) the method referred to in Article 56.1 (1) (d) shall meet the following criteria:
 - (a) information necessary for a customer to browse a browsing file is recorded in a customer file; and
 - (b) the availability of connecting a customer file which has recorded information necessary for a customer to browse a browsing file pursuant to the provisions of (a) with such browsing file through the telecommunication network for a period until the period provided in (3) has passed shall be maintained: *Provided*, That this shall not apply in the case where a customer who has browsed has given the notice that the customer does not require such maintenance of availability of connection.

56.3. "Electronic data processing and network system" under Article 56.1 (1) shall mean an electronic data processing and network system connecting, through the telecommunication network, a computer used by a financial instruments firm, etc. with a computer used by a customer, etc. or financial instruments firm, etc. which keeps a customer file.

Article 57. — Types and Details of Electronic or Magnetic Method

The type and details of methods required to be shown pursuant to the provisions of Articles 15-22.1 and 15-23.1 of the Order shall be:

- (1) among the methods referred to in the items of Article 56.1 or items of Article 57-3.1, the method used by a financial instruments firm, etc.; and
- (2) the method to record in a file.

Article 57-2. — Entries in Written Statements by which Person, who has made Restitution Offer to be Treated as Specific Investor, Give Consent

Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-2.11 of the Act shall be:

- (1) the date of acceptance pursuant to the provisions of Article 34-2.11 of the Act (hereinafter in Article 57-2, referred to as "accepting date");

- (2) the type of a contract to which an eligible contract belongs (which means the type of contract provided in Article 34 of the Act; hereinafter in Subsection 5, the same);
- (3) the statement that the restitution offeror (which means a restitution offeror as defined in Article 34-2.11 of the Act; hereinafter in Article 57-2, the same) understands the following matters:
 - (a) the statement that the provisions referred to in each of the items of Article 45 of the Act shall not apply in the case where a restitution offeror is any of the persons provided in such item regarding an eligible contract (excluding the case provided in the proviso to said Article 45);
 - (b) the statement that, if a person who is inappropriate to be treated as a specific investor regarding an eligible contract in light of such person's knowledge, experience and financial conditions is treated as a specific investor, such person will unlikely be protected;
- (4) the statement that a restitution offeror shall be treated as a specific investor again in the case of solicitation to enter into, or entering into, an eligible contract on or after the accepting date;
- (5) the statement that, with respect to a financial instruments transactions contract entered into between a financial instruments firm, etc. as an agent of a restitution offeror based on an eligible contract and other financial instruments firm, etc. on or after the accepting date, such other financial instruments firm shall treat the restitution offeror as a specific investor again;
- (6) the statement that a restitution offeror may make an offer pursuant to the provisions of Article 34-2.1 anytime on or after the accepting date.

Article 57-3. — Obtaining Consent by Using Information Technology

57-3.1. Information technologies prescribed by the Cabinet Office Ordinance as provided in Article 34-2.12 of the Act (including the *mutatis mutandis* application under Article 34-3.3 (including the *mutatis mutandis* application under Article 34-4.6 of the Act) and Article 43-4.2 of the Act; hereinafter in Article 57-3, the same) shall be:

- (1) among methods using an electronic data processing and network system, either of:
 - (a) a method to transmit through the telecommunication network connecting a computer used by a financial instruments firm, etc. with a computer used by a counterparty from whom the financial instruments firm, etc. wishes to obtain the consent pursuant to the provisions of Article 34-2.12 of the Act (hereinafter in Article 57-3, referred to as "customer") and record in a file in the receiving person's computer;
 - (b) a method to make, through the telecommunication network, matters regarding a customer's consent recorded in a file in a computer used by a financial instruments firm, etc. available for the customer's browsing and to record such matters regarding the customer's consent in a file in the computer used by the financial instruments firm, etc.;
- (2) a method to use a magnetic disk, CD-ROM or other similar methods and obtain an instrument which has recorded matters regarding the customer's consent in a file, if such instrument can produce a file which with certainty records certain matters.

57-3.2. The methods referred to in the items of Article 57-3.1 shall allow a financial instruments firm, etc. to prepare a written statement by outputting the record in a file

57-3.3. "Electronic data processing and network system" under Article 57-3.1 (1) shall mean an electronic data processing and network system connecting a computer used by a financial instruments firm, etc. with a computer used by a customer through the telecommunication network.

Article 58. — Expiring Date in Case where Juridical Person, Which is Customer Other Than Specific Investor, is Deemed to be Specific Investor

58.1. Case prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 of the Act shall be the case where a financial instruments firm, etc. fixes a certain date and publish the following matters by means of displaying at a prominent location of a business office or other type of office of such financial instruments firm, etc. or by other appropriate means:

- (1) such date;
- (2) the statement that the date provided in Article 58.2 shall be the expiring date (which means the expiring date as defined in Article 34-3.2 (2) of the Act; in Article 59.2 and Article 60, the same).

58.2. Date prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 of the Act shall be the day which has been fixed by a financial instruments firm, etc. pursuant to the provisions of Article 58.1 and is the last day among days within one year since the accepting date (which means an accepting date as defined in Article 34-3.2 (1) of the Act; in Article 59.2 (5) and Article 60, the same).

Article 59. — Entries in Written Statement by Which Juridical Person, Which is Customer Other Than Specific Investor and has Offered, Gives Consent

59.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 (4) (a) of the Act shall be the statement that the provisions referred to in each of the items of Article 45 of the Act shall not apply in the case where an offeror (which means an offeror as defined in Article 34-3.2 of the Act; in Article 59.2, the same) is the person provided in such item regarding an eligible contract (which means an eligible contract as defined in Article 34-3.2 (2) of the Act; in article 59.2 and 60-2, the same) (excluding the case provided in the proviso to Article 45 of the Act).

59.2. Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 (7) of the Act shall be:

- (1) the statement that an offeror shall be treated as a specific investor, even for an act performed after the expiring date, in respect of an act performed based on the provisions of laws and regulations or a contract regarding an eligible contract (excluding an investment advisory contract and contract of discretionary investment) entered into prior to the expiring date;
- (2) the statement that an offeror shall be treated as a specific investor, only for an act performed on or before the expiring date, in respect of an act performed based on the provisions of laws and regulations or a contract regarding an eligible contract (limited to an investment advisory contract and contract of discretionary investment) in the case where the type of contract offered as provided in Article 34-3.2 of the Act is the type referred to in (3) or (4) of Article 53;
- (3) the statement that only financial instruments firm, etc. which has agreed pursuant to the provisions of Article 34-3.2 of the Act shall treat an offeror as a specific investor regarding an eligible contract;
- (4) the statement that an offeror shall be treated as a specific investor for a financial instruments transaction contract entered into on or before the expiring date between a financial instruments firm, etc. and an other financial instruments firm, etc. as an agent of the offeror based on an eligible contract from such other financial instruments firm, etc., too;
- (5) the statement that an offeror may make an offer pursuant to the provisions of Article 34-3.9 of the Act anytime on or after the accepting date.

Article 60. — Period Necessary for Renewal Offer by Juridical Person Who is Customer, Other Than Specific Investor, Who Has Offered

60.1. Period prescribed by the Cabinet Office Ordinance as provided in Article 34-3.7 of the Act shall be 11 months (in the case referred to in each of the following items, the period provided in such item):

- (1) the case where the period from the accepting date till the expiring date is less than one year (excluding the case referred to in (2)) — such period less one month;
- (2) the case where the period from the accepting date till the expiring date is one month or less — one day.

60.2. For the purpose of applying the provisions of Article 60.1 in the case provided in Article 34-3.8 of the Act, "accepting date" in the items of Article 60.1 shall be read as "the day immediately following the previous expiring date."

Article 60-2. — Entries in Written Statements Furnished to Juridical Person who has made Restitution Offer to be Treated as Customer Other Than Specific Investor

Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-3.11 of the Act shall be:

- (1) the date of acceptance pursuant to the provisions of Article 34-3.10 of the Act (hereinafter in Article 60-2, referred to as "accepting date");
- (2) the type of a contract to which an eligible contract belongs;
- (3) the statement that, in the case of solicitation to enter into, or entering into, an eligible contract on or after the accepting date, a juridical person who has offered pursuant to the provisions of Article 34-3.9 of the Act (in (4), referred to as "restitution offeror") shall be treated as a customer other than a specific investor again;
- (4) the statement that, with respect to a financial instruments transactions contract entered into between a financial instruments firm, etc. as an agent of a restitution offeror based on an eligible contract and other financial instruments firm, etc. on or after the accepting date, such other financial instruments firm, etc. shall treat the restitution offeror as a customer other than a specific investor again.

Article 61. — Business Person, etc. Who is Allowed to Offer to Be Treated as Specific Investor

- 61.1. An individual prescribed by the Cabinet Office Ordinance as provided in Article 34-4.1 (1) of the Act shall be an individual who meets any of the following requirements:
- (1) a consent has not been given for offering pursuant to the provisions of Article 34-4.1 of the Act from all of the members of an undisclosed association;
 - (2) the total amount of capital contributions based on the contract of an undisclosed association is less than ¥300,000,000.
- 61.2. An individual prescribed by the Cabinet Office Ordinance as provided in Article 34-4.1 (1) of the Act shall be:
- (1) an individual who is a member of association and has entered into a contract of association for being commissioned the business operation of the association (limited to a person who meets all of the following requirements):
 - (a) such individual has obtained a consent from all of the other members of the association for offering pursuant to the provisions of Article 34-4.1 of the Act; and
 - (b) the total amount of capital contributions based on the contract of association is equal to or more than ¥300,000,000;
 - (2) an individual who has entered into a contract of limited liability business association to involve in the decision of important business operation of an association and is a member of the association executing the business (limited to a person who meets all of the following requirements):
 - (a) such individual has obtained a consent from all of the other members of the association for offering pursuant to the provisions of Article 34-4.1 of the Act; and
 - (b) the total amount of capital contributions based on the contract of such limited liability association is ¥300,000,000 or more.

Article 62. — Individual who is Allowed to Offer to Be Treated as Specific Investor

Requirements prescribed by the Cabinet Office Ordinance as provided in Article 34-4.1 (2) of the Act shall be the following requirements:

- (1) the total amount of assets of the offeror (which means an offeror as defined in Article 34-4.2 of the Act; hereinafter in Articles 62 and 64, the same) less the total amount of liabilities of the offeror is expected to be ¥300,000,000 or more as of the accepting date (which means the accepting date as defined in Article 34-3.2 (1) of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act; in (2), Article 63.2, Article 64.2 (5) and Article 64-2, the same), judging reasonably from the trading conditions and other circumstances;
- (2) the total amount of assets (limited to the following assets) of the offeror is expected to be ¥300,000,000 or more as of the accepting date, judging reasonably from the trading conditions and other circumstances:
 - (a) securities (excluding securities referred to in (e));
 - (b) an interest in derivatives transactions;
 - (c) specific money saving, etc. as defined in Article 11-2-4 of the Agriculture Cooperative Association Law (Law No. 132 of 1947), specific money saving, etc. as defined in Article 11-9 of the Fisheries Cooperative Association Law (Law No. 242 of 1948), specific money deposit, etc. as defined in Article 6-5-2 of the Law on Financial Business by Cooperative Association (Law No. 183 of 1949), specific money deposit, etc. as defined in Article 89-2 of the Shinkin Bank Law (Law No. 238 of 1951), specific money deposit, etc. as defined in Article 17-2 of the Long-Term Credit Bank Law (Law No. 187 of 1952), specific money deposit, etc. as defined in Article 94-2 of the Labor Bank Law (Law No. 227 of 1953), specific money deposit, etc. as defined in Article 13-4 of the Banking Law, specific money deposit, etc. as defined in Article 59-3 of the Norinchukin Bank Law (Law No. 93 of 2001) and specific money deposit as defined in Article 30-2-3 of the Shokochukin Bank Law (Law No. 14 of 1936);
 - (d) an interest in insurance money, mutual aid money, return premium and other payment based on a contract of specific mutual aid contract as defined in Article 11-10-3 of the Agriculture Cooperative Association Law, a contract of specific mutual aid as defined in Article 12-3.1 of the Consumers' Cooperative Society Law (Law No. 200 of 1948), a contract of specific mutual aid as defined in Article 15-7 of the Fisheries Cooperative Association Law, a contract of specific mutual aid as defined in Article 9-7-5.2 of the Cooperative Association of Small Business, etc. Law (Law No. 181 of 1949) and a contract of specific mutual aid as defined in Article 300-2 of the Insurance Business Law;
 - (e) a beneficial interest in a trust based on a contract of specific trust as defined in Article 24-2 of the Trust Business Law;
 - (f) an interest based on a contract of real estate specific joint venture as defined in Article 2.3 of the Real Estate Specific Joint Venture Law (Law No. 77 of 1994);
 - (g) an interest in transactions on a commodity market (which mean transactions on a commodity

market as defined in Article 2.10 of the Commodity Futures Trading Law (Law No. 239 of 1950)), foreign commodity market transactions (which means foreign commodity market transactions as defined in Article 2.13 of said Law; in Article 67 (1), the same) and over-the-counter commodity derivatives transactions (which mean over-the-counter commodity market derivatives transactions as defined in Article 2.14 of said Law; in Article 67 (2), the same);

- (3) one year has passed since the day on which an offeror has entered into the first financial instruments transaction contract, which belongs to the type of a contract offered, with the financial instruments firm, etc. pursuant to the provisions of Article 34-4.1 of the Act.

Article 63. — Expiring Date in Case where Individual, Who is Customer Other Than Specific Investor, is Deemed to be Specific Investor

63.1. Case prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act shall be the case where a financial instruments firm, etc. fixes a certain date and publish the following matters by means of displaying at a prominent location of a business office or other type of office of such financial instruments firm, etc. or by other appropriate means:

- (1) such date;
- (2) the statement that the date provided in Article 63.2 shall be the expiring date (which means the expiring date as defined in Article 34-3.2 (2) of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act; in Articles 64.2 and 64-2, the same).

63.2. Date prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act shall be the day which has been fixed by a financial instruments firm, etc. pursuant to the provisions of Article 63.1 and is the last day among days within one year since the accepting date.

Article 64. — Entries in Written Statement by Which Individual, Who is Customer Other Than Specific Investor and has Offered, Gives Consent

64.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 (4) (a) of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act shall be the statement that the provisions referred to in each of the items of Article 45 of the Act shall not apply in the case where an offeror is the person provided in such item regarding an eligible contract (which means an eligible contract as defined in Article 34-3.2 (2); in Articles 64.2 and 64-3, the same) (excluding the case provided in the proviso to Article 45 of the Act).

64.2. Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-3.2 (7) of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act shall be:

- (1) the statement that an offeror shall be treated as a specific investor, even for an act performed after the expiring date, in respect of an act performed based on the provisions of laws and regulations or a contract regarding an eligible contract (excluding an investment advisory contract and contract of discretionary investment) entered into on or before the expiring date;
- (2) the statement that an offeror shall be treated as a specific investor, only for an act performed on or before the expiring date, in respect of an act performed based on the provisions of laws and regulations or a contract regarding an eligible contract (limited to an investment advisory contract and contract of discretionary investment) in the case where the type of contract offered as provided in Article 34-3.2 of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act is the type referred to in (3) or (4) of Article 53;
- (3) the statement that only financial instruments firm, etc. which has accepted pursuant to the provisions of Article 34-3.2 of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act shall treat an offeror as a specific investor regarding an eligible contract;
- (4) the statement that, in respect of a financial instruments transaction contract entered into on or before the expiring date by a financial instruments firm, etc. with an other financial instruments firm, etc. as an agent of the offeror based on an eligible contract, such other financial instruments firm, etc. shall treat the offeror as a specific investor, too;
- (5) the statement that an offeror may make an offer pursuant to the provisions of Article 34-4.4 of the Act anytime on or after the accepting date.

Article 64-2. — Period Necessary for Renewal Offer by Individual who is Customer, Other Than Specific Investor, Who Has Offered

64-1.1. Period prescribed by the Cabinet Office Ordinance as provided in Article 34-3.7 of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act shall be 11 months (in the case referred to in each of the following items, the period provided in such item):

- (1) the case where the period from the accepting date till the expiring date is less than one year

- (excluding the case referred to in (2)) – such period less one month;
- (2) the case where the period from the accepting date till the expiring date is one month or less – one day.
- 64-2. For the purpose of applying the provisions of Article 64-2.1 in the case provided in Article 34-3.8 of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act, "accepting date" in the items of Article 64-2.1 shall be read as "the day immediately following the previous expiring date."

Article 64-3. – Entries in Written Statements Furnished to Individual who has made Restitution Offer to be Treated as Customer Other Than Specific Investor

Matters prescribed by the Cabinet Office Ordinance as provided in Article 34-3.11 of the Act which is applied *mutatis mutandis* under Article 34-4.6 of the Act shall be:

- (1) the date of acceptance pursuant to the provisions of Article 34-4.5 of the Act (hereinafter in Article 64-3, referred to as "accepting date");
- (2) the type of a contract to which an eligible contract belongs;
- (3) the statement that, in the case of solicitation to enter into, or entering into, an eligible contract on or after the accepting date, a individual who has offered pursuant to the provisions of Article 34-4.4 of the Act (in (4), referred to as "restitution offeror") shall be treated as a customer other than a specific investor again;
- (4) the statement that, with respect to a financial instruments transactions contract entered into between a financial instruments firm, etc. as an agent of a restitution offeror based on an eligible contract and other financial instruments firm, etc. on or after the accepting date, such other financial instruments firm, etc shall treat the restitution offeror as a customer other than a specific investor again.

Section 2. Business

Subsection 1. Common Provisions

Article 65. – Money Lending Secured by Security Deposited by Customer

Money lending prescribed by the Cabinet Office Ordinance as provided in Article 35.1 (3) of the Act shall be any of:

- (1) money lending secured by a security deposited by a customer for safekeeping, if such security is any of the following securities (limited to securities owned by such customer who has deposited) and such money lending is necessary for such customer to continue to own such security and is made against such security and the total amount of such money lending to such customer and the amount of money lent already against such security is equal to or more than ¥5,000,000 (limited to the market price of such security as at the time of such lending; in (2), the same):
 - (a) national government bond;
 - (b) municipal bond;
 - (c) government guaranteed bond;
 - (d) corporate debt security;
 - (e) share certificate;
 - (f) certificate of beneficial interest in an investment trust or foreign investment trust as defined in the Law on Investment Trust and Investment Corporation (Law No. 198 of 1951);
 - (g) investment certificate or investment corporation debt security as defined in the Law on Investment Trust and Investment Corporation or foreign investment certificate;
 - (h) security or certificate issued by a foreign government or a foreign juridical person to which the securities referred to in (a) to (e) is by nature applicable;
- (2) money lending secured by a security deposited by a customer for safekeeping, if such security is any of the following certificates of beneficial interest in investment trusts (limited to certificates owned by such customer who has deposited for safekeeping) and such money lending is made to a customer who has requested the cancellation related to such securities and the total amount of such money lending to such customer for the amount equivalent to the amount of money related to such cancellation made against such security as security for the period until such money of cancellation is paid and the amount of money lent already against such security is equal to or less than ¥5,000,000:
 - (a) certificate of beneficial interest in fixed income debt security investment trust (which means fixed income debt security as defined in Article 13 (2) (a) of the Law on Investment Trust and Investment Corporation Enforcement Regulations (Prime Minister Office Ordinance No. 129

of 2000); hereinafter, excluding (c), Article 80.1 (5) (f), Article 110.1 (1) (c) and Article 125-4.1 (3), the same), which invests primarily in financial assets including the short-term fixed income debt securities (which means the securities (including a security or certificate issued by a foreign government or a foreign juridical person with similar nature) referred to in (1) (a) to (1) (d)), money deposit, money trust and call loan and to which all of the following requirements are applicable:

- (i) there is no limit for the period of the trust;
- (ii) the trust settles the account and distributes the amount exceeding the principal amount each day and such distributed money is reinvested at the end of each month;
- (iii) cancellation is allowed any time;
- (iv) cancellation money is paid on the same day or the immediately following day;
- (b) certificate of beneficial interest in an investment trust, which invests primarily in financial assets including middle-term national government bonds with coupons, money deposit, money trust and call loan and to which all of the requirements referred to in (i) to (iv) of (a) are applicable;
- (c) certificate of beneficial interest in fixed income debt security investment trust as defined in Article 25 (2) of the Law on Investment Trust and Investment Corporation Enforcement Regulations (limited to fixed interest security investment trust, computation period of which is one day).

Article 66. — Entering into Contract of Cumulative Investment

Those prescribed by the Cabinet Office Ordinance as provided in Article 35.1 (7) of the Act shall be entering into a contract to which all of the following requirements are applicable:

- (1) the financial instruments firm shall have, as a fixed method of purchase of a security, a fixed type of such security and the method to use as money on deposit for the purchase;
- (2) the financial instruments firm shall have, as a fixed method to manage money on deposit, a fixed rules to account payment money from a customer and money on deposit with the financial instruments firm arising from the receipt of income from and redemption money of such security deposited by the customer as cumulative investment money on deposit separate from other money on deposit;
- (3) in the case of purchase jointly with other customer or other financial instruments firm, the financial instruments firm shall have fixed rules that, when an issue number and certificate number of a security purchased by a customer is specified, such customer shall have the ownership of such security solely;
- (4) the financial instruments firm shall have, as a fixed method to manage a security, the fixed rules to segregate a security deposited (limited to a security jointly owned by the financial instruments firm and the customer) from other security; and
- (5) the contract is canceled when a customer requests.

Article 67. — Transactions in which Movements, etc. of Index is Used

Transactions prescribed by the Cabinet Office Ordinance as provided in Article 35.2 (2) of the Act shall be:

- (1) foreign commodity market transactions; and
- (2) over-the-counter commodity derivatives transactions.

Article 68. — Business subject to Notification

Business prescribed by the Cabinet Office Ordinance as provided in Article 35.2 (7) of the Act shall be:

- (1) business of purchase or sale of gold bullion or acting as an intermediary, broker and agent therefor;
- (2) business of entering into a contract of an association or acting as an intermediary, broker and agent therefor;
- (3) business of entering into a contract of an undisclosed association or acting as an intermediary, broker and agent therefor;
- (4) business of entering into a contract of participation to loans (which means a contract to transfer economic benefit and risk of loss associated with the underlying loan claim from a person holding the underlying claim to a third party without transferring the relation of rights and obligation associated with financial institution, etc. loan claim) or acting as an intermediary, broker and agent therefor;
- (5) business of soliciting insurance as defined in Article 2.26 of the Insurance Business Law;
- (6) business of leasing real estate owned by the financial instruments firm;

- (7) business of leasing goods and articles;
- (8) business of programming or sale of program of a computer regarding business of other business entities and business of computation on commission;
- (9) defined contribution pension management business as defined in Article 2.7 of the Defined Contribution Pension Law (Law No. 88 of 2001);
- (10) business of being commissioned pursuant to the provisions of Article 61.1 of the Defined Contribution Pension Law from the Federation of National Annuity Fund to conduct the operations (with respect to operations referred to in (5), limited to operations regarding the measure under Article 22 of said Law which is applied *mutatis mutandis* under Article 73 of said Law or operations regarding accepting a notification for an individual type of pension as defined in Article 2.3 of said Law) referred to in (1), (2) or (5) of said Article 61.1;
- (11) trust contract agent business as defined in Article 2.8 of the Trust Business Law;
- (12) business of acting as an intermediary (limited to an intermediary acting for a financial institution engaged in trust business (which means a financial institution approved under Article 1.1 of the Law on Dual Engagement of Trust Business by Financial Institutions (Law No. 43 of 1943); hereinafter the same)) for entering into a contract for the business referred to in Article 1.1 (4) of said Law or the business referred to in Article 1.1 (6) of said Law, which is related to execution of a testament or the business referred to in Article 1.1 (6) or 1.1 (7) (excluding (a)) of said Law, which is related to the consolidation of inheritent property.
- (13) financial institution agent business (which means banking agent business as defined in Article 2.14 of the Banking Law, long-term credit bank agent business as defined in Article 16-5.2 of the Long-Term Credit Bank Law, shinkin bank agent business as defined in Article 85-2.2 of the Shinkin Bank Law, credit cooperative association agent business as defined in Article 6-3.2 of the Law on Financial Business by Credit Cooperative Association, labor bank agent business as defined in Article 89-3.2 of the Labor Bank Law, specific credit business agent business as defined in Article 92-2.2 of the Agriculture Cooperative Association Law, specific credit business agent business as defined in Article 121-2.2 of the Fisheries Cooperative Association Law and Norinchukin Bank agent business as defined in Article 95-2.2 of the Norinchukin Bank Law; hereinafter the same);
- (14) business of management of real estate;
- (15) business of giving an advice of investment in real estate;
- (16) business of entering into a contract for acquisition or assignment of computed allowance (which means computed allowance as defined in Article 2.6 of the Law on Promotion of Measure for Global Heating (Law No. 117 of 1998) or its equivalent; in (17), the same) or acting as an intermediary, broker or agent therefor;
- (17) business of conducting the following transaction or acting as an intermediary, broker or agent therefor:
 - (a) a transaction in which the parties determine the volume of a computed allowance and mutually agree to pay money based on the market price of computed allowance agreed between the parties or transaction similar thereto; or
 - (b) a transaction in which a party agrees to grant to the other party the right to enter into the transaction related to the contract under (16) and the transaction referred to in (a) between the parties subsequent to a declaration of intent by the other party to enter into the transaction and the other party agrees to pay to the first-mentioned party the consideration therefor or transaction similar thereto;
- (18) business to conduct operations referred to in (4) of Article 117.1 of the Law on Investment Trust and Investment Corporation on commission pursuant to the provisions of said Article 117.1 from an investment corporation (which means an investment corporation as defined in Article 2.12 of said Law; hereinafter the same) or business to conduct operation regarding management of an organization of a special purpose company on commission therefrom;
- (19) business to manage money or other properties on behalf of other persons as an investment in assets other than interests in securities or derivatives transactions (excluding businesses to which the businesses referred to in (1), (2), (5-2) and (6) of Article 35.2 of the Act is applicable);
- (20) business to enter into a contract for guarantee or underwriting of debts or acting as an intermediary, broker or agent;
- (21) business to conduct mediation or introduction of other business person to a customer of its business;
- (22) business to advertise or make sales promotion regarding business of an other business person;
- (23) fund transfer business as defined in Article 2.2 of the Law on Fund Settlement (Law No. 59 of 2009);

- (24) business incidental to the businesses referred to in (1) to (6) of Article 35-2 of the Act or the items of (1) to (22) above.

Article 69. — Notification of Other Business Engagement

A financial instruments firm which notifies pursuant to the provisions of Articles 35.3 and 35.6 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. a notification containing the type of business of which the notification is filed, the date of and the reason for the commencement or cessation of such business together with documents provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case where such business has been commenced — documents containing the following matters:
 - (a) manner of the business operations;
 - (b) method to control risk of loss involved in such business; and
 - (c) the name of a division responsible for the business and staff allocation;
- (2) the case where such business has been ceased — a written statement describing the method to settle a customer account associated with the cessation of the business.

Article 70. — Approval Application for Other Business Engagement

70.1. A financial instruments firm which wishes to obtain an approval under Article 35.4 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. an approval application stating:

- (1) the trade name;
- (2) the date of the registration and the registration number;
- (3) the type of the business for which the application is filed; and
- (4) the projected date to commence the business.

70.2. An application for approval under Article 70.1 shall be accompanied by documents containing:

- (1) the type of such business and manner of operation;
- (2) regarding the method to control the risk of loss involved in such business:
 - (a) the method to compute risk of loss equivalent amounts involved in such business (including market risk equivalent amounts as defined in Article 178.1 (1) and counterparty risk equivalent amounts as defined in said Article 178.1 (2) in the case of a person carrying out the first-type financial instruments business; hereinafter in (2), the same);
 - (b) setting of and application method of the limit of risk of loss equivalent amounts involved in such business;
 - (c) the name and system of a division responsible for the computation of risk of loss equivalent amounts involved in such business and the control of the limit;
 - (d) the method of preparation and retention of basic data for the computation of risk of loss equivalent amounts involved in such business;
 - (e) the frequency of investigation on risk of loss equivalent amounts involved in such business and the application of the limit and the name and system of a division in charge of such investigation; and
 - (f) other important matters to control the risk of loss involved in such business;
- (3) the organization in charge of such business and staff allocation; and
- (4) the internal rules regarding the management of such business.

Article 70-2. — Scope of Financial Instruments Related Business

Business prescribed by the Cabinet Office Ordinance as provided in Article 36.2 of the Act shall be the business provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case where a specific financial instruments firm, etc. (which means a specific financial instruments firm, etc. as defined in Article 36.3 of the Act; hereinafter the same) is the person referred to in Article 15-27 (1) of the Order — the businesses referred to in the following (a) or (b):
 - (a) financial instruments business or registered financial institution business; or
 - (b) business incidental to financial instruments business as defined in Article 35.1 of the Act (including business equivalent to the first-mentioned business carried out by a subsidiary financial institution, etc. (which means a subsidiary financial institution, etc. as defined in Article 36.5 of the Act; hereinafter the same) of the specific financial instruments firm, etc.);
- (2) the case where a specific financial instruments firm, etc. is the person referred to in Article 15-27 (2) of the Order — businesses referred to in the following (a) or (b):
 - (a) financial instruments business or registered financial institution business; or
 - (b) business incidental to financial instruments business as defined in Article 35.1 of the Act.

Article 70-3. — Measures Necessary to Prevent Improperly Harming Customers' Interest

70-3.1. A specific financial instruments firm, etc. shall take the following measures to prevent improperly harming an interest of a customer of financial instruments related business (which means financial instruments related business as defined in Article 36.2 of the Act; hereinafter the same) carried out by the specific financial instruments firm, etc. or its subsidiary financial institution, etc. in the course of transactions conducted by the specific financial instruments firm, etc. or its parent financial institution, etc. (which means a parent financial institution, etc. as defined in Article 36.4 of the Act; hereinafter the same) or subsidiary financial institution, etc.:

- (1) establishment of the system to specify an eligible transaction by an appropriate method;
- (2) establishment of the system to ensure the protection of such customer appropriately by the following methods or by other method;
 - (a) the method to divide the division to conduct eligible transactions from the division to conduct transactions with such customer;
 - (b) the method to change conditions or method of eligible transactions or transactions with such customer;
 - (c) the method to suspend eligible transactions or transactions with such customer; and
 - (d) the method to disclose appropriately to such customer the fact that such customer's interest will likely harmed improperly in the course of eligible transactions;
- (3) making policies to enforce the measures referred to in (1) and (2) and publication of the summary therefor in an appropriate manner; and
- (4) keeping the following records:
 - (a) the record to specify eligible transactions conducted under the system provided in (1);
 - (b) the record of measures to ensure the protection of such customer appropriately taken under the system provided in (2);

70-3.2. The record provided in Article 70-3.1 (4) shall be kept for five years after the date of the preparation.

70-3.3. "Eligible transactions" under Article 70-3.1 shall mean, in the case where a customer's interest in financial instruments related business carried out by the specific financial instruments firm, etc. or its subsidiary financial institution, etc. in the course of transactions conducted by the specific financial instruments firm, etc. or its parent financial institution, etc. or subsidiary financial institution, etc. will likely harmed improperly, such transactions.

Article 71. — Form of Sign Required to be Displayed

Form prescribed by the Cabinet Office Ordinance as provided in Article 36-2.1 of the Act shall be the Form provided in each of the following items according to the classification of the person referred to in such item:

- (1) financial instruments firm — Form 10; or
- (2) registered financial institution — Form 11.

Article 72. — Act Similar to Advertisement

Acts prescribed by the Cabinet Office Ordinance as provided in Articles 37.1 and 37.2 of the Act shall be acts to furnish information containing similar details to a large number of persons by means of postal mail, mail delivery (which means mail delivery as defined Article 2.2 of the Law on Delivery of Mail by Private Business Person (Law No. 99 of 2002) serviced by a general mail delivery business person as defined in Article 2.6 of said Law or a specific mail delivery business person as defined in Article 2.9 of said Law; in Article 266, the same), method to transmit by facsimile, an electronic mail (which means an electronic mail as defined in Article 2 (1) of the Law on Proper Transmission, etc. of Specific Electronic Mail (Law No. 26 of 2002); in Article 266, the same) or method to distribute leaflets or pamphlets or other methods (excluding the following methods):

- (1) method to distribute documents prepared pursuant to the laws or regulations or dispositions by administrative offices under the laws or regulations;
- (2) method to distribute materials concerning analysis and assessment of an individual corporation which is not used for solicitation to enter into a financial instruments transaction contract;
- (3) method to furnish a gift or other goods representing only the following matters (limited to goods representing the matters referred to in (b) to (d) clearly and accurately) (if, among such matters, there is a matter which is not represented on the gift or other goods, including the method to provide such gift and other goods and other goods representing such matters as a unit):
 - (a) the name, issue name or common name of any of the followings:
 - (i) a financial instruments transaction contract or the type thereof;
 - (ii) a security or the type thereof;

- (iii) capital contribution object project or the type thereof;
- (iv) matters equivalent to the matters referred to in (i) to (iii);
- (b) the name or trade name or common name of a financial instruments firm, etc. furnishing information containing similar details to a large number of persons by the methods provided in (3);
- (c) the matters referred to in Article 16-2 (1) of the Order (limited to matters letters and figures of which are represented by the size that is not significantly smaller than letters or figures concerning matters, other than the first-mentioned matters, with largest size);
- (d) the statement that any of the following written statements shall be read fully:
 - (i) a written statement provided in Article 37-3.1 of the Act (hereinafter referred to as "written statement furnished prior to transaction");
 - (ii) a listed security, etc. statement provided in Article 80.1 (1);
 - (iii) a prospectus provided in Article 80.1 (3) (if there is a written statement furnished with such prospectus as a unit pursuant to the provisions of said Article 80.1 (3), such prospectus and such written statement);
 - (iv) a contract change statement provided in Article 80.1 (4) (b).

Article 73. — Presentation Method of Advertisement, etc. concerning Financial Instruments Business

73.1. When a financial instruments firm, etc. advertises or performs an act as defined in Article 72 (hereinafter in Subsection 1, referred to as "advertisement, etc.") concerning its financial instruments business (in the case of registered financial institution, registered financial institution business; in Articles 73.2 and 73.3, the same), the financial instruments firm, etc. shall describe the matters referred to in the items of Article 37 of the Act clearly and correctly.

73.2. When a financial instruments firm, etc. makes advertisement, etc. concerning its financial instruments business, the financial instruments firm, etc. shall represent letters and figures concerning the matters referred to in (1), (4) and (5) of Article 16.1 of the Order by the size that is not significantly smaller than letters or figures concerning matters, other than the first-mentioned matters, with largest size.

73.3. When a financial instruments firm, etc. makes advertisement concerning its financial instruments business by the method to cause broadcasting through a broadcasting system of a general broadcaster (which means a general broadcaster as defined in Article 2 (3-2) of the Broadcasting Law (Law No. 132 of 1950); hereinafter the same) or any of the methods referred to in the items of Article 77.1 (excluding a method to cause broadcasting by voice), the financial instruments firm, etc. shall represent letters and figures concerning the matters referred to in Article 16.1 (1) of the Order by the size that is not significantly smaller than letters or figures concerning matters, other than the first-mentioned matters, with largest size, notwithstanding the provisions of Article 73.2.

Article 74. — Matters regarding Consideration Payable by Customer

74.1. Matters prescribed the Cabinet Office Ordinance as provided in (1) of Article 16.1 of the Order shall be the summary of the computation method for an amount of each type of, or the upper limit of, fee, remuneration or cost, whatever name it may be called, consideration that a customer is required to pay regarding a financial instruments transaction contract (excluding the price of a security or the amount of guarantee money, etc. (which means the amount of guarantee money, etc. as defined in (3) of said Article 16.1; in Article 268.1, the same); hereinafter in Subsection 1, referred to a "fee, etc.") and the total amount of such amounts or the upper limit or the summary of computation method thereof (such computation method includes a ratio to the price of a security, the amount of derivatives transaction, etc. as defined in (3) of said Article 16.1 or the amount of properties under investment management under the financial instruments transaction contract or a ratio to a profit from performing financial instruments transaction act; hereinafter in Article 74.1, the same): *Provided*, That such matters shall, in the case where representation of the total amount of such fee, etc. or the computation method is impossible, be the fact and the reason therefor.

74.2. In the case where a financial instruments transaction contract under Article 74.1 is concerned with acquisition of an interest represented by the security referred to in (10) or (11) of Article 2.1 of the Act or the interest referred to in (5) or (6) of Article 2.2 of the Act or a security having the structure that the price correlates with the price of such interest (hereinafter in Articles 74 and 268, referred to as "investment trust beneficial interest, etc.") and the property of such investment trust beneficial interest, etc. is used as a capital contribution of or paid to an other investment trust beneficial interest, etc. (hereinafter in Article 74, referred to as "capital contribution object investment trust beneficial interest, etc."), a fee, etc. under Article 74.1 shall include trust fee for such capital contribution object investment trust beneficial interest, etc. or other fee, etc.

74.3. In the case where a property of a capital contribution object investment trust beneficial

interest, etc. under Article 74.2 is used as capital contribution of or paid to an other investment trust beneficial interest, etc., such other investment trust beneficial interest, etc. shall be deemed to be a capital contribution object investment trust beneficial interest, etc. and the provisions of Articles 74.1 and 74.2 shall apply.

74.4. The provisions of Articles 74.3 shall apply *mutatis mutandis* in the case where a property of an investment trust beneficial interest, etc. which is deemed to be a capital contribution object investment trust beneficial interest, etc. pursuant to the provisions of Article 74.3 (including the *mutatis mutandis* application under Article 74.4) is used as capital contribution of or paid to an other investment trust beneficial interest, etc.

Article 75. — Matters equivalent to Offer Price and Bid Price

Matters specified by the Cabinet Office Ordinance as provided in Article 16.1 (6) of the Order shall be the matters provided in each of the following items according the classification of the transactions referred to in such item:

- (1) transaction referred to in Article 2.22 (2) of the Act — if the actual value (which means an actual value as defined in Article 2.21 (2) of the Act; hereinafter the same) exceeds the trade value (which means a trade value as defined in said Article 2.21 (2); hereinafter the same), the trade value of transactions to become a party who pays money and the trade value of transactions to become a party who receives such money or matters similar thereto.
- (2) transaction referred to in (3) or (4) of Article 2.22 of the Act — the amount of considerations for rights provided in (3) or (4) of said Article 2.22 in respect of transactions to become a party who grants such rights and the amount of considerations for such rights in respect of transactions to become a party who acquires such rights;
- (3) transaction referred to in Article 2.22 (5) of the Act — in the case of a transaction in which the party pays money if an interest rate, etc. (which means an interest rate, etc. as defined in Article 2.21 (4) of the Act; hereinafter the same) of the financial instrument (excluding those referred to in Article 2.24 (3) of the Act) or financial index has risen during the agreed period, the interest rate, etc. of the financial instrument or financial index at the commencement time of the agreed period and in the case of a transaction in which the party receive money if an interest rate, etc. of the financial instrument or financial index has risen during the agreed period, the interest rate, etc. of the financial instrument or financial index at the commencement time of the agreed period or matters similar thereto; and
- (4) transaction referred to in Article 2.22 (6) of the Act — conditions of a transaction in which the party pays money and conditions of a transaction in which the party receives money if an event provided in said Article 2.22 (6) has occurred or matters similar thereto.

Article 76. — Important Matters Which Influence Customer's Judgment

Matters prescribed by the Cabinet Office Ordinance as provided in Article 16.1 (7) of the Order shall be:

- (1) a fact which is disbenefit to a customer in respect of important matters regarding such financial instruments transaction contract;
- (2) if such financial instruments firm, etc. is a member of a financial instruments firms association, such fact and the name of such financial instruments firms association.

Article 77. — Method Equivalent to Method to Cause Broadcasting through Broadcasting System of General Broadcaster

77.1. Method prescribed by the Cabinet Office Ordinance as provided in Article 16.2 of the Order shall be:

- (1) method to cause broadcasting through a broadcasting system of the following persons:
 - (a) a cable antenna television broadcaster (which means a cable antenna television broadcaster under Article 2.4 of the Cable Antenna Television Broadcasting Law (Law No. 114 of 1972); in Article 270.1 (1) (a), the same);
 - (b) a person operating cable radio broadcasting (which means a cable radio broadcasting under Article 2 of the Law on Regulations of Management of Cable Radio Broadcasting Business (Law No. 135 of 1951); in Article 270.1 (1) (b), the same);
 - (c) a person operating broadcasting using telecommunication service (which means broadcasting using telecommunication service under Article 2.1 of the Broadcasting Using Telecommunication Service Law (Law No.85 of 2001); in Article 270.1 (1) (c), the same);
- (2) a method to make information (limited to the same information as information furnished by a method to cause broadcasting through a broadcasting system of a general broadcaster or the method referred to in (1)) recorded in a file in a computer used by a financial instruments firm, etc. or a person who has been commissioned to carry out business in connection with

advertisement, etc. by such financial instruments firm, etc. available for a customer's browsing through the telecommunication network; or

(3) method to represent to the general public outside or inside of building constantly or continuously for a certain period, which is posted or represented at an advertising display, movable advertising display and poster and representation on an advertisement board, building or other fixture or a method similar thereto.

77.2. Matters prescribed by the Cabinet Office Ordinance as provided in Article 16.2 (2) of the Order shall be the matter referred to in Article 72 (3) (d).

Article 78. — Prohibitions against Exaggerated Advertising

Matters prescribed by the Cabinet Office Ordinance as provided in Article 37.2 of the Act shall be:

(1) matters regarding cancellation of a financial instruments transaction contract (including matters regarding the provisions of Articles 37-6.1 to 37-6.4 of the Act);

(2) matters regarding the bearing of the whole or part of losses or guaranteeing profits in respect of a financial instruments transaction contract;

(3) matters regarding the plan of payment of damages (including penalties) in respect of a financial instruments transaction contract;

(4) matters regarding a financial instruments market or a market, similar to a financial instruments market, located in a foreign jurisdiction in respect of a financial instruments transaction contract;

(5) matters regarding the financial resources or credit standing of the financial instruments firm, etc.;

(6) matters regarding performance of financial instruments business carried out by the financial instruments firm, etc. (in the case of a registered financial institution, registered financial institution business);

(7) matters regarding the amount of fee, etc. payable by a customer or its computation method, method and time of payment and where the fee, etc. shall be paid in respect of a financial instruments transaction contract;

(8) in the case of making advertisement, etc. of purchase or sale or other type of transaction of a mortgage security, etc. (which means the security referred to in (16) of Article 2.1 of the Act or the security (limited to a security having the nature referred to in (16) of said Article 2.1) referred to in (17) of said Article 2.1; hereinafter the same), the following matters:

(a) matters regarding the certainty or guarantee of payment of the principal and interests on claims described on the mortgage security, etc.;

(b) matters regarding recommendation of a financial instruments firm, etc.;

(c) matters regarding interests; or

(d) matters regarding the purpose of mortgage clause described on the mortgage security, etc.

(9) in the case of making advertisement, etc. of an investment advisory contract, matters regarding the details and method of advice;

(10) in the case of making advertisement, etc. of a contract of discretionary investment or a contract to perform an act referred to in Article 2.8 (15) of the Act, matters regarding the details and method of investment judgment; or

(11) in the case of making advertisement, etc. of public offering or private placement of an interest referred to in Article 7 (4) (d) (i), matters regarding the blood line and feeding condition of a racing horse.

Article 79. — Method to Make Entry in Written Statement Prior to Transactions

79.1. A written statement prior to transaction shall contain the matters referred to in the items of Article 37-3.1 of the Act printed in characters and numerals no smaller than 8 points as specified in JIS Z8305 clearly and accurately.

79.2. Notwithstanding the provisions of Article 79.1, a written statement prior to transaction shall contain the following matters in a frame, which shall be printed in characters and numerals no smaller than 12 points as specified in JIS Z8305 clearly and accurately and stated immediately after the matters provided in Article 79.3:

(1) the summary of the matter referred to in (4) of Article 37-3.1 of the Act and the matters referred to in (5) and (6) of said Article 37-3.1 and (3) to (6) of Article 82;

(2) if a financial instruments transaction contract is an over-the-counter derivatives transactions contract (which means a contract referred to in (1) of Article 16-4.1 of the Order concerned with the transactions referred to (1) (a) to (1) (c) of said Article 16-4.1 (hereinafter referred to as "over-the-counter financial instruments transaction") or a contract referred to in (2) of said Article 16-4.1 (excluding a contract concerned with the transactions referred to in (3) (a) and (3) (b) of Article 116.1); hereinafter the same), the matters referred to in (1) and (4) of Article 94.1; and

- (3) the matters referred to in (9) of Article 82.
- 79.3. A financial instruments firm, etc. shall state, among the matters referred to in Article 82 (1) and the matters referred to in the items of Article 37-3.1 of the Act, particularly important matters which influence the judgment of customers at the first place of a written statement prior to transaction in plain words, and such matters shall be printed in characters and numerals no smaller than 12 points as specified in JIS Z8305.

Article 80. — Case where Furnishing of Written Statement Prior to Transaction is Not Required

80.1. Case prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 37-3.1 of the Act shall be:

- (1) the case where a written statement containing the matters referred to in (1) to (5) of Article 37-3.1 of the Act and (1), (3), (5), (11), (14) and (15) of Article 82 in respect of a financial instruments transaction contract for purchase or sale or other type of transaction of a security listed on a financial instruments exchange or over-the-counter traded security (excluding the security referred to in Article 2.1 (19) of the Act and a security designated by the Commissioner of the Financial Services Agency), a security listed on an exchange similar to a financial instruments exchange located in a foreign jurisdiction or a security traded on a market similar to an over-the-counter traded security market located in a foreign jurisdiction (excluding a security designated by the Commissioner of the Financial Services Agency) (excluding a transaction to which derivatives transaction is applicable, margin transaction and when-issued transaction or transaction similar thereto; hereinafter referred to as "purchase or sale, etc. of a listed security, etc.") by a method equivalent to the method provided in Article 79 (hereinafter referred to as "listed security, etc. statement") has been furnished to the customer within one year before entering into a financial instrument transaction contract for purchase or sale, etc. of a listed security;
- (2) the case where, within one year before entering into a financial instrument transaction contract for purchase or sale (which means purchase or sale of a security provided in Article 2.8 (1) of the Act; hereinafter the same) or other type of transaction or derivatives transaction, etc. of a security, a written statement prior to transaction in respect of a financial instruments transaction contract, which has the same details as the first-mentioned financial instruments transaction contract, has been furnished to the customer;
- (3) the case where a prospectus (limited to a prospectus which contains all matters required to be stated in such written statement prior to transaction by a method equivalent to the method provided in Article 79) has been furnished to the customer (in the case where the prospectus does not contain all of such matters, including the case where such prospectus and a written statement containing all of such matters which are not contained in such prospectus have been furnished as a unit) or the case referred to in Article 15.2 (2) of the Act;
- (4) in the case where the financial instrument firm wishes to enter into a financial instruments transaction contract to make a change in a part of financial instruments transaction contract which has already been concluded:
 - (a) the case where there is no matter, among matters stated in a written statement furnished prior to transactions in connection with a financial instruments transaction contract which has been concluded, required to be changed as a result of such change; or
 - (b) in the case where there is a matter, among matters stated in a written statement furnished prior to transactions in connection with a financial instruments transaction contract which has been concluded, required to be changed as a result of such change, the case where a written statement containing such matter required to be changed (hereinafter referred to as "contract change statement") has been furnished to the customer;
- (5) the case where such financial instruments transaction contract is concerned with any of the followings:
 - (a) sale of a security (limited to the case of entering into a financial instruments transaction contract in respect of purchase of such security with such financial instruments firm, etc.);
 - (b) acting as an intermediary or agent for purchase of a security (limited to the case of acting as an intermediary or agent for purchase of a security subject to tender offer (which means tender offer as defined in Article 27-2.6 of the Act (including the *mutatis mutandis* application under Article 27-22-2.2 of the Act); in Article 110.1 (2) (g) and Article 111 (2), the same) with a tender offeror (which means a tender offeror as defined in Article 27-3.2 of the Act (including the *mutatis mutandis* application under Article 27-22-2.2 of the Act); hereinafter the same) as a counterparty);
 - (c) an act provided in Article 1-12 of the Order;
 - (d) closing transaction provided in Article 33-14.3 of the Order;
 - (e) purchase of a security by a cumulative investment contract (which means a contract under

which a financial instruments firm, etc. accepts a deposit of money from a customer and sells securities to the customer continuously on dates agreed in advance for considerations of such money; hereinafter in (e) and Article 110.1 (1) (a), the same) or sale of a security made periodically based on a cumulative investment contract;

(f) causing to use income arising from a security referred to in (10) of Article 2.1 of the Act or an interest referred to in (5) or (6) of said Article 2.1 owned by a customer to acquire the same issue name as such security or interest;

(g) cancellation of purchase or sale (excluding the original purchase) of a security referred to in Article 2.1 (10) of the Act (limited to a certificate of beneficial interest of a fixed income debt security investment trust (limited to a fixed income debt security investment trust with a calculation period of one day) provided in Article 25 (2) of the Law on Investment Trust and Investment Corporation Enforcement Regulations) or an investment trust contract in connection with such security (which means an investment trust contract provided in Article 3 of the Law on Investment Trust and Investment Corporation or Article 47.1; hereinafter the same);

(h) underwriting of a security;

(i) handling of public offer or public sale or handling of private placement or handling of solicitation of sale, etc. to specific investors of a security (limited to the case where the customer for such financial instruments transaction contract is the issuer or owner of the security) or handling of closing transaction provided in Article 33-14.3 of the Order.

80.2. The provisions of Article 34-2.4 of the Act and Article 15-22 of the Order and the provisions of Article 56 shall apply *mutatis mutandis* to furnishing of a listed security, etc. statement pursuant to the provisions of Article 80.1 (1), furnishing of a written statement pursuant to the provisions of Article 80.1 (3) and furnishing of a contract change statement pursuant to the provisions of Article 80.1 (4) (b).

80.3. In the case where a financial instruments transaction contract for purchase or sale, etc. of a listed security, etc. has been entered into within one year after the day on which a listed security, etc. statement has been furnished (including a day on which a listed security, etc. statement is deemed to have been furnished pursuant to the provisions of Article 80.3), a listed security, etc. statement shall be deemed to have been furnished on the day of such entering into and the provisions of Article 80.1 (1) shall apply.

80.4. In the case where, within one year after the day on which a written statement prior to transaction has been furnished (including a day on which a written statement prior to transaction is deemed to have been furnished pursuant to the provisions of Article 80.4), a financial instruments transaction contract (excluding a contract for an over-the-counter derivatives transaction), which has the same details as a financial instruments transaction contract for which such written statement prior to transaction has been furnished, has been entered into, a written statement prior to transaction shall be deemed to have been furnished on the day of such entering into and the provisions of Article 80.1 (2) shall apply.

80.5. For the purpose of applying the provisions of Article 80.1 (3) to a prospectus (if there is a written statement furnished together with the prospectus as a unit pursuant to the provisions of Article 80.1 (3), such prospectus and such written statement) of the securities referred to in Article 2.1 (10) of the Act, "such written statement prior to transaction by a method equivalent to the method provided in Article 79" in Article 80.1 (3) shall be read as " such written statement prior to transaction."

Article 81. — Matters regarding Consideration Payable by Customer

81.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (4) of the Act shall be the amount of money or the upper limit thereof or the computation method for each type of fee, remuneration or cost, whatever name it may be called, fee, etc. that a customer is required to pay regarding a financial instruments transaction contract (such computation method includes a ratio to the price of a security, the amount of derivatives transaction, etc. as defined in Article 16.1 (3) of the Order or the amount of properties under investment management under the financial instruments transaction contract or a ratio to a profit arising from performing financial instruments transaction act; hereinafter in Article 81.1, the same) and the total amount of such amount of money or the upper limit thereof or the computation method therefor: *Provided*, That such matters shall, in the case where such representation is impossible, be the fact and the reason therefor.

81.2. The provisions of Articles 74.2 to 74.4 shall apply *mutatis mutandis* to fee, etc. under Article 81.1.

Article 82. — Common Entries in Written Statement Prior to Transaction

Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act shall be:

- (1) the contents in the written statement prior to transaction should be read fully;
- (2) matters referred to in Article 16.1 (2) of the Order.
- (3) in the case where a loss may arise for a direct reason of movement of interest rates, price of currency, market prices on a financial instruments market or other index in respect of a financial instruments transaction act performed by a customer:
 - (a) such index; and
 - (b) the reason for the likeliness of loss as a result of movement of such index;
- (4) in the case where the amount of loss under (3) may exceed the amount of customer margin or other guarantee money required to be deposited by a customer (hereinafter in (4), referred to as "likeness that a loss exceeds the principal"):
 - (a) an index, among indices under (3), which is the direct reason for causing likeliness that a loss exceeds the principal; and
 - (b) the reason for likeliness that a loss exceeds the principal as a result of movement of the index referred to in (a);
- (5) in the case where a loss may arise for a direct reason of a change in business or financial conditions of such financial instruments firm, etc. or other person in respect of a financial instruments transactions act performed by a customer:
 - (a) such person; and
 - (b) the statement that there is likeliness of loss as a result of a change in business or financial conditions of such person and the reason therefor;
- (6) in the case where the amount of loss under (5) may exceed the amount of customer margin or other guarantee money required to be deposited by a customer (hereinafter in (6), referred to as "likeness that a loss exceeds the principal"):
 - (a) a person, among persons under (5), which is the direct reason for causing likeliness that a loss exceeds the principal; and
 - (b) the statement that there is likeliness of loss as a result of a change in business or financial conditions of the person referred to in (a) and the reason therefor;
- (7) the summary of taxation regarding such financial instruments transaction contract;
- (8) in the case where there is a cause of termination for such financial instruments transaction contract, the details therefor;
- (9) whether the provisions of Article 37-6 of the Act are applied to such financial instruments transaction contract;
- (10) in the case where the provisions of Article 37-6 of the Act are applied to such financial instruments transaction contract, matters regarding the provisions of Articles 37-6.1 to 37-6.4 of the Act;
- (11) the outline of the financial instruments firm, etc.;
- (12) the summary of the types of business and manner of operation in respect of financial instruments business carried out by the financial instruments firm, etc. (in the case of a registered financial institution, registered financial institution business);
- (13) a manner of a customer's communication with the financial instruments firm, etc.; and
- (14) whether the financial instruments firm, etc. is a member of any financial instruments firms association or recognized investors protection organization (limited, in the case where such financial instruments transaction contract is covered by recognized operation (which means recognized operation as defined in Article 79-10.1 of the Act) of such recognized investors protection organization, to such recognized investors protection organization) of which the member is an covered firm (in the case of a member or a covered firm, the name thereof).
- (15) matters provided in the following (a) or (b) according to the classification of the case referred to in (a) or (b):
 - (a) the case where a designated dispute resolution organization (limited to a designated dispute resolution organization engaged in the business related to such financial instruments transactions contract as the type of its dispute resolution, etc. operations; hereinafter in (15), the same) exists — the name or trade name of the designated dispute resolution organization which is the counterparty of such procedures performance master contract for which such financial instruments firm, etc. takes measures to enter into such procedures performance master contract for the business provided in (1) (a), (2) (a), (3) (a), (4) (a) or (5) (a) of Article 37-7.1 of the Act;
 - (b) the case where a designated dispute resolution organization does not exist — the details of the grievances settlement procedures and dispute resolution measures regarding the business provided in (1) (d), (2) (d), (3) (d), (4) (d) or (5) (d) of Article 37-7.1 of the Act by the financial instruments firm, etc.

Article 83. — Entries Common to Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Security

83.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of a security shall be the following matters in addition to the matters referred to in the items of Article 82:

- (1) if assignment of such security is restricted, such fact and the details of the restriction;
- (2) in the case where such security is a tradable security, matters to alert a customer's attention concerning the timing of purchase or sale of such tradable security.

83.2. Notwithstanding the provisions of Article 83.1, in the case where more than one financial instruments firm, etc. is required to furnish a written statement prior to transaction to a customer pursuant to the provisions of Article 37-3.1 of the Act in respect of purchase or sale or other type of transaction of one security and either of the financial instruments firms, etc. has furnished written statement prior to transaction containing the matters referred to in the items of Article 83.1, the other financial instruments firm, etc. shall not be required to contain the matters referred to in the items of Article 83.1 in a written statement prior to transaction.

83.3. Notwithstanding the provisions of Article 83.1, in the case where a financial instrument transaction contract to be entered into is concerned with acting as an intermediary, broker or agent for sale of a security and a customer of such financial instrument transaction contract is an issuer or owner of such security, the matters referred to in the items of Article 83.1 shall not be required to be contained in a written statement prior to transaction.

Article 84. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Trust Beneficial Interest, etc.

84.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of the security referred to in (14) of Article 2.1 of the Act or the security referred to in (17) of said Article 2.1 (limited to a security having the nature of the security referred to in (14) of said Article 2.1) or the interest referred to in (1) or (2) of Article 2.2 of the Act (hereinafter referred to as "trust beneficial interest, etc.") shall be the following matters in addition to the matters provided in Article 83.1:

- (1) matters regarding the type of trust properties, trust period, method of management or disposition of trust properties or and delivery of trust properties;
- (2) matters regarding a person authorized to manage or dispose trust properties and the details of authorization;
- (3) whether assessment of trust properties is made by a third party at the time of establishment of the trust or other matters regarding assessment of trust properties;
- (4) matters regarding assignment procedures of a trust beneficial interest, etc. (limited to an interest referred to in (1) or (2) of Article 2.2 of the Act which is deemed to be a security pursuant to the provisions of Article 2.2 of the Act) determined in respect of a trust act;
- (5) the distinction of the type of transaction;
- (6) matters regarding a seller or buyer in the case of acting as an agent or intermediary for sale or handling of public offer, private placement or public sale;
- (7) purpose of trust;
- (8) the following matters regarding right and obligation of a beneficiary:
 - (a) in the case where there are provisions that the trustee and the beneficiary shall agree pursuant to the provisions of Article 48.5 of the Trust Law (Law No. 108 of 2006) (including the *mutatis mutandis* application under Article 54.4 of said Law) (excluding the case where a trust company explains pursuant to the provisions of Article 29-3 of the Trust Business Law), such fact and the details of such agreement;
 - (b) in the case where there are special provisions for the decision making of a beneficiary, such fact and the details of such provisions;
 - (c) in the case where there are special provisions for a change in, merger of or split of a trust, such fact and the details of such provisions;
 - (d) in the case where there are special provisions for an event of termination of a trust, such fact and the details of such provisions;
 - (e) in the case where there are special provisions for termination of trust by an agreement, such fact and the details of such provisions; and
 - (f) in the case where there are special provisions for resignation of the trustee and appointment of a new trustee, such fact and the details of such provisions;
- (9) the following matters regarding risk of loss in respect of a trust beneficial interest, etc.:
 - (a) in the case where there are liabilities related to an interest referred to in Article 21.1 (3) of the Trust Law, the total amount of such liabilities and the amount of liabilities for each contract or other matters regarding the liabilities (including, in the case where such liabilities are borrowings, the total amount of borrowing and attribution of the lender, amount of borrowing,

- due time of repayment, outstanding borrowing for the immediately preceding account period, interest rate during the account period and the borrowing period, method of repayment, matters regarding collateral and purpose and use of borrowing for each contract);
- (b) in addition to the matter referred to in (a), in the case where there are liabilities which may cause a loss in respect of a trust beneficial interest, such fact and the total amount of such liabilities and the state of such liabilities;
 - (c) in the case where there are trust claims, collateral right set on trust properties or other interest in preference to such trust beneficial interest, the details of such interest;
 - (d) in the case where credit enhancement measures are taken for a trust beneficial interest, such fact and the details of such credit enhancement measures;
 - (e) in the case where there are special provisions for agreement to compensate a loss or supplement of profit under the provisions of Article 6 of the Law on Trust Business by Financial Institution as Other Business Engagement, such fact and the details of such provisions;
- (10) matters regarding tax or other cost on trust properties;
 - (11) matters regarding account period of trust properties;
 - (12) matters regarding report of the state of management or disposition of trust properties;
 - (13) the name of the trustee and the method of public notice;
 - (14) in the case where money, which are trust properties, is invested in an account commingled with its own properties or other money which are trust properties, such fact and the basis for distribution of profit or loss between such trust properties and its own properties or other trust properties;
 - (15) in the case where such financial instruments transaction contract is concerned with purchase or sale or other type of transaction of a trust beneficial interest, etc. related to a trust by the method referred to in Article 3 (3) of the Trust Law, the following matters:
 - (a) the details of matters stated or recorded in the authenticated deed under Article 3 (3) of the Trust Law or other written statement or electronic or magnetic record;
 - (b) whether the trustee is registered under Article 50-2.1 of the Trust Business Law and whether investigation has been conducted under Article 50-2.10 of said Law;
 - (c) in the case where investigation has been conducted under Article 50-2.10 of the Trust Business Law, the result of such investigation;
 - (d) in the case where investigation has not been conducted under Article 50-2.10 of the Trust Business Law and a person who makes purchase or sale or other type of transaction of a trust beneficial interest, etc. is the trustee of such trust, the matters referred to in the items of Article 51-7.1 of the Trust Business Law Enforcement Regulations (Cabinet Office Ordinance No. 107 of 2004);
 - (16) in the case where such financial instruments transaction contract is concerned with purchase or sale or other type of transaction of a trust beneficial interest, etc. related to a limited liability trust provided in Article 2.12 of the Trust Law, the following matters in addition to the matters referred to in (1) to (14):
 - (a) the name of the limited liability trust;
 - (b) the place where transaction processing is conducted for the limited liability trust;
 - (c) the amount payable and the statement that the amount of payment related to trust properties to a beneficiary shall not be more than such amount payable.
- 84.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of a trust beneficial interest, etc.; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 84.1".
- 84.3. The provisions of Article 83.3 shall apply *mutatis mutandis* to a trust beneficial interest, etc.; for this purpose, "items of Article 83.1" in Article 83.3 shall be read as "items of Article 84.1".

Article 85. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Real Estate Trust Beneficial Interest

- 85.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of real estate trust beneficial interest shall be the following matters in addition to the matters provided in Article 84.1; *provided*, that, in the case where trust properties in respect of such real estate beneficial interest is housing land, such matters shall be limited to the matters referred to in (1) to (8) and (12):
- (1) the type and the details of an interest registered on trust properties in respect of such real estate trust beneficial interest and the name of the registered nominee or an owner recorded in the title of the registry book (in the case of a juridical person, its name);
 - (2) the summary of matters regarding restriction on housing land or building which are trust properties in respect of such real estate trust beneficial interest under the City Planning Law (Law No. 100 of 1968), the Building Standards Law (Law No. 201 of 1950) or other laws or

regulations, which are provided in Article 3-2 of the Real Estate Business Law Enforcement Order (Cabinet Order No. 383 of 1964);

- (3) matters regarding cost bearing of private road attached to housing land or building which are trust properties in respect of such real estate trust beneficial interest;
 - (4) the state of infrastructure of drinking water, electricity and gas and drainage to be supplied to housing land and buildings which are trust properties in respect of such real estate trust beneficial interest (in the case where such infrastructure has not been arranged, the forecast of arrangement of such infrastructure and matters regarding special cost for such arrangement);
 - (5) in the case where preparation of housing land or construction for building has not been completed for housing land and building in respect of such real estate trust beneficial interest, appearance, structure or other matters provided in Article 19-2-4 of the Real Estate Business Law Enforcement Regulations (Ministry of Construction Ordinance No. 12 of 1957) at the time of completion;
 - (6) in the case where a building which is a trust property in respect of such real estate trust beneficial interest is subject to comparted ownership as defined in Article 2.1 of the Law on Comparted Ownership, etc. of Building (Law No. 69 of 1962), the type and the details of an interest in site of a block of flats to own such building, the provisions for common use space as defined in Article 2.4 of said Law or other matters, as referred to in the items of Article 19-2-5 of the Real Estate Business Law Enforcement Regulations, regarding an interest in a block of flats and its building or site (in the case where there are more than one building at one housing complex and land in such housing complex or interest in such land belongs to common ownership of owners of such building, including such land) and management or use thereof;
 - (7) in the case where housing land or buildings which are trust properties in respect of such real estate trust beneficial interest is located in a designated housing land development disaster prevention area as defined in Article 20.1 of the Housing Land Development, etc. Regulation Law (Law No. 191 of 1961), such fact;
 - (8) in the case where housing land or buildings which are trust properties in respect of such real estate trust beneficial interest is located in a land slide disaster warning area designated pursuant to Article 6.1 of Law on Promotion of Land Slide Disaster Prevention Measures in Land Slide Warning Area, etc. (Law No. 57 of 2000), such fact;
 - (9) in the case where the result of investigation whether asbestos are used in a building which is a trust property in respect of such real estate trust beneficial interest has been recorded, the details thereof;
 - (10) in the case where a building which is a trust property in respect of such real estate trust beneficial interest (excluding a building the construction of which has commenced on or after June 1, 1981) has been evaluated of seismic diagnosis by any of the following persons based on matters required to be technical guiding principles under Article 4.2 (3) of the Law on Promotion of Seismic Retrofitting of Buildings (Law No. 123 of 1995) among basic principles provided in Article 4.1 of said Law, the details thereof:
 - (a) a designated confirmation inspection organization provided in Article 77-21.1 of the Building Standards Law;
 - (b) an architect provided in Article 2.1 of the Architect Law (Law No. 202 of 1950);
 - (c) a registered housing performance valuation organization provided in Article 5.1 of the Law on Promotion, etc. of Ensuring Quality of Housing (Law No. 81 of 1999);
 - (d) a municipal organization;
 - (11) in the case where a building which is a trust property in respect of such real estate trust beneficial interest is a new housing evaluated of housing performance provided in Article 5.1 of the Law on Promotion, etc. of Ensuring Quality of Housing, such fact;
 - (12) in the case where measures such as entering into a contract of guarantee insurance, to which any of the followings is applicable, are taken regarding performance of liabilities for guarantee against defects of housing land or buildings which are trust properties in respect of such real estate trust beneficial interest, the summary thereof:
 - (a) entering into a contract of guarantee insurance or contract of liability insurance regarding performance of liabilities for guarantee against defects of such housing land or buildings;
 - (b) entering into a contract to commission covering guarantee insurance or liability insurance regarding performance of liabilities for guarantee against defects of such housing land or buildings;
 - (c) entering into a contract to commission to be guaranteed jointly and severally by banks, etc. for liabilities regarding performance of liabilities for guarantee against defects of such housing land or buildings;
- 85.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of a real estate trust beneficial interest; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 85.1".

85.3. The provisions of Article 83.3 shall apply *mutatis mutandis* to a real estate trust beneficial interest; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 85.1".

Article 86. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Mortgage Security, etc.

86.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of a mortgage security, etc. shall be the following matters in addition to the matters provided in Article 83.1:

- (1) matters regarding the unit of the principal;
- (2) matters regarding interests;
- (3) if there are provisions for the receipt of the repayment of the principal and interests of claims stated on such mortgage security, etc., the details thereof;
- (4) method to deliver considerations;
- (5) the time and means of payment of the principal and interests or other method of payment;
- (6) matters referred to in the items of Article 12.1 of the Mortgage Security Law (Law No. 15 of 1931) stated on the mortgage security, etc.;
- (7) the following matters regarding contract of loan in connection with the mortgage security, etc.:
 - (a) the date of entering into the contract of loan;
 - (b) the amount, interest rate and use of the loan fund and method and time limit for repayment;
 - (c) whether it is guaranteed or not;
 - (d) the following matters regarding the summary of collaterals under the contract of loan:
 - (i) the amount covered by collaterals;
 - (ii) the date of valuation of collaterals, the valuation amount and name or trade name of and contact place with a person who has valued;
 - (iii) the details of collaterals;
 - (e) the summary of the repayment plan of the loan fund set out in the business plan or other plan in connection with the collateral under (d);
 - (f) in the case where the debtor is a juridical person, the following matters regarding the juridical person:
 - (i) the year and month of incorporation or year and month of commencement of business;
 - (ii) the type of principal business;
 - (iii) the amount of capital or total amount of capital contributions and the balance sheet and the profit and loss statement as of the account date of the fiscal year immediately preceding the fiscal year including the day three months (if such financial instruments firm, etc. is a foreign juridical person, six months) prior to the day on which such written statement prior to transaction has been furnished;
 - (g) in the case where the debtor is a related party (which means a related party as defined in Article 8.17 of the Financial Statement Regulations) of such financial instruments firm, etc., such fact;
 - (h) the method that a customer collects claims from the debtor;
- (8) the amount of capital or total amount of capital contributions of such financial instruments firm, etc. and, in the case where the financial instruments firm, etc. is engaged in other business, the type of such other business;
- (9) matters required to be stated in a business report as defined in Article 46-3.1, 47-2 or 48-2.1 of the Act for the financial instruments firm, etc.;
- (10) the statement that payment of the principal of a mortgage security, etc. is not guaranteed by the national government;
- (11) the latest account documents for the financial instruments firm, etc. or either of:
 - (a) the details of accounting audit report under the second clause of Article 396.1 of the Corporation Law;
 - (b) in the case where the financial instruments firm, etc. is not a corporation maintaining an accounting auditor and has been audited by a certified public accountant (including a foreign certified public accountant as defined in Article 16-2.5 of the Certified Public Accountant Law (Law No. 103 of 1948) ; hereinafter the same) or audit corporation, the detail of the audit report of such audit;
 - (c) in the case where the financial instruments firm, etc. is not a corporation maintaining an accounting auditor and has not been audited by a certified public accountant or audit corporation, the statement that the financial instruments firm, etc. has not been audited by a certified public accountant or audit corporation and the reason therefor.

86.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type

of transaction of a mortgage security, etc.; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 86.1".

86.3. The provisions of Article 83.3 shall apply *mutatis mutandis* to a mortgage security, etc.; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 86.1".

Article 87. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Capital Contribution Object Project Share

87.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of the interest referred to in (5) or (6) of Article 2.2 of the Act (hereinafter referred to as "capital contribution object project share") (hereinafter in Articles 87, such contract is referred to as "transaction contract of capital contribution object project share") shall be the following matters in addition to the matters provided in Article 83.1:

- (1) regarding transaction contract of capital contribution object project share:
 - (a) the name of the capital contribution object project share;
 - (b) the style of the capital contribution object project share;
 - (c) matters regarding offering to enter into a transaction contract of capital contribution object project share;
 - (d) matters regarding payment of money used as capital contribution or other type of contribution;
 - (e) in the case where there is a contract period for capital contribution object project share, such contract period;
 - (f) regarding cancellation of capital contribution object project share:
 - (i) whether cancellation is possible or not;
 - (ii) computation method, payment method and projected payment date of the amount of money of properties of a capital contribution object project share to be distributed as a result of cancellation;
 - (iii) fees required for cancellation;
 - (g) if there are provisions for the plan of payment of damages (including penalties), the details thereof;
 - (f) the following matters regarding the extent of rights and liabilities of a customer:
 - (i) whether the customer has oversight authority over properties of capital contribution object project and, if the customer has such oversight authority, the details thereof;
 - (ii) ownership of properties of capital contribution object project;
 - (iii) the extent of liabilities of a customer to a third party;
 - (iv) matters regarding loss sharing by a customer in the case where properties of capital contribution object project has decreased due to loss;
 - (v) the details of capital contribution object project share;
- (2) the following matters regarding management of capital contribution object project:
 - (a) the details, and principles for management, of the capital contribution object project;
 - (b) organization, internal control, procedures for decision making regarding capital contribution object project and other matters regarding management system of capital contribution object project;
 - (c) the name or trade name and function of the issuer of the capital contribution object project share and the details of related business;
 - (d) the name or trade name and function of a person who manages capital contribution object project and the details of related business;
 - (e) in the case where the capital contribution object project is to invest in securities, the name or trade name and function of the following persons and the details of related business:
 - (i) the issuer of such securities (such securities shall be, after each security is ranked according to the ratio to the total amount of investment, limited to securities ranked at least the largest 30th) (in the case where such issuer (limited to the issuer of an investment trust beneficial interest as defined in Article 74.2) invests in other securities, such other securities shall be deemed to be the first-mentioned securities); and
 - (ii) the issuer of the capital contribution object project share or a person who is commissioned to manage or keep in custody money or other type of properties from the person referred to in (i) (a person to whom such person commissions further the management shall be deemed to be a person commissioned by an issuer of a capital contribution object project share or the person referred to in (i));
 - (f) the principles for dividends of profits arising from the capital contribution object project or distribution of properties in connection with capital contribution object project (hereinafter

- referred to as "dividends, etc.");
- (g) the fiscal year, account period or other period similar thereto;
- (h) collection method of fees, etc. for capital contribution object project and matters regarding taxation;
- (i) method of control provided in Article 40-3 of the Act;
- (3) the following matters regarding accounting of capital contribution object project;
 - (a) the balance sheet;
 - (b) the profit and loss statement;
 - (c) the total amount of shares of capital contribution object project;
 - (d) the total number of issued shares of capital contribution object project;
 - (e) regarding dividends, etc.:
 - (i) the total amount of dividends, etc.;
 - (ii) payment method of dividends, etc.;
 - (iii) if properties of capital contribution object project are distributed on or before the end of a contract period referred to in (1) (e), payment method of money so distributed;
 - (iv) taxation method and tax rate for dividends, etc.;
 - (f) the amount of total assets, the amount of net assets, the amount of operating profit and loss, the amount of recurring profit or loss and the amount of net profit or loss;
 - (g) the amount of total assets, the amount of net profit or loss and the amount of dividends, etc. per one unit of shares of capital contribution object project;
 - (h) capital ratio and profit per capital ratio;
 - (i) in the case where the capital contribution object project is to invest in securities, the following matters regarding such securities:
 - (i) the issue name and, in the case where the securities are share certificates, the type of business of the issuer of such share certificates, volume and amount (which means the total amount of book value and the total amount of market prices or the total amount of valued amounts; hereinafter in (3), the same) and, in the case where the securities are debt securities, interest rates and the amount of redemption for each of places of issuance or areas where a financial instruments exchange or its equivalent is located;
 - (ii) the valuation method of the amount under (i); and
 - (iii) the ratio of the amount under (i) to the total amount of assets in connection with the capital contribution object project;
 - (j) in the case where the capital contribution object project is to invest in assets other than securities, the following matters regarding such assets:
 - (i) the volume and amount for each type of the assets;
 - (ii) the valuation method of the amounts under (i); and
 - (iii) the ratio of each of the amounts under (i) to the total amount of assets in connection with the capital contribution object project.

87.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of a capital contribution object project share; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 87.1".

87.3. The provisions of Article 83.3 shall apply *mutatis mutandis* a capital contribution object project share; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 87.1".

Article 88. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Foreign Capital Contribution Object Project Share

88.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of the interest referred to in Article 2.2 (6) of the Act (hereinafter in Articles 88 and 90, referred to as "foreign capital contribution object project share") shall be, in addition to matters provided in Article 87.1, the following matters:

- (1) the name of the governing law for the contract or other juristic act in connection with a foreign capital contribution object project share and its summary;
- (2) the name of the foreign authority supervising the issuer of a foreign capital contribution object project share and its outline;
- (3) the procedures under exchange control for cash transfer of dividends, etc., sale proceeds or other money;
- (4) whether there is a person residing in Japan who is authorized to act as a judicial or extra-judicial agent of the issuer of such foreign capital contribution object project shares and, in the case where there is such person, the name and address of such person and the details of the authority;

- (5) if there are provisions for a court having a jurisdiction for a lawsuit regarding such foreign capital contribution object project shares in a contract or other juridical act in respect of such foreign capital contribution object project shares, the name and location thereof and the procedures for the execution.
- 88.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of a foreign capital contribution object project share; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 88.1".
- 88.3. The provisions of Article 83.3 shall apply *mutatis mutandis* to a foreign capital contribution object project share; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 88.1".

Article 89. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Capital Contribution Object Project Share, Capital Contribution Object Project of Which is to Invest Primarily in Trust Beneficial Interest, etc.

- 89.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of a capital contribution object project share, the capital contribution object project of which, in connection with such capital contribution object project share, is to invest primarily in trust beneficial interest, etc. shall be, in addition to matters provided in Article 87.1 (in the case where such financial instruments transaction contract is concerned with purchase or sale or other type of transaction of a foreign capital contribution object project share, matters provided in Article 88.1), the matters referred to in the items of Article 84.1.
- 89.2. A trust beneficial interest, etc. under Article 89.1 shall include, in the case where capital contribution object project under Article 89.1 is to invest in a capital contribution object project share and capital contribution object project for such capital contribution object project share (in Articles 89.3 and 89.4, referred to as "baby capital contribution object project") is to invest in a trust beneficial interest, etc., such trust beneficial interest, etc.
- 89.3. In the case where a baby capital contribution object project under Article 89.2 is to invest in a capital contribution object project share and a capital contribution object project for such capital contribution object project share is to invest in a trust beneficial interest, etc., such capital contribution object project shall be deemed to be a baby capital contribution object project and the provisions of Articles 89.1 and 89.2 shall apply.
- 89.4. The provisions of Article 89.3 shall apply *mutatis mutandis* in the case where a capital contribution object project which has been deemed to be a baby capital contribution object project pursuant to the provisions of Article 89.3 (including the *mutatis mutandis* application under Article 89.4) is to invest in a capital contribution object project share and a capital contribution object project for such capital contribution object project share is to invest in a trust beneficial interest, etc.
- 89.5. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of a capital contribution object project share, the capital contribution object project of which, in connection with such capital contribution object project share, is to invest primarily in a trust beneficial interest, etc.; for this purpose, "items of Article 83.1," "Article 83.1" and "items of Article 83.1" in Article 83.2 shall be read as "items of Article 84.1," "Article 89.1" and "items of Article 84.1," respectively.
- 89.6. The provisions of Article 83.3 shall apply *mutatis mutandis* to a capital contribution object project share, the capital contribution object project of which, in connection with such capital contribution object project share, is to invest primarily in a trust beneficial interest, etc.; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 89.1".

Article 90. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Interests Based on Contract of Association, etc., Capital Contribution Object Project of Which, in Connection with such Interest, is to Invest Primarily in Real Estate Trust Beneficial Interest

- 90.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of interests based on a contract of association, contract of undisclosed association or contract of investment business limited liability association, the capital contribution object project of which, in connection with such interest, is to invest primarily in real estate trust beneficial interest shall be, in addition to matters provided in Article 89.1, the matters referred to in the items of Article 85.1.
- 90.2. A real estate trust beneficial interest. under Article 90.1 shall include, in the case where

- capital contribution object project under Article 90.1 is to invest in a capital contribution object project share and capital contribution object project for such capital contribution object project share (in Articles 90.3 and 90.4, referred to as "baby capital contribution object project") is to invest in a real estate trust beneficial interest., such real estate trust beneficial interest.
- 90.3. In the case where a baby capital contribution object project under Article 90.2 is to invest in a capital contribution object project share and a capital contribution object project for such capital contribution object project share is to invest in a real estate trust beneficial interest., such capital contribution object project shall be deemed to be a baby capital contribution object project and the provisions of Articles 90.1 and 90.2 shall apply.
- 90.4. The provisions of Article 90.3 shall apply *mutatis mutandis* to in the case where a capital contribution object project which has been deemed to be a baby capital contribution object project pursuant to the provisions of Article 90.3 (including the *mutatis mutandis* application under Article 90.4) is to invest in a capital contribution object project share and a capital contribution object project for such capital contribution object project share is to invest in a real estate trust beneficial interest.
- 90.5. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of an interest based on a contract of association, contract of undisclosed association or contract of investment business limited liability association, the capital contribution object project of which, in connection with such interest, is to invest primarily in a real estate trust beneficial interest.; for this purpose, "items of Article 83.1," "Article 83.1" and "items of Article 83.1" in Article 83.2 shall be read as "items of Article 85.1," "Article 90.1" and "items of Article 85.1," respectively.
- 90.6. The provisions of Article 83.3 shall apply *mutatis mutandis* to an interest based on a contract of association, contract of undisclosed association or contract of investment business limited liability association, the capital contribution object project of which, in connection with such interest, is to invest primarily in a real estate trust beneficial interest.; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 90.1".

Article 91. — Special Provisions for Entries in Written Statement Prior to Transaction for Commodity Fund Related Transaction

- 91.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transaction of a commodity fund related beneficial interest (hereinafter referred to as "commodity fund related transaction") shall be, notwithstanding the provisions of Articles 84.1, 87.1, 88.1 and 89.1, the following matters in addition to the matters referred to in Article 83.1:
- (1) the name or trade and address of, among a person managing a commodity fund (which means money or other type of property which is paid as capital contribution or other type of contribution from a person having a commodity fund related beneficial interest; hereinafter in Articles 91 and 109 (5), the same) (hereinafter in Article 91.1, such person is referred to as "management firm") and a person having a close business relation regarding a commodity fund (hereinafter in Article 91.1, referred to as related firm), each of the following person who are major and, if there is a representative, the name of the representative:
 - (a) a commodity investment advisor (which means a commodity investment advisor as defined in Article 2.4 of the Law on Regulations concerning Business Involved in Commodity Investment (Law No. 66 of 1991); hereinafter in Article 91, the same) involves in management of the commodity fund and a person who has the same type of license as a license of commodity investment advisory business under Article 3 of said Law in a foreign jurisdiction pursuant to the provisions of the laws or regulations in the foreign jurisdiction analogous to said Law or is subject to disposition equivalent thereto (in (13), referred to as "license, etc.");
 - (b) a person to whom the commodity fund makes capital contribution or other contribution (excluding a management firm);
 - (c) a person to whom the management firm and the person referred to in (b) commission the management of such commodity fund;
 - (2) the amount of capital or total amount of capital contribution of the financial instruments firm, etc. and management firm and the name or trade name of a major shareholder (which means a person holding 10/ 100 or more of voting rights held by all of its shareholders for the person's name or other person's name; in Article 95.1 (1) and Article 153.1 (4) (d) (vi) (vi-i), the same) and, if such financial instruments firm, etc. or management firm carries out other business, the type of such other business;
 - (3) the balance sheet and profit and loss statement or a written statement equivalent thereto for the fiscal year immediately preceding the fiscal year in which the commencement date of management of properties of the management firm falls;

- (4) the name of each of an officer and an important employee managing the commodity fund (which means general manager, assistant general manager, division manager, whatever title such person may hold, who is responsible for management of the commodity fund) of the management firm and, if an officer is engaged in regular duty of an other juridical person or engaged in other business, the name of such officer and the name or trade name and the duties of such other juridical person and the type of such other business;
- (5) the type of the financial instruments transaction contract and the following matters regarding the extent of rights and obligation of a customer:
 - (a) the type of the financial instruments transaction contract;
 - (b) whether a customer has the right to supervise properties used as capital contribution or other type of contribution by the customer or trust properties of the commodity fund related beneficial interest and, in the case where a customer has such right to supervise, the details thereof;
 - (c) ownership of properties used as capital contribution or other type of contribution by a customer or trust properties of the commodity fund related beneficial interest;
 - (d) the extent of obligation that a customer owes a third party;
 - (e) matters regarding loss sharing by customers in the case where properties used as capital contribution or other type of contribution or trust properties of the commodity fund related beneficial interest has decreased by loss;
 - (f) right to receive profit and redemption money regarding properties used as capital contribution or other type of contribution by a customer or trust properties of the commodity fund related beneficial interest;
- (6) the summary of the laws and regulations for the financial instruments transaction contract or trust contract of the commodity fund related beneficial interest;
- (7) the following matters regarding management style of properties used as capital contribution or other type of contribution by a customer or trust properties of the commodity fund related beneficial interest:
 - (a) whether it is a principal protection fund or active management fund;
 - (b) in the case of a principal protection fund, the method to protect the principal and the amount of principal which can be protected;
 - (c) in the case of an active management fund, the extent of projected loss;
 - (d) whether additional offering is made or not;
- (8) the following matters regarding the details and principles of investment of properties used as capital contribution or other type of contribution by a customer or trust properties of the commodity fund related beneficial interest:
 - (a) in the case where a plan of ratio by area, type or other category for the object of investment is known, such ratio and other matters regarding the details and criteria of major investment objects;
 - (b) in the case where investment is restricted by laws, regulations or other rules, the details of such restriction and the grounds therefor;
 - (c) whether there is borrowing, concentrated investment, investment in other commodity fund and investment in investment object lacking liquidity and, in the case where restriction on investment is set, the details of such restriction and the grounds therefor;
 - (d) whether there is advance redemption;
 - (e) the projected commencement date of management;
 - (f) the projected termination date of management;
 - (g) the account period, which shall be one year or shorter and is for the management of a commodity fund (hereinafter referred to as "account period");
- (9) in respect of transactions referred to in Article 2.1 (1) of the Law on Regulations concerning Business Involving in Commodity Investment (hereinafter in Articles 91 and 109 (4), referred to as "commodity futures transaction"), the speculative nature, efficiency of fund management, liquidity, credibility of a commodity futures firm provided in Article 2.23 of the Commodity Futures Trading Law, management method of a commodity investment advisor and other projected factor of loss which may arise from management of a commodity fund using commodity futures transactions;
- (10) the method, frequency and timing of making report of management to a customer;
- (11) in the case of entering into the contract referred to in Article 2.5 (3) of the Law on Regulations concerning Business Involving in Commodity Investment, the details of right to request report granted to a customer pursuant to the contract;
- (12) the following matters regarding a management firm:
 - (a) the business purpose stated in the articles of incorporation;
 - (b) the background of incorporation;
 - (c) change in the trade name;
 - (d) whether a change in an officer of the management firm requires approval by the supervisory

- authority and shareholder, etc. and, if such approval is required, the grounds and procedures for approval;
- (e) a change in the articles of incorporation, merger and assignment of business and acquisition by assignment of business;
 - (f) the state of major capital contribution or other type of contribution;
 - (g) lawsuit and other important matters;
- (13) the following matters regarding a major person among related firms:
- (a) in the case where the related firm is a person to whom the commodity fund makes capital contribution or other type of contribution, the amount of capital or the total amount of capital contribution of the related firm;
 - (b) in the case where a juridical person is incorporated with capital contribution or other type of contribution from the commodity fund and becomes a related firm, the projected amount of such capital contribution or other type of contribution;
 - (c) the number of license, etc. granted to a commodity investment advisor and a person obtained the same type of license, etc. as a license under Article 3 of the Law on Regulations concerning Business Involving in Commodity Investment in a foreign jurisdiction pursuant to the provisions of the laws or regulations in the foreign jurisdiction analogous to said Law, the name of an organization that granted such license, etc. and the name of the country to which the organization belongs, the year of establishment and the year of obtaining such license, etc.;
 - (d) the details of business in respect of management of the commodity fund;
- (14) capital relationship with a major person among management firms and related firms;
- (15) the following matters regarding public offer, private placement or public sale of a commodity fund related beneficial interest:
- (a) the name of the commodity fund related beneficial interest;
 - (b) the projected total amount and projected total units subject to public offer, private placement or public sale;
 - (c) the unit subject to public offer, private placement or public sale;
 - (d) the period, method and handling place of subscription;
 - (e) the due date and method of payment;
- (16) matters regarding the contract period for the commodity fund related beneficial interest;
- (17) procedures for a change in a financial instruments transaction contract, method to disclose the change and other matters regarding a change in the financial instruments transaction contract;
- (18) the following matters regarding cancellation of the financial instruments transaction contract:
- (a) whether cancellation is allowed or not;
 - (b) in the case where cancellation is allowed, the following matters:
 - (i) conditions and method of cancellation;
 - (ii) period to offer cancellation;
 - (iii) the computation method and payment method of the amount of redemption money as a result of cancellation;
 - (iv) the projected payment date of redemption money as a result of cancellation;
 - (v) fee for cancellation; and
 - (vi) the statement that, if there are many cancellations, the originally projected management may not be allowed and the management itself may not continue;
- (19) whether the financial instruments firm, etc. buys back the commodity fund or not and, in the case where the financial instruments firm, etc. buys back, the conditions and method and the computation method of the amount subject to the buy-back, payment method and payment time;
- (20) if there are provisions for projected damages (including penalty money), the details therefor;
- (21) the method that the financial instrument firm, etc. collects fees, etc. from a customer;
- (22) where the fee, etc. shall be paid in respect of management of the commodity fund payable by the commodity fund, computation method, payment amount, payment method and payment time and, in the case where such payment amount has not been determined, such fact;
- (23) the following matters regarding valuation of assets, etc. of the commodity fund:
- (a) the computation method of amount of net assets per one unit and valuation method of assets;
 - (b) the computation period;
 - (c) the method to give a notice to a customer;
- (24) whether there is a plan that the balance sheet and profit and loss statement or a written statement equivalent thereto or other documents regarding financial account for the commodity fund in respect of account period is to be audited by a certified public accountant or audit corporation and, if there is such plan, the scope of such audit;
- (25) the method and principles of distribution of profit by the commodity fund;
- (26) the computation method, payment method and payment time of redemption fund at the time

- of maturity;
- (27) matters regarding tax for dividends and redemption money;
- (28) in the case where a management firm is a foreign juridical person, whether there is a person residing in Japan who is authorized to act as a judicial or extra-judicial agent of the management firm and, in the case where there is such person, the name or trade name and address of such person and the details of the authority;
- (29) in the case where there are provisions for a court having a jurisdiction for a lawsuit regarding the commodity fund related beneficial interest in the contract or other juridical act of such commodity fund related beneficial interest, the name and location of such court;
- (30) in the case of wishing to enter into a financial instruments transaction contract for a commodity fund related transaction to make additional management to a commodity fund which allows additional management of the principal or to act as an agent or intermediary therefor (hereinafter in (30), referred to as "entering into, etc."), the following matters:
- (a) the state of asset allocation of the commodity fund for each of the following matters as of the end of the two month before the commencement date of solicitation of such entering into, etc.:
- (i) commodity futures transaction (including the breakdown for each of precious metals, agriculture products, energy resources and other major goods and articles related to the commodity futures transaction);
- (ii) commodity investment (including the breakdown of each of precious metals, agriculture products, energy resources and other major goods and articles related to such commodity investment) as defined in Article 2.1 (2) of the Law on Restrictions concerning Business Involving in Commodity Investment;
- (iii) commodity investment (including the breakdown of each of precious metals, agriculture products, energy resources and other major goods and articles related to such commodity investment) as defined in Article 2.1 (3) of the Law on Restrictions concerning Business Involving in Commodity Investment;
- (iv) management by means of acquisition (including production), assignment, usage or allowing to use the goods and articles referred to in (a) to (e) of Article 37.1 (2) of the Order (including the breakdown of each of the goods and articles for such management referred to in (a) to (e) of said Article 37.1 (2));
- (v) other method of management (including the breakdown of each of investment in securities, transferable deposit or other major financial instruments, the transactions referred to in the items of Article 2.21 of the Act, the transactions referred to in the items of Article 2.22 of the Act, the transactions as defined in Article 2.23 of the Act and other major management methods);
- (b) the amount of net assets and dividends as of the end of each account period of the latest 10 account periods which have ended as of the end of two months before the month to which the commencement date of the solicitation belongs;
- (c) the amount of money subject to public offer, private placement or public sale, the amount of cancellation money and the amount of redemption money during the end of each account period of the latest 10 account periods which have ended as of the end of two months before the month to which the commencement date of the solicitation belongs;
- (d) the balance sheet and profit and loss statement or a written statement equivalent thereto of a commodity fund for the account period immediately preceding the account period to which the commencement date of the solicitation belongs;
- (e) in the case where there is a person to whom the commodity fund under (d) has made capital contribution or other type of contribution, the consolidated balance sheet and consolidated profit and loss statement or a written statement equivalent thereto of the commodity fund and the person, in which statement is made in a manner to allow a customer to understand the amount of net assets of such commodity fund and such person;
- (f) in the case where the written statement referred to in (d) and (e) or other documents regarding financial account has been audited by a certified public accountant or audit corporation, the scope thereof (excluding the case where documents of the audit by the certified public accountant or audit corporation are attached to a written statement prior to transaction and the scope of audit is stated in the documents).
- 91.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to a commodity fund related transaction; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 91.1".
- 91.3. The provisions of Article 83.3 shall apply *mutatis mutandis* to a commodity fund related beneficial interest; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 91.1".
- 91.4. "Commodity fund related beneficial interest" under Articles 91.1 and 91.3 shall mean:
- (1) an interest represented by the security referred to in (14) of Article 2.1 of the Act or the

security referred to in (17) of said Article 2.1 (limited to a security having the nature of the security referred to in (14) of said Article 2.1) or the interest referred to in (1) or (2) of Article 2.2 of the Act, which is entitled to receive distribution of profit of and return of the principal of a trust with the purpose of managing trust properties for such interests primarily by the following acts:

- (a) commodity investment as defined in Article 2.1 of the Law on Restriction concerning Business Involving in Commodity Investment;
- (b) acquisition (including production), assignment, use or allowing to use any of goods and articles referred to in (a) to (e) of Article 37.1 (2) of the Order;
- (2) among interests referred to in (5) or (6) of Article 2.2 of the Act, the capital contribution object project in connection with such interest is to invest in an interest provided in (1); or
- (3) among interests referred to in (5) or (6) of Article 2.2 of the Act, the capital contribution object project in connection with such interest is primarily business to perform an act referred to in (1) (a) or (1) (b).

Article 92. — Special Provisions for Entries in Written Statement Prior to Transaction for Transaction Related to Racing Horse Investment Related Business

92.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with transaction related to racing horse investment related business shall be, in addition to matters provided in Article 91.1, matters regarding the blood line and feeding condition of a racing horse.

92.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to transaction related to racing horse investment related business; for this purpose, "matters referred to in the items of Article 83.1," "83.1" and "matters referred to in the items of Article 83.1" in Article 83.2 shall be read as "matters regarding the blood line and feeding condition of a racing horse," "Article 92.1" and "such matters," respectively.

92.3. The provisions of Article 83.3 shall apply *mutatis mutandis* to an interest referred to in (i) or (ii) of Article 7 (4) (d); for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 92.1".

Article 92-2. — Special Provisions for Entries in Written Statement Prior to Transaction for Purchase or Sale or Other Type of Transaction of Project-type Capital Contribution Object Project Share

92-2.1. Matters prescribed by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with purchase or sale or other type of transactions of capital contribution object project share the capital contribution project of which is a project other than projects to invest in mainly in a right on securities or derivatives transactions (hereinafter in Article 92-2, referred to as "project-type capital contribution object project share") shall be, in addition to matters provided in Article 87.1 (in the case where such financial instruments transaction contract is concerned with purchase or sale or other type of transactions of foreign capital contribution object project share, matters provided in Article 88.1, in the case where such financial instruments transaction contract is concerned with purchase or sale or other type of transactions of the instruments referred to in Article 91.4 (3), matters provided in Article 91.1, in the case where such financial instruments transaction contract is concerned with transaction related to racing horse investment related business, matters provided in Article 92.1), the following matters.

- (1) the matters provided in each of the following (a) to (c) according to the classification of the method to manage money referred to in the (a) to (c) regarding project-type capital contribution project share:
 - (a) method referred to in Article 125 (2) (a) — the following matters:
 - (i) the name or trade name of an institution to be deposited with;
 - (ii) the name and location of a business office or other type of office for the deposit;
 - (iii) the nominee of the deposit;
 - (iv) the account number of the deposit or other matters necessary to identify the deposit;
 - (b) method referred to in Article 125 (2) (b) — the following matters:
 - (i) the name or trade name of a bank, etc. (which means a bank, cooperative financial institution, Business Corporation Shokochukin Bank or a person carrying out the business referred to in Article 10.1 (1) of the Banking Law in a foreign jurisdiction under the laws or regulations in the foreign jurisdiction) where an account for money deposit or money saving is maintained;
 - (ii) the name and location of a business office or other type of office for the account of money

- deposit or money saving;
 - (iii) the nominee of the money deposit or money saving;
 - (iv) the account number of the money deposit or money saving or other matters necessary to identify the money deposit or money saving;
- (2) the state of performance of management provided in Article 40-3 of the Act and the method of confirmation of such performance by the financial instruments firm, etc.
- 92-2.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to purchase or sale or other type of transactions of project-type capital contribution object project share; for this purpose, "the items of Article 83.1" in Article 83.2 shall be read as "the items of Article 92-2.1."
- 92-2.3. The provisions of Article 83.3 shall apply *mutatis mutandis* to project-type capital contribution object project share; for this purpose, "Article 83.1" in Article 83.3 shall be read as "Article 92-2.1."

Article 93. — Entries Common to Written Statement prior to Transaction for Derivatives Transaction, etc.

- 93.1. Matters specified by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is concerned with derivatives transactions shall be the following matters in addition to the matters referred to in the items of Article 82:
- (1) matters provided in (3) and (6) of Article 16.1 of the Order;
 - (2) a method of the performance of obligations arising from the derivatives transactions, etc. and a method to settle such derivatives transactions, etc.;
 - (3) in the case where the derivatives transactions, etc. are market derivatives transactions, etc. or foreign market derivatives transactions, etc., the name or trade name of the person who operates an on-exchange financial instrument market or foreign financial instruments market for such transactions;
 - (4) the types of, and computation method of the amount of, customer margins or other guarantee money which a customer is required to deposit regarding the derivatives transactions, etc., types of and prices applicable to properties, etc. which may be deposited as such customer margins or other guarantee money and matters equivalent thereto, and the manner that such customer margins or other guarantee money are deposited by or returned to the customer;
 - (5) a manner of collecting fees, etc. from a customer;
 - (6) matters regarding procedures for acceptance, etc. of orders (which means acceptance, etc. of orders as defined in Article 44-2.1 (1) of the Act; hereinafter the same) for derivatives transactions; and
 - (7) important terms and other basic matters regarding derivatives transactions.
- 93.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to derivatives transactions; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 93.1".

Article 94. — Special Provisions for Entries in Written Statement Prior to Transaction for Over-The-Counter Derivatives Transactions Contract

- 94.1. Matters specified by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is an over-the-counter derivatives transactions contract shall be the following matters in addition to the matters referred to in the items of Article 93:
- (1) with respect to market derivatives transactions or foreign market derivatives transactions conducted by the financial instruments firm, etc. or over-the-counter derivatives transactions (excluding the transactions referred to in (a) and (b) of Article 116.1 (3); hereinafter in Article 94, (26) of Article 117.1 and (20) and (21) of Article 123.1, the same) conducted by the financial instruments firm, etc. with an other financial instruments firm, etc. or other person (hereinafter in (1) and (2), referred to as "other firm, etc.") as a counterparty for the purpose of reducing a loss which may arise from over-the-counter derivatives transactions conducted by the financial instruments firm, etc. with a customer as a counterparty, which have the same financial instrument or financial index and the same distinction of purchase or sale or other matters equivalent thereto as the over-the-counter derivatives transactions conducted by the customer (hereinafter referred to as "covering transaction"), the name or trade name of an on-exchange financial instruments market for the covering transaction, or the name or trade name of a person operating a foreign financial instruments market stated in a language used in the country or area where such foreign financial instruments market is located and stated in Japanese language after translation or the name or trade name and business of an other firm, etc. who becomes a counterparty of over-the-counter derivatives transaction (hereinafter referred to as "covering transaction party") and, if such person is a foreign juridical person, the name of the authority which supervises such person;

- (2) in the case where such financial instruments firm, etc. act as an intermediary, broker or agent for over-the-counter derivatives transactions conducted by a customer, the name or trade name and business of an other firm, etc. who becomes the counterparty for such acting as an intermediary, broker or agent (hereinafter in (2) and Article 143.1 (4), referred to as "intermediary, etc. counterparty") and if such intermediary, etc. counterparty is a foreign juridical person, the name of the authority which supervises such intermediary, etc. counterparty;
 - (3) matters regarding prohibited acts for such over-the-counter derivatives transactions contract;
 - (4) the method to manage, and places where to deposit, properties under the provisions of Article 43-2.1, 43-2.2 or 43-3 of the Act.
- 94.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to an over-the-counter derivatives transactions contract; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 94.1".

Article 95. — Entries in Written Statement Prior to Transaction for Investment Advisory Contract

- 95.1. Matters specified by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is an investment advisory contract or a contract to perform the act referred to in Article 2.8 (13) of the Act (limited to an act performed under an investment advisory contract) shall be the following matters in addition to the matters referred to in the items of Article 82:
- (1) in the case where the financial instruments firm, etc. is a juridical person, the amount of capital or total amount of capital contributions and the name or trade name of each of officers and major shareholders of the financial instruments firm, etc.;
 - (2) the name of a person who analyses the value, etc. of a financial instrument for the purpose of giving an advice to a customer under an investment advisory contract or makes investment judgment under such analysis (in Article 106.1 (6), referred to as "analyst, etc.");
 - (3) the details and method of advice;
 - (4) the name of a person who performs business to advise a customer under an investment advisory contract;
 - (5) in the case where the provisions of Article 37-6 of the Act apply to the financial instruments transaction contract, the statement that a customer may cancel the financial instruments transaction contract in writing for the period until 10 days pass since the day on which the customer has been furnished a written statement provided in Article 37-4.1 of the Act prepared at the time of conclusion of a financial instruments transaction contract or the time referred to in (1) or (2) of Article 98.1 (hereinafter referred to as "written statement concerning concluded transaction") (in the case where matters required to be contained in the written statement concerning concluded transaction has been furnished by an electronic or magnetic method in lieu of furnishing the written statement concerning concluded transaction, according to the classification of the case referred to in each of the followings, the day provided therein):
 - (a) the case of furnishing by the method referred to in Article 56.1 (1) — the day on which matters required to be contained in the written statement concerning concluded transaction have been recorded in a file in a computer used by a customer;
 - (b) the case of furnishing by the method referred to in Article 56.1 (2) — the day of receipt of the file under Article 56.1 (2);
 - (6) the statement that cancellation of the financial instruments transaction contract pursuant to the provisions of Article 37-6.1 of the Act takes its effect when a written statement that the financial instruments transaction contract shall be canceled has been dispatched;
 - (7) the statement that a financial instruments firm, etc. shall not perform the acts referred to in (1) to (4) of Article 2.8 of the Act with a customer as a counterparty or on behalf of a customer regarding its investment advisory business;
 - (8) the statement that no financial instruments firm, etc. shall accept from its customer the deposit of money or securities or cause its customer to deposit the customer's money or securities with a person having close relationship with the financial instruments firm, etc. in connection with its investment advisory business, regardless of the cause; and
 - (9) the statement that no financial instruments firm, etc. shall lend to a customer money or securities or act as an intermediary, broker or agent for a third party's lending to a customer money or securities in connection with its investment advisory business.
- 95.2. the provisions referred to in each of the following items shall not apply to the case provided in such item:
- (1) the provisions of Article 95.1 (7) — the case where a financial instruments firm, etc. is any of the following persons:
 - (a) a person carrying out the first-type financial instruments business;
 - (b) a person carrying out the second-type financial instruments business;

- (c) a registered financial institution;
 - (d) a financial instruments intermediary firm;
 - (2) the provisions of Article 95.1 (8) — the case where a financial instruments firm, etc. is any of the following persons:
 - (a) a person carrying out the security, etc. custody business;
 - (b) a registered financial institution (limited to a financial institution engaged in trust business or a financial institution accepting money deposit, money saving or periodic deposit, etc. as defined in Article 2.4 of the Banking Law);
 - (3) the provisions of Article 95.1 (9) — the case where a financial instruments firm, etc. is any of the following persons:
 - (a) a person carrying out the first-type financial instruments business;
 - (b) a financial instruments intermediary firm;
 - (c) a registered financial institution (limited to a financial institution engaged in trust business).
- 95.3. The provisions of Article 83.2 shall apply *mutatis mutandis* to an investment advisory contract; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 95.1".

Article 96. — Entries in Written Statement Prior to Transaction for Contract of Discretionary Investment, etc.

96.1. Matters specified by the Cabinet Office Ordinance as provided in Article 37-3.1 (7) of the Act in the case where a financial instruments transaction contract to be entered into is a contract of discretionary investment or a contract to perform the act referred to in Article 2.8 (13) of the Act (limited to an act performed under a contract of discretionary investment) shall be the following matters in addition to the matters referred to in the items of Article 82:

- (1) the method of investment and type of transaction, for assets of the customer, conducted on behalf of a customer under a contract of discretionary investment;
- (2) the name of a person who makes investment judgment on behalf of a customer under a contract of discretionary investment, or who makes such investment judgment and invests based on such investment judgment;
- (3) matters regarding the scope of discretion of investment judgment and performance of investment (including, in the case where the whole or part of authorization of management on behalf of an interest holder is commissioned to a person provided in Article 42-3.1 of the Act (including commissioning further a part of authorization for the first-mentioned commissioning), the name or trade name of such person and the summary of such commissioning).

96.2. The provisions of Article 83.2 shall apply *mutatis mutandis* to a contract of discretionary investment; for this purpose, "items of Article 83.1" in Article 83.2 shall be read as "items of Article 96.1".

Article 97. — Case that Notification of Written Statement Prior to Transaction is Not Required to be Filed

Case prescribed the Cabinet Office Ordinance as provided in the proviso to Article 37-3.3 of the Act shall be the case where a notification under Articles 4.1 and 4.2 of the Act has been filed regarding solicitation to enter into a financial instruments transaction contract provided in Article 37-3.3 of the Act (limited to the case where all of matters required to be stated in a written statement prior to transaction are stated in the notification).

Article 98. — Otherwise Time to Furnish Written Statements, etc.

98.1. Time prescribed by the Cabinet Office Ordinance as provided in Article 37-4.1 of the Act shall be:

- (1) time when the whole or part of an investment trust contract for a security referred to in Article 2.1 (10) of the Act or a trust contract of a foreign investment trust as defined in Article 2.22 of the Law on Investment Trust and Investment Corporation has been canceled (excluding such time as the time when a financial instruments transaction contract is concluded as provided in Article 37-4.1 of the Act is applicable);
- (2) an investment unit (which means an investment unit as defined in Article 2.14 of the Law on Investment Trust and Investment Corporation; in Article 123.1 (9), the same) has been refunded;
- (3) in the case where a financial instruments transaction contract for purchase or sale or other type of transaction or derivatives transaction, etc. of a security (excluding security, etc. clearing broking) has been concluded, or a security or money has been delivered, the following time:
 - (a) if a customer requests to furnish a trading balance report (which means a written statement prepared and furnished at the time referred to in (3) pursuant to the provisions of Article 37-4.1 of the Act; hereinafter the same) each time when such financial instruments transaction contract has been concluded or such delivery has been made, each time of such conclusion of the

financial instruments transaction contract or such delivery;

(b) in the following cases, each end of a reporting period (which means a period of three months or shorter into which one year is divided (if such financial instruments transaction contract has not been concluded or such delivery has not been made for one year since the day on which the latest trading balance report has been prepared and there is a balance of money or securities, one year or a period of less than one year into which one year is divided); hereinafter the same) to which the day on which the financial instruments transaction contract has been concluded or such delivery has been made:

(i) the case where a customer is a person other than a customer who has made a request under (a);

(ii) the case of omitting to state the matters referred to in (5) or (6) of Article 108.1 pursuant to the provisions of Article 108.5;

(4) the time when a financial instruments transaction contract for commodity fund related transactions has been entered into.

98.2. A financial instruments firm, etc. shall, at the time referred to in Article 98.1 (4), prepare and furnish a report explaining the state of management of a commodity fund in connection with commodity fund related transactions under Article 98.1 (4) on or after the last day of account period for management of such commodity fund without delay.

Article 99. — Common Entries in Written Statement concerning Concluded Transactions

99.1. A written statement concerning concluded transaction shall contain the following matters:

(1) the name or trade name of the financial instruments firm, etc.;

(2) the name of a business office or other type of office of the financial instruments firm, etc.;

(3) the summary of the financial instruments transaction contract, cancellation under Article 98.1 (1) or refund under Article 98.1 (2) (excluding matters provided in Articles 100 to 107);

(4) the date of conclusion of the financial instruments transaction contract, cancellation under Article 98.1 (1) or refund under Article 98.1 (2);

(5) matters regarding fee, etc. on the financial instruments transaction contract, cancellation under Article 98.1 (1) or refund under Article 98.1 (2);

(6) the name of the customer; and

(7) the method to communicate with the financial instruments firm, etc. by the customer, etc.

99.2. A financial instruments firm, etc. shall, in the case where a financial instruments transaction contract has been concluded for a market derivatives transaction subject to give-up (which means an act to expire purchase or sale of a market derivatives transaction (in the case where such market derivatives transaction is the transaction referred to in each of the following items, the transactions provided in such item; hereinafter in Article 99.2, the same) conducted by a member, etc. for the future in the manner prescribed by a financial instruments exchange, and to create simultaneously purchase or sale of the same market derivatives transaction as the expired market derivatives transaction under the name of an other member, etc.; hereinafter the same), state fees, etc., as fee, etc. under Article 99.1 (5), that an order executing member, etc. (which means a member, etc. which has given up purchase or sale of market derivatives transactions and from which purchase or sale of market derivatives transactions has been extinguished; hereinafter the same) and an clearing executing member, etc. (which means a member, etc. which has taken up purchase or sale of market derivatives transactions and with which purchase or sale of market derivatives transactions has been created; hereinafter the same) collect directly from a customer:

(1) the transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transactions similar thereto) — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the actual value exceeds the trade value;

(2) the transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transactions similar thereto) — transactions in which a customer becomes a party to grant an option or becomes a party to acquire an option;

(3) the transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transactions similar thereto) — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the interest rate, etc. of a financial instrument or financial index agreed with the counterparty has risen during the agreed period;

(4) the transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transactions similar thereto) — transactions in which a customer becomes a party to pay money or becomes a party to receive money if an event (which means any of the events referred to in Article 2.21 (5) of the Act) agreed in advance between the parties has occurred;

Article 100. — Common Entries in Written Statement concerning Concluded Transactions for Purchase or Sale or Other Type of Transaction or Derivatives Transactions, etc. of Security

100.1. A written statement concerning concluded transaction prepared at the time when a financial instruments transaction contract for purchase or sale or other type of transaction or derivatives transaction, etc. of a security (excluding a mortgage security, etc.; hereinafter in Articles 100 and 101, the same) has been concluded or at the time referred to in (1) or (2) of Article 98.1 shall contain, in addition to the matters referred to in the items of Article 99.1, the following matters (excluding the matter referred to in (1) in the case where such purchase or sale or other type of transaction of a security is concerned with the act referred to in Article 2.8 (7) of the Act or buying back as defined in Article 1-12 of the Order or at the time referred to in (1) or (2) of Article 98.1):

- (1) whether for a customer account or for the house account and, in the case of a customer account (limited to over-the-counter derivatives transaction, etc. for a customer account), the name or trade name and address or location of the counterparty;
- (2) whether for purchase, etc. (which means purchase or other type of acquisition for value; in Article 108.1 (2) (c), the same) or sale, etc. (which means sale or other assignment for value or cancellation or refund; in Article 108.1 (2) (c), the same) (in the case of the transactions referred to in the following (a) to (d), those provided in such (a) to (d)):
 - (a) the transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transaction similar thereto) and the transaction referred to in Article 2.22 (2) of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the actual value exceeds the trade value;
 - (b) the transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in (3) and (4) of Article 2.22 of the Act — transactions in which a customer becomes a party to grant an option or becomes a party to acquire an option;
 - (c) the transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in (5) of Article 2.22 of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the interest rate, etc. of a financial instrument or financial index agreed with the counterparty has risen during the agreed period;
 - (d) the transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in Article 2.22 (6) of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if an event (which means either of the events referred to in Article 2.21 (5) of the Act or Article 2.22 (6) of the Act) agreed in advance between the parties has occurred;
- (3) the issue name (including a financial instrument, financial index and their equivalent which are the objects of transactions);
- (4) the trade volume (if there is no volume, matters equivalent to number or volume);
- (5) the unit price, amount of consideration, trade value or amount of money or number per unit of transaction;
- (6) the amount of money payable by a customer and computation method;
- (7) the type of transaction;
- (8) in addition to the matters referred to in the above, matters required to show the details of transactions accurately.

100.2. Notwithstanding the provisions of Article 100.1, in the case where more than one financial instruments firm, etc. is required to furnish a customer with a written statement concerning concluded transaction in respect of purchase or sale or other type of transaction or derivatives transaction, etc. of one security pursuant to the provisions of Article 37-4.1 of the Act and either of the financial instruments, etc. has furnished a written statement concerning concluded transaction containing the matters referred to in the items of Article 100.1, the other financial instruments firm, etc. is not required to contain the matters referred to in the items of Article 100.1 in a written statement concerning concluded transaction.

100.3. Notwithstanding the provisions of Article 100.1, in the case where the concluded financial instruments transaction contract is concerned with pre-auction transaction of national government bonds (which means, among when-issued transaction of national government bonds (which means entering into a purchase and sale contract with the suspensive condition that the national government bonds are issued on such issue date and making delivery settlement for such purchase and sale contract with suspensive condition on or after the issue date for the period between the time when the government has published the auction date, issue amount, issue date and maturity date of national government bonds (hereinafter in Article 100.3, referred to as "publication time of national government bond including auction date") and the day immediately preceding the issue date of the national government bond; hereinafter in Article 108.1 (6) and Article 164.1 (1), the same), transactions conducted for the period between the publication time of national government bonds including auction date and the time of publication of the issuance number and coupon rate of the national government bonds; hereinafter the same), a written statement concerning concluded

transaction for such financial instruments transaction contract may contain, in lieu of the matters referred to in (3), (5) and (6) of Article 100.1, the statement that it is a preauction transaction of national government bonds, maturity date and agreed yield (in the case where such national government bonds are national government bonds with floating interest rate, spread from base interest rate fixed by the national government): *Provided*, That a written statement containing such matters shall be furnished on or before such issue date.

Article 101. — Special Provisions for Entries in Written Statement concerning Concluded Transactions for Purchase or Sale or Other Type of Transaction of Security or Securities Related Derivatives Transactions, etc.

101.1. A written statement concerning concluded transaction, prepared at the time when a financial instruments transaction contract has been concluded for purchase or sale or other type of transaction of a security or securities related derivatives transaction, etc., shall contain, in addition to the matters provided in Article 100.1, the following matters:

- (1) in the case where a financial instruments transaction contract is concerned with purchase or sale of a security (excluding securities related derivatives transactions; hereinafter in Article 101, the same), the following matters:
 - (a) whether cash transaction or margin transaction;
 - (b) in the case where such financial instruments transaction contract is concerned with margin transaction, repayment due date and the distinction of transaction to establish new positions or transaction to close positions;
- (2) in the case where a financial instruments transaction contract is concerned with the transaction referred to in Article 28.8 (3) (a) of the Act or a transaction conducted on a foreign financial instruments market similar to the transaction referred to in said Article 28.8 (3) (a), the following matters:
 - (a) whether transaction to establish new positions or transaction to close positions;
 - (b) in the case where such financial instruments transaction contract is concerned with calendar spread provided in the rules of a financial instruments exchange or a person operating a foreign financial instruments market, such fact;
- (3) in the case where a financial instruments transaction contract is concerned with the transaction referred to in (b) or (c) of Article 28.8 (3) of the Act or a transaction conducted on a foreign financial instruments market similar to the transaction referred to in said (b) or (c), whether transaction to establish new positions or transaction to close positions;
- (4) in the case where a financial instruments transaction contract is concerned with the transaction referred to in Article 28.8 (4) (a) of the Act, the following matters:
 - (a) whether transaction to establish new positions or transaction to close positions;
 - (b) the specified future time when payment and receipt of a security and consideration therefor shall be made;
 - (c) in the case of cash settlement, the computation method of the amount subject to such cash settlement;
- (5) in the case where a financial instruments transaction contract is concerned with the transaction referred to in Article 28.8 (4) (b) of the Act, the following matters:
 - (a) the date on which the amount of money to be paid and received is computed;
 - (b) the method by which the amount of money to be paid and received is computed;
 - (c) the date on which money is paid or received;
 - (d) in addition to the matters referred to in (a) to (c), matters equivalent thereto which are required to show the details of transactions accurately;
- (6) in the case where a financial instruments transaction contract is concerned with the transaction referred to in (c) or (d) of Article 28.8 (4) of the Act, according to the classification of the transaction referred to in each of the followings concluded as a result of exercise of an option, the matter provided in therein:
 - (a) purchase or sale of a security — the matters referred to in (1) (a) and (1) (b);
 - (b) the transaction referred to in Article 28.8 (4) (a) of the Act — the matters referred to in (4) (a) to (4) (c);
 - (c) the transaction referred to in Article 28.8 (4) (b) of the Act — the matters referred to in (5) (a) to (5) (d);
 - (d) the transaction referred to in Article 28.8 (4) (e) of the Act — the matters referred to in (7) (a) to (7) (g);
 - (e) a transaction other than the transactions referred to in (a) to (d) — matters required to show the details of the transaction accurately;
- (7) in the case where a financial instruments transaction contract is concerned with the transaction referred to in Article 28.8 (4) (e) of the Act, the following matters:
 - (a) the amount fixed as the principal;

- (b) a security index or issue name of a security used for the computation of the amount of money payable by a customer;
- (c) the computation method of the amount of money payable by a customer;
- (d) an interest, security index, type of currency or issue name of a security used for the computation of the amount of money receivable by a customer;
- (e) the computation method of the amount of money receivable by a customer;
- (f) the period under Article 28.8 (4) (e) of the Act;
- (g) in addition to the matters referred to in (a) to (f), matters equivalent thereto which are required to show the details of transactions accurately.

101.2. The provisions of Article 100.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of a security or securities related derivatives transaction, etc.; for this purpose, "items of Article 100.1" in Article 100.2 shall be read as "items of Article 101.1".

101.3. Notwithstanding the provisions of Article 101.1, in the case provided in Article 99.2, the entries of the matters referred to in (2) (a), (3) and (4) (a) of Article 101.1 shall not be required.

Article 102. — Special Provisions for Entries in Written Statement concerning Concluded Transactions for Derivatives Transactions, etc.

102.1. A written statement concerning concluded transaction, prepared at the time when a financial instruments transaction contract for derivatives transactions, etc. (excluding securities related derivatives transactions, etc. (excluding transactions related to over-the-counter derivatives transactions contract) and those related to security, etc. clearing broking, hereinafter in Article 102.2, the same) has been concluded, shall contain, in addition to the matters provided in Article 100.1 (in the case where such financial instruments transactions contract is concerned with securities related derivatives transactions, etc. (limited to those for over-the-counter derivatives transactions contract), matters provided in Article 101.1), the following matters:

- (1) the type and amount of customer margins or other guarantee money for concluded derivatives transactions (in the case where a contract for customer margins or other guarantee money for derivatives transactions has not been entered into for each derivatives transaction, such fact and the computation method of the amount of such guarantee money);
- (2) the person with whom customer margins or other guarantee money for concluded derivatives transactions are required to be deposited;
- (3) the name or trade name of a person who operates an on-exchange financial instruments market or a foreign financial instruments market where derivatives transactions (excluding over-the-counter derivatives transactions) are concluded;
- (4) the term of concluded derivatives transactions and, if such concluded derivatives transactions have been conducted for the purpose of closing outstanding derivatives transactions prior to the expiration of the term, the statement to that effect and the matter referred to in Article 100.1 (5) for such outstanding derivatives transactions;
- (5) the name or trade name of a person with which segregated money is deposited;
- (6) in the case where a financial instruments transaction contract is concerned with the transaction referred to in Article 2.21 (5) or Article 2.22 (6) of the Act, the following matters:
 - (a) events determined by the parties in advance;
 - (b) the computation method of the amount of money to be received or paid by a customer when an event determined by the parties in advance has occurred;
 - (c) a financial instrument, interest in a financial instrument or money claim (excluding a financial instrument or interest in a financial instrument) agreed to be transferred between the parties when an event determined by the parties in advance has occurred;
 - (d) the trading period.

102.2. The provisions of Article 100.2 shall apply *mutatis mutandis* to derivatives transactions; for this purpose, "items of Article 100.1" in Article 100.2 shall be read as "items of Article 102.1".

Article 103. — Special Provisions for Entries in Written Statement concerning Concluded Transactions for Purchase or Sale or Other Type of Transaction of Mortgage Security, etc.

103.1. A written statement concerning concluded transaction, prepared at the time when a financial instruments transaction contract for purchase or sale or other type transaction of a mortgage security, etc. has been concluded, shall contain, in addition to the matters referred to in the items of Article 99.1, the following matters:

- (1) in the case where there are provisions for receipt of the repayment of the principal or interests of claims stated in a mortgage security, etc., the details thereof;
- (2) the matters referred to in the items of Article 12.1 of the Mortgage Security Law;
- (3) matters regarding the principal and interests;
- (4) the payment date of the principal and interests;
- (5) in the case where there are provisions for the computation of interests, the details thereof;

- (6) entries in a loan contract for such mortgage security, etc.;
 - (7) entries in real estate appraisal report;
 - (8) repayment plan for a loan prescribed by a business plan or other plan for collaterals;
 - (9) in the case where a debtor is a juridical person, the following matters regarding such juridical person:
 - (a) the year and month of incorporation or the year and month of commencement of business;
 - (b) the type of major business;
 - (c) the balance sheet and profit and loss statement for the fiscal year immediately preceding the year including the day three months (in the case where such financial instruments firm, etc. is a foreign juridical person, six months) before the day of furnishing of such written statement concerning concluded transactions;
 - (10) the method for a customer to collect claims from a debtor.
- 103.2. The provisions of Article 100.2 shall apply *mutatis mutandis* to purchase or sale or other type of transaction of a mortgage security, etc.; for this purpose, "items of Article 100.1" in Article 100.2 shall be read as "items of Article 103.1".

Article 104. — Special Provisions for Entries in Written Statement concerning Concluded Transaction for Commodity Fund Related Transaction

- 104.1. A written statement concerning concluded transaction, prepared at the time when a financial instruments transaction contract for a commodity fund related transaction has been concluded, shall be the following matters in addition to the matters referred to in Article 100.1:
- (1) the matters referred to in (5) and (6) of Article 37-3.1 of the Act;
 - (2) the matters referred to in Article 83.1 (1) and (1), (5), (16), (ii) and (iv) to (vi) of (18) (b) and (20) of Article 91.1;
 - (3) the details of management by the act referred to in (a) or (b) of Article 91.4 (1) for such commodity fund related beneficial interest, investment under Article 91.4 (2) or business under Article 91.4 (3);
 - (4) the method to distribute profit of a commodity fund;
 - (5) the payment method of redemption money at the time of maturity and, in the case where there is an early redemption, the payment method of such redemption money;
 - (6) the taxation method and tax rate for dividends and redemption money.
- 104.2. The provisions of Article 100.2 shall apply *mutatis mutandis* to a commodity fund related transaction; for this purpose, "items of Article 100.1" in Article 100.2 shall be read as "items of Article 104.1".

Article 105. — Special Provisions for Entries in Written Statement concerning Concluded Transaction for Transaction Related to Racing Horse Investment Related Business

- 105.1. A written statement concerning concluded transaction, prepared at the time when a financial instruments transaction contract for transaction related to racing horse investment related business has been concluded, shall contain, in addition to matters provided in Article 104.1, matters regarding the blood line and feeding condition of a racing horse.
- 105.2. The provisions of Article 100.2 shall apply *mutatis mutandis* to transaction related to racing horse investment related business; for this purpose, "matters referred to in the items of Article 100.1," "Article 100.1" and "matters referred to in the items of Article 100.1" in Article 100.2 shall be read as "matters regarding the state of matters regarding the blood line and feeding condition of a racing horse," "Article 105.1" and "such matters," respectively.

Article 106. — Entries, etc. in Written Statement concerning Concluded Transaction for Investment Advisory Contract, etc.

- 106.1. A written statement concerning concluded transaction, prepared at the time when an investment advisory contract or a financial instruments transaction contract for an act referred to in Article 2.8 (13) of the Act (limited to an act performed under an investment advisory contract) has been concluded, shall contain the following matters in addition to the matters referred to in the items of Article 99.1:
- (1) the details and method of advice;
 - (2) the amount of and the time to pay remuneration;
 - (3) matters regarding cancellation of a contract (including matters regarding the provisions of Articles 37-6.1 to 37-6.4 of the Act);
 - (4) if there are provisions for the projected amount of damage (excluding penalties), the details thereof;
 - (5) the contract period;
 - (6) the name of an analyst, etc.;
 - (7) the name of a person who advises a customer under an investment advisory contract;

- (8) the statement that a customer is entitled to receive the repayment of business guarantee money in respect of a financial instruments firm regarding claims arising from an investment advisory contract in preference to other claimants;
 - (9) the matter referred to in Article 95.1 (7);
 - (10) the matter referred to in Article 95.1 (8); and
 - (11) the matter referred to in Article 95.1 (9).
- 106.2. the provisions referred to in each of the following items shall not apply in the case provided in such item:
- (1) the provisions of Article 106.1 (9) — the case where a financial instruments firm, etc. is any of the following persons:
 - (a) a person carrying out the first-type financial instruments business;
 - (b) a person carrying out the second-type financial instruments business;
 - (c) a registered financial institution;
 - (d) a financial instruments intermediary firm;
 - (2) the provisions of Article 106.1 (10) — the case where a financial instruments firm, etc. is any of the following persons:
 - (a) a person carrying out the security, etc. custody business;
 - (b) a registered financial institution (limited to a financial institution engaged in trust business or a financial institution accepting money deposit, money saving or periodic deposit, etc. as defined in Article 2.4 of the Banking Law);
 - (3) the provisions of Article 106.1 (11) — the case where a financial instruments firm, etc. is any of the following persons:
 - (a) a person carrying out the first-type financial instruments business;
 - (b) a financial instruments intermediary firm;
 - (c) a registered financial institution (limited to a financial institution engaged in trust business).
- 106.3. The provisions of Article 100.2 shall apply *mutatis mutandis* to an investment advisory contract; for this purpose, "items of Article 100.1" in Article 100.2 shall be read as "items of Article 106.1".

Article 107. — Entries in Written Statement concerning Concluded Transaction for Contract of Discretionary Investment, etc.

- 107.1. A written statement concerning concluded transaction, prepared at the time when a contract of discretionary investment or a financial instruments transaction contract to perform the act referred to in Article 2.8 (13) of the Act (limited to an act performed under a contract of discretionary investment) has been concluded, shall contain, in addition to matters provided in Article 99.1, the following matters:
- (1) the extent of discretion of investment judgment and matters regarding operation of investment (including, in the case of commissioning the whole or part of authorities of investment judgment and operation of investment, the name of a commissioned person and extent of such commissioning);
 - (2) the amount of remuneration and time of payment;
 - (3) matters regarding cancellation of a contract;
 - (4) if there are provisions for the projected amount of damages (including penalties), the details thereof;
 - (5) the period of contract;
 - (6) the details and amount of a customer's assets under a contract of discretionary investment;
 - (7) the name of a person who makes investment judgment, or makes investment judgment and invests based on such investment judgment, on behalf of a customer under a contract of discretionary investment;
 - (8) the method of investment and type of transactions made, on behalf of a customer, for such customer's assets under a contract of discretionary investment;
 - (9) in the case where a financial instruments transaction contract has been concluded as a result of the act referred to Article 2.8 (13) of the Act, the statement that the customer has the right to receive the repayment of business guarantee money in respect of the financial instruments firm regarding claims arising from the contract of discretionary investment in preference to other claimants.
- 107.2. The provisions of Article 100.2 shall apply *mutatis mutandis* to a contract of discretionary investment; for this purpose, "items of Article 100.1" in Article 100.2 shall be read as "items of Article 107.1".

Article 108. — Entries, etc. in Trading Balance Report

- 108.1. A trading balance report shall contain the following matters:
- (1) the name of a customer;

- (2) the following matters regarding a financial instruments transaction contract under Article 98.1 (3) (a) or a financial instruments transaction contract concluded for the reporting period:
- (a) the date of conclusion;
 - (b) the date of delivery of a security;
 - (c) whether purchase, etc. or sale, etc. (in the case of the transaction referred to in each of the followings, matters provided therein):
 - (i) the transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in Article 2.22 (2) of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the actual value exceeds the trade value;
 - (ii) the transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in (3) and (4) of Article 2.22 of the Act — transactions in which a customer becomes a party to grant an option or becomes a party to acquire an option;
 - (iii) the transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in Article 2.22 (5) of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the interest rate, etc. of a financial instrument or financial index agreed with the counterparty has risen during the agreed period;
 - (iv) the transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in Article 2.22 (6) of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if an event (which means any of the events referred to in Article 2.21 (5) of the Act or Article 2.22 (6) of the Act) agreed between the parties in advance has occurred;
 - (d) the type of a security or type of derivatives transaction;
 - (e) the issue name (including a financial instrument, financial index or contract number stated in a contract or other matter to specify the object of transaction which is the object of transaction; hereinafter in Section 2, the same);
 - (f) the trade volume (in the case where there is no volume, matters equivalent to the number or volume);
 - (g) the unit price, the amount of consideration, trade value, option premium or other amount of money or value per unit of transaction;
 - (h) the amount of payment (including fees); and
 - (i) whether cash transaction or margin transaction;
- (3) the date of the delivery of a security made during the reporting period and type of and the number of shares of or unit of or the total amount of certificates of such security;
- (4) the date of the delivery of money made during the reporting period and the amount thereof;
- (5) the outstanding amount of money and securities as of the end of the reporting period;
- (6) the details of unsettled balance and profit and loss from valuation in respect of margin transaction, when-issued transaction (excluding when-issued transaction of national government bonds) and derivatives transaction as of the end of reporting period;
- (7) in the case where a financial instruments transaction contract under (2) is concerned with margin transactions, the following matters regarding such margin transactions:
- (a) whether to establish new positions or to close positions;
 - (b) the deadline for repayment;
 - (c) margin transaction interests paid or margin transaction interest received, or securities borrowing fee or securities lending fee;
- (8) in the case where a financial instruments transaction contract under (2) is concerned with transactions provided in (a) and (b) of Article 28.8 (3) of the Act, whether such transactions are for establishing new positions or closing positions regarding such transactions;
- (9) in the case where a financial instruments transaction contract under (2) is concerned with transactions provided in Article 28.8 (3) (c) of the Act or purchase or sale of a debt security with option (which means purchase or sale of a debt security in which a party has the right to designate delivery date and, if such right is not exercised during a specified period, the contract of such purchase or sale of a debt security with option shall be extinguished; hereinafter the same), the following matters regarding such transactions or purchase or sale:
- (a) the exercise period;
 - (b) the exercise price;
 - (c) whether the option is put (which means an option to grant the right to become a seller as a result of the exercise of the option; hereinafter the same) or call (which means an option to grant the right to become a buyer as a result of the exercise of the option; hereinafter the same);
 - (d) whether to establish new positions, to exercise, for resale, for purchase or to offset;

- (e) the contract month;
 - (10) in the case where a financial instruments transaction contract under (2) is concerned with transactions provided in Article 28.8 (3) (d) of the Act, the following matters regarding such transactions:
 - (a) the trading period;
 - (b) the date of delivery;
 - (11) in the case where a financial instruments transaction contract under (2) is concerned with transactions provided in (a) or (b) of Article 28.8 (4) of the Act, the following matters regarding such transactions:
 - (a) whether for its house account or for customers' account;
 - (b) the due date;
 - (c) whether to establish new positions, to close positions or to extinguish positions;
 - (12) in the case where a financial instruments transaction contract under (2) is concerned with transactions provided in (c) or (d) of Article 28.8 (4) of the Act, the following matters regarding such transactions:
 - (a) whether for its house account or for customers' account;
 - (b) the exercise period;
 - (c) the details of transactions to be concluded as a result of exercise of options;
 - (13) in the case where a financial instruments transaction contract under (2) is concerned with transactions provided in Article 28.8 (4) (e) of the Act, the following matters regarding such transactions:
 - (a) whether for its house account or for customers' account;
 - (b) the trading period;
 - (c) the date of delivery.
- 108.2. Notwithstanding the provisions of Article 98.1 (3), in the case where more than one financial instruments firm, etc. is required to furnish a customer with a trading balance report containing the matters referred to in the items of Article 108.1 and either of the financial instruments firms, etc. has furnished a trading balance report containing the matters referred to in the items of Article 108.1, the other financial instruments firm, etc. is not required to prepare or furnish a trading balance report.
- 108.3. Notwithstanding the provisions of Article 108.1, a trading balance report prepared at the time referred to in Article 98.1 (3) (a) (limited to the case where the delivery of securities and money for a financial instruments transaction contract under Article 98.1 (3) (a) has been completed) shall contain:
- (1) matters referred to in (1), (2) (b) and (2) (e) of Article 108.1;
 - (2) the balance of securities and money for purchase or sale or other type of transaction or derivatives transaction, etc. of such individual securities after the completion of the delivery of such securities and money (excluding the matter referred to in (3));
 - (3) the balance of securities and money after the completion of delivery of securities and money related to purchase or sale or other type of transaction or derivatives transaction, etc. of such each of securities;
 - (4) the details of unsettled account and valuation profit or loss of margin transaction, when-issued transaction (excluding when-issued transaction of national government bonds) and derivatives transaction;
 - (5) the statement to the effect that the delivery of securities and money for purchase or sale or other type of transaction or derivatives transaction, etc. of such individual securities has been completed;
- 108.4. Notwithstanding the provisions of Article 98.1 (3) (a), in the case where more than one financial instruments firm, etc. is required to furnish a customer with a trading balance report containing the matters referred to in the items of Article 108.3 and either of the financial instruments firms, etc. has furnished a trading balance report containing the matters referred to in the items of Article 108.3, the other financial instruments firm, etc. is not required to prepare or furnish a trading balance report.
- 108.5. Notwithstanding the provisions of Article 108.3, in the case where a trading balance report is prepared and furnished at the time referred to in Article 98.1 (3) (b) to a customer who has requested under Article 98.1 (3) (a), the statement of the following matters may be omitted in respect of such customer at the time when the delivery of securities and money for a financial instruments transaction contract under Article 98.1 (3) (a) has been completed:
- (1) the matter referred to in Article 108.3 (2);
 - (2) the matter referred to in Article 108.3 (4).
- 108.6. A financial instruments firm, etc. may prepare a written statement containing the matters referred to in Article 108.1 or 108.3 and, in lieu of furnishing a customer with it, give a notice to a customer in the manner to state such matters in a passbook.

108.7. Notwithstanding the provisions of Article 108.1, if a customer to whom a written statement concerning concluded transaction is not furnished pursuant to the provisions of (5) and (6) of Article 110.1 has given a consent in advance to lump together orders for the same issue name on the same day, the average of unit prices of transactions of such issue name on the same day may be stated as matters referred to in Article 108.1 (2) (g).

108.8. In the case where a financial instruments transaction contract under Article 108.1 (2) is a market derivatives transaction and is subject to give-up, fees that an order executing member, etc. and a clearing executing member, etc. received directly from a customer shall be stated as fees under Article 108.1 (2) (h).

108.9. Notwithstanding the provisions of Article 108.1, among the matters referred to in (2) to (13) of Article 108.1 (excluding the matters referred to in (a) and (d) to (f) of Article 108.1 (2) and the matter referred to in (h) of Article 108.1 (2) (limited to fees)), the statement of matters stated in a written statement concerning concluded transaction for individual derivatives transaction, etc. or a contract stating trading conditions of such derivatives transaction, etc. may be omitted.

108.10. In the case where there is, among the matters referred to in the items of Article 108.1, any of the acts referred to in (a) to (e) of Article 118 (1), the statement of a transaction concluded to extinguish a transaction in connection with such act, or a transaction conducted to perform according to the principles of a customer's order, which is conducted with a customer's consent may be omitted (in Article 110.1 (4) and Article 164.3 (1), referred to as "accident processing").

108.11. In the case where a financial instruments transaction contract under Article 108.1 (2) is a market derivatives transaction and is subject to give-up, the statement of the matters referred to in (3), (5) (excluding matters related to a balance of money), (6), (7) (a), (8) and (9) (d) of Article 108.1 shall be omitted.

Article 109. — Entries, etc. in Report of Management of Commodity Fund

109.1. A report under Article 98.2 shall contain the following matters:

- (1) the date of preparation of such report and the date of preparation of the previous report;
- (2) the total amount of net assets and the amount of net assets (including the amount of trust properties) per unit as of the end of the account period;
- (3) the progress of management during the account period;
- (4) the distribution of assets per each of the following matters as of the end of the account period:
 - (a) commodity futures transactions (including the breakdown of precious metals, agriculture products, energy resources and other major goods and articles for the commodity futures transactions);
 - (b) commodity investment referred to in Article 2.1 (2) of the Law on Regulations concerning Business Involved in Commodity Investment (including the breakdown of precious metals, agriculture products, energy resources and other major goods and articles for the commodity investment);
 - (c) commodity investment referred to in Article 2.1 (3) of the Law on Regulations concerning Business Involved in Commodity Investment (including the breakdown of precious metals, agriculture products, energy resources and other major goods and articles for the commodity investment);
 - (d) investment management by means of acquisition (including production) of, assignment of, usage of or allowing to use the goods and articles referred to in (a) to (e) of Article 37.1 (2) of the Order (including the breakdown of each of the goods and articles);
 - (e) other method of investment management (including the breakdown of each of investment in securities, transferable deposit or other major financial instruments, the transactions referred to in the items of Article 2.21 of the Act, the transactions referred to in the items of Article 2.22 of the Act, the transactions as defined in Article 2.23 of the Act and other major management methods);
- (5) the balance sheet and profit and loss statement or a written statement equivalent thereto of a commodity fund for an account period (in the case where there is a person to whom such commodity fund has made capital contribution, the consolidated balance sheet and consolidated profit and loss statement or a written statement equivalent thereto of such commodity fund and such person, which is stated in the manner to allow a customer to understand the net assets of such commodity fund and such person);
- (6) in the case where a written statement under (5) or other documents regarding financial account has been audited by a certified public accountant or audit corporation, such fact and its scope (excluding the case where documents in connection with the audit by a certified public accountant or audit corporation are attached to a written statement provided in (5) and the scope of the audit is stated in such documents);
- (7) in the case where a written statement under (5) or other documents regarding financial

- account has not been audited by a certified public accountant or audit corporation, such fact;
- (8) the number of publicly offered, privately placed, publicly sold or solicited sale, etc. to specific investors of, the number of canceled and the number of redeemed commodity fund related beneficial interests and the amount of assets increased or decreased as a result thereof during the account period, and the number of publicly offered, privately placed, publicly sold or solicited sale, etc. to specific investors of, the number of canceled and the number of redeemed commodity fund related beneficial interests and the amount of assets increased or decreased as a result thereof from the commencement of investment management until the end of the account period;
 - (9) the following matters regarding dividends:
 - (a) the total amount of dividends paid during the account period;
 - (c) the amount of dividends per unit paid during the account period.

Article 110. — Case where Furnishing of Written Statement concerning Concluded Transaction, etc. is Not Required

110.1. Case prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 37-4.1 of the Act in respect of a written statement concerning concluded transaction shall be:

- (1) the case where such financial instruments transaction contract is any of the followings and a written statement containing the details of the financial instruments transaction contract is furnished to a customer periodically and a system to respond to an enquiry from the customer regarding individual transactions in a timely manner is maintained:
 - (a) purchase of a security under a contract of cumulative investment or periodical sale of a security under a contract of cumulative investment;
 - (b) causing to acquire, by profit born from the security referred to in Article 2.1 (10) of the Act or the interest referred to in (5) or (6) of Article 2.2 of the Act owned by a customer, the same issue name as such security or interest;
 - (c) purchase or sale of a security referred to in Article 2.1 (10) of the Act (limited to a certificate of a beneficial interest of a fixed income security investment trust (limited to those with an account period of one day) provided in Article 25 (2) of the Law on Investment Trust and Investment Corporation Enforcement Regulations) or cancellation of a contract of an investment trust for such security;
- (2) the case where a financial instruments transaction contract has been concluded for the following transactions and a contract containing the conditions of such transactions is furnished each time of conclusion of a contract:
 - (a) purchase or sale under repurchase agreement (which means purchase or sale in which repurchase price is fixed in advance or, repurchase date is not fixed at the time of trading and repurchase price may be fixed by fixing the repurchase date) in respect of a debt security, etc. (which means any of the securities referred to in (1) to (5) and (15) of Article 2.1 of the Act (excluding a specific convertible corporate debt security, specific corporate debt security carrying warrants for new preferred capital contributions and corporate debt security carrying warrants for new stock as defined by the Law on Securitization of Assets; in (a), the same), securities referred to in (17) of said Article 2.1 (limited to a security with the nature of the security referred to in (1) to (5) and (15) of said Article 2.1) and the securities referred to in Article 1 (1) of the Order, hereinafter in (2), the same);
 - (b) purchase or sale with resale agreement (which means purchase or sale in which resale price is fixed in advance or, resale date is not fixed at the time of trading and resale price may be fixed by fixing the resale date) of a debt security, etc.;
 - (c) purchase or sale of a debt security, etc. in which the period from the trade date till the date of delivery is one month or longer;
 - (d) purchase or sale of a debt security, etc. with option;
 - (e) over-the-counter derivatives transaction;
 - (f) acting as an intermediary, broker or agent for sale of a security (limited to the case where a customer for such financial instruments transaction contract is the issuer or owner of such security);
 - (g) acting as an intermediary or agent for purchase of a security (limited to the case of acting as an intermediary or agent for purchase of a security subject to tender offer with a tender offeror as a counterparty);
 - (h) underwriting of a security;
 - (i) handling of public offer or public sale, handling of private placement or solicitation of sale, etc. to specific investors of a security (limited to the case where a customer for such financial instruments transaction contract is the issuer or owner of such security);
- (3) the case where a financial instruments transaction contract has been concluded for security, etc. clearing broking conducted by a clearing participant (which means a clearing participant as

- defined in Article 156-7.2 (3) of the Act);
- (4) the case of processing of an accident;
 - (5) the case where a customer has entered into a contract of discretionary investment with the financial instruments firm, etc. or an other financial instruments firm, etc. (limited to a person carrying out investment management business) and all of the following requirements are met for purchase or sale or other type of transaction or derivatives transaction, etc. of a security based on such contract of discretionary investment:
 - (a) the customer has given in advance a consent that a written statement concerning concluded transaction is not required to be furnished in writing or by the method using information technology;
 - (b) the customer has been furnished, without delay, a written statement containing matters equivalent to matters referred to in Article 100.1 or otherwise the details of purchase or sale or other type of transaction or derivatives transaction, etc. of a security based on such contract of discretionary investment;
 - (c) a system to respond to an enquiry from the customer regarding individual transaction in a timely manner is maintained;
 - (6) in the case where a financial instruments transaction contract has been concluded for making a change in a part of financial instruments transaction contract which has already been concluded:
 - (a) the case where there is no matter, among matters stated in a written statement concerning concluded transaction in connection with a financial instruments transaction contract which has been concluded, required to be changed as a result of such change; or
 - (b) in the case where there is a matter, among matters stated in a written statement concerning concluded transaction in connection with a financial instruments transaction contract which has been concluded, required to be changed as a result of such change, the case where a written statement containing such matter required to be changed has been furnished to the customer;
 - (7) the case where such financial instruments transaction contract is a market derivatives transaction for which give-up has been made based on a customer's instruction and a customer, order executing member, etc. and clearing executing member, etc. has mutually agreed in writing in advance that the clearing executing member, etc., in lieu of an order executing member, etc., furnishes a written statement concerning concluded transaction to the customer.
- 110.2. A financial instruments firm, etc. may furnish, in lieu of furnishing a written statement under Article 110.1 (1) or a contract under Article 110.1 (2) (hereinafter in Article 110.2, referred to as "written statement, etc."), matters required to be stated (hereinafter in Article 110, referred to as "statements") in such written statement, etc. after obtaining a customer's consent in the manner provided in Article 110.3 by an electronic or magnetic method (excluding the method referred to in Article 59.1 (1) (d); hereinafter in Article 110, the same); for this purpose, a financial instruments firm, etc. shall be deemed to have furnished such written statement, etc.
- 110.3. A financial instruments firm, etc. wishing to furnish statements pursuant to the provisions of Article 110.2 shall in advance show the customer the type and details of an electronic or magnetic method referred to in (1) (a) to (1) (c) or (2) of Article 56.1 used by the financial instruments firm, etc. and obtain from the customer a consent in writing or by the method using information technology.
- 110.4. When a financial instruments firm, etc. which has obtained a consent pursuant to the provisions of Article 110.3, has received an offer not to be furnished by an electronic or magnetic method from a customer in writing or by the method using information technology, the financial instruments firm, etc. shall not furnish such customer with the statements by the method to use information technology: *Provided*, That this shall not apply in the case where such customer has given a consent pursuant to the provisions of Article 110.3 again.
- 110.5. The provisions of Article 56.2 (excluding (3) (b) and (4)) shall apply *mutatis mutandis* to furnishing by an electronic or magnetic method under Article 110.2; for this purpose, "the last transactions referred to in the statements have been conducted" in Article 56.2 (3) shall be read as "the statements have been recorded."
- 110.6. "Method using information technology" under (5) (a) of Article 110.1 and Articles 110.3 and 110.4 shall be:
- (1) among methods using an electronic data processing and network system provided in Article 56.3, either of:
 - (a) a method to transmit through the telecommunication network connecting a computer used by a financial instruments firm, etc. with a computer used by a customer and record in a file in the receiving person's computer;
 - (b) a method to make, through the telecommunication network, matters regarding a customer's consent recorded in a file in a computer used by a financial instruments firm, etc. available for the customer's browsing and to record such matters regarding the customer's consent in a file in the computer used by the financial instruments firm, etc.;

- (2) a method to use a magnetic disk, CD-ROM or other similar methods and obtain an instrument which has recorded matters regarding the customer's consent in a file, if such instrument can produce a file which with certainty records certain matters.
- 110.7. The methods referred to in the items of Article 110.6 shall allow a financial instruments firm, etc. to prepare a written statement by outputting the record in a file
- 110.8. The provisions of Article 34-2.4 of the Act and Article 15-22 of the Order and the provisions of Article 56 shall apply *mutatis mutandis* to furnishing of a written statement pursuant to the provisions of Article 100.1 (6).

Article 111. — Case Not to Require Furnishing of Trading Balance Report

Case prescribed the Cabinet Office Ordinance as provided in the proviso to Article 37-4.1 of the Act in respect of a trading balance report shall be:

- (1) the case where a customer is a foreign government, foreign government organization, foreign local public organization, foreign central bank or international organization of which Japan is a member, and a person authorized by such customer has in advance given a consent that a trading balance report is not required to be furnished in writing or by the method using information technology provided in Article 110.6 and a system to respond to an enquiry from the customer regarding trading balance in a timely manner is maintained (excluding the case where a customer is an eligible institutional investor and the case where a customer is a foreign juridical person who is a specific investor);
- (2) acting as an intermediary or agent for purchase of a security (limited to the case of acting as an intermediary or agent for purchase of a security subject to tender offer with a tender offeror as a counterparty);
- (3) the case where the delivery under Article 98.1 (3) is concerned with underwriting of a security;
- (4) the case where a financial instruments transaction contract or delivery under Article 98.1 (3) is concerned with handling of public offer or public sale or handling of private placement or handling of solicitation of sale, etc. to specific investors of a security (limited to the case where a customer for whom such handling of public offer or public sale or handling of private placement or handling of solicitation of sale, etc. to specific investors of such security is made is the issuer or owner of such security);
- (5) the case of conducting purchase or sale or other type of transaction or derivatives transaction, etc. of a security (excluding securities, etc. clearing broking) which is not settled by delivery of securities or money;
- (6) the case where such financial instruments transaction contract is a market derivatives transaction for which give-up has been made based on a customer's instruction and a customer, order executing member, etc. and clearing executing member, etc. has mutually agreed in writing in advance that the clearing executing member, etc., in lieu of an order executing member, etc., furnishes a customer with a trading balance report.

Article 112. — Case Not to Require Furnishing of Report of State of Investment Management of Commodity Fund

Case prescribed the Cabinet Office Ordinance as provided in the proviso to Article 37-4.1 of the Act concerning a report under Article 98.2 shall be the case where a customer is:

- (1) a trust company (limited to a person licensed under Article 3 or 53.1 of the Trust Business Law);
- (2) a credit cooperative association, the federation of credit cooperative associations and agriculture cooperative association, federation of agriculture cooperative associations, fisheries cooperative association, federation of fisheries cooperative association, fisheries processors' cooperative and federation of fisheries processors' cooperatives accepting money saving as a business;
- (3) a commodity futures firm as defined in Article 2.23 of the Commodity Futures Trading Law;
- (4) a commodity investment advisor as defined in Article 2.4 of the Law on Regulations concerning Business Involved in Commodity Investment; or
- (5) a financial instruments firm (limited to a person who carries out the second-type financial instruments business and excluding an eligible institutional investor).

Article 113. — Type of Guarantee Money for Which Written Statement is Required to be Furnished

Guarantee money prescribed by the Cabinet Office Ordinance as provided in Article 37-5.1 of the Act shall be money, securities or other properties deposited by a customer regarding transactions under an over-the-counter derivatives contract and contracts referred to in the items of Article 16-4.2 of the Order.

Article 114. — Entries, etc. in Written Statement concerning Receipt of Guarantee Money

114.1. A written statement provided in Article 37-5.1 of the Act shall contain:

- (1) the name or trade name of the financial instruments firm, etc.;
- (2) the method to communicate with the financial instruments firm, etc. by a customer;
- (3) the name of a customer;
- (4) the date on which the financial instruments firm, etc. has received guarantee money (limited to guarantee money provided in Article 113; hereinafter in Article 114.1, the same);
- (5) the type of transactions for which guarantee money is received and the type of financial instrument or financial index which is the object of the transactions;
- (6) in the case where transactions for which guarantee money is received is concerned with market derivatives transaction or foreign market derivatives transaction, the name or trade name of a person who operates the financial instruments market or foreign financial instruments market where such market derivatives transaction or foreign market derivatives transaction is conducted; and
- (7) whether guarantee money is money or securities, etc. (which mean securities or other properties other than money; hereinafter in (7), the same) and, in the case where such guarantee money is securities, etc., the type (in the case of securities, the issue name), volume and price applicable to the securities.

114.2. A written statement under Article 114.1 shall be printed in characters and numerals no smaller than 8 points as specified in JIS Z8305.

Article 115. — Amount of Consideration for Period until Cancellation

115.1. Amount prescribed by the Cabinet Office Ordinance as provided in Article 37-6.3 of the Act shall be the amount of money provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case where an advice under an investment advisory contract has not been given by the time provided in Article 37-6.2 of the Act (hereinafter in Article 115.1, referred to as "cancellation time") — the amount of money equivalent to the amount of expense ordinarily required for entering into an investment advisory contract;
- (2) the case where an investment advisory contract provides that the amount of remuneration is computed based on the number of advices (excluding the case referred to in (1)) — the amount of money equivalent to the amount of remuneration computed based on the number of advices that the financial instruments firm, etc. has given by the cancellation time (in the case where such amount exceeds the bounds of socially accepted limits as remuneration to the financial instruments firm, etc. for the advisory service, the amount less such excess);
- (3) the case other than the cases referred to in (1) and (2) — the amount equivalent to an amount (if the amount exceeds the bounds of socially accepted limits as remuneration to the financial instruments firm, etc. for the advisory service, the amount less such excess amount) obtained from computation of dividing an amount of remuneration for the whole period of a contract period under an investment advisory contract by the total number of days of such contract period (if the termination time of the contract period is not fixed as at the cancellation time, the total number of day of such contract period shall be deemed to be 365 days; in Article 115.2, the same), and multiplying the amount after such dividing by the number of days from the day on which a written statement concerning concluded transaction has been received (in the case where matters required to be stated in such written statement concerning concluded transaction are furnished by an electronic or magnetic method in lieu of furnishing the written statement concerning concluded transaction, the day provided in (a) or (b) of Article 95.1 (5) according to the classification of the case referred to in such (a) or (b)) until the cancellation time.

115.2. In the computation under Article 115.1 (3), the fraction less than one yen for the amount obtained from computation of dividing an amount of remuneration for the whole period of a contract period under an investment advisory contract by the total number of days of such contract period shall be discarded.

Article 115-2. — Grievances Settlement Measures and Dispute Resolution Measures regarding Financial Instruments Business, etc. Operations

115-2.1. Measures prescribed by the Cabinet Office Ordinance as grievances settlement measures as provided in Article 37-7.1 (1) (b) of the Act shall be any of the followings:

- (1) taking all of the following measures:
 - (a) implementation of a business management system sufficient to conduct operations regarding the settlement of grievances regarding financial instruments business, etc. operations (which means grievances regarding financial instruments business, etc. operations as defined in Article 156-38.9 of the Act; hereinafter in Articles 115-2.1 and 115-2.3, the same) in a fair

- and accurate manner;
- (b) implementation of internal rules for operations regarding the settlement of grievances regarding financial instruments business, etc. operations (limited to rules including the provisions to clarify internal responsibility assignment regarding such operations) in a fair and accurate manner;
 - (c) informing customers where to file grievances regarding financial instruments business, etc. operations, and publishing the business management system under (a) and internal rules under (b);
- (2) promotion of the settlement of grievances regarding financial instruments business, etc. operations by means of the settlement of grievances conducted by a financial instruments firms association or recognized investors protection organization pursuant to the provisions of Article 77.1 of the Act (including the *mutatis mutandis* application under Articles 78-6 and 79-12 of the Act);
 - (3) promotion of the settlement of grievances regarding financial instruments business, etc. operations by means of the mediation provided in Article 19.1 or 25 of the Consumer Basic Law (Law No. 78 of 1968);
 - (4) promotion of the settlement of grievances regarding financial instruments business, etc. operations by means of the procedures to settle grievances taken by the person provided in the followings according to the classification of the financial instruments business, etc. operations (which mean financial instruments business, etc. operations as defined in Article 156-38.8 of the Act; in Article 115-2.2 (4), the same) or any of designated persons referred to in the items of Article 19-7 of the Order:
 - (a) specific first-type financial instruments business (which means specific first-type financial instruments business as defined in Article 156-38.2 of the Act; in Article 115-2.2 (4), the same) — a designated dispute resolution organization other than a designated first-type dispute resolution organization (which means a designated first-type dispute resolution organization as defined in Article 37-7.1 (2) (a) of the Act; in Article 115-2.2 (4), the same);
 - (b) specific second-type financial instruments business (which means specific second-type financial instruments business as defined in Article 156-38.3 of the Act; in Article 115-2.2 (4), the same) — a designated dispute resolution organization other than a designated second-type dispute resolution organization (which means a designated second-type dispute resolution organization as defined in Article 37-7.1 (2) (a) of the Act; in Article 115-2.2 (4), the same);
 - (c) specific investment advisory and agent business (which means specific investment advisory and agent business as defined in Article 156-38.4 of the Act; in Article 115-2.2 (4), the same) — a designated dispute resolution organization other than a designated investment advisory and agent dispute resolution organization (which means a designated investment advisory and agent dispute resolution organization as defined in Article 37-7.1 (3) (a) of the Act; in Article 115-2.2 (4), the same);
 - (d) specific investment management business (which means specific investment management business as defined in Article 156-38.5 of the Act; in Article 115-2.2 (4), the same) — a designated dispute resolution organization other than a designated investment management dispute resolution organization (which means a designated investment management dispute resolution organization as defined in Article 37-7.1 (4) (a) of the Act; in Article 115-2.2 (4), the same);
 - (e) specific registered financial institution business (which means specific registered financial institution business as defined in Article 156-38.6 of the Act; in Article 115-2.2 (4), the same) — a designated dispute resolution organization other than a designated registered financial institution dispute resolution organization (which means a designated registered financial institution dispute resolution organization as defined in Article 37-7.1 (5) (a) of the Act; in Article 115-2.2 (4), the same);
 - (f) specific securities finance company business (which means specific securities finance company business as defined in Article 156-38.7 of the Act; in Article 115-2.2 (4), the same) — a designated dispute resolution organization other than a designated securities finance company dispute resolution organization (which means a designated securities finance company dispute resolution organization as defined in Article 156-31-2.1 (1) of the Act; in Article 115-2.2 (4), the same);
 - (5) promotion of the settlement of grievances regarding financial instruments business, etc. operations by means of the procedures to settle grievances taken by a juridical person (which means a juridical person as defined in Article 156-39.1 (1) of the Act; in Article 115-2.2 (5), the same) having the resources of accounts and personnel structure sufficient to carry out operations regarding the settlement of grievances regarding financial instruments business, etc. operations in a fair and accurate manner.

115-2.2. Measures prescribed by the Cabinet Office Ordinance as dispute resolution measures as

provided in Article 37-7.1 (1) (b) of the Act shall be any of the followings:

- (1) promotion to settle financial instruments business, etc. operations related dispute (which means financial instruments business, etc. operations related dispute as defined in Article 156-38.10 of the Act; hereinafter in Article 115-2, the same) by means of mediation by a financial instruments firms association or recognized investor protection organization (which means mediation as defined in Article 77-2.1 of the Act (including the *mutatis mutandis* application under Articles 78-7 and 79-13 of the Act));
- (2) promotion to settle financial instruments business, etc. operations related dispute by means of mediation by an organization provided in association rules as provided in Article 33.1 of the Attorney-At-Law Law (Law No. 205 of 1949) or rules established pursuant to the provisions of such association rules or arbitration procedures at such organization;
- (3) promotion to settle financial instruments business, etc. operations related dispute by means of mediation provided in Article 19.1 or 25 of the Consumer Basic Law or mutual agreement provided in said Article 25;
- (4) promotion of the settlement of grievances regarding financial instruments business, etc. operations by means of the procedures to promote the resolution of disputes taken by the person provided in the followings according to the classification of the financial instruments business, etc. operations referred to in the followings or a designated person referred to in the items of Article 19-7 of the Order:
 - (a) specific first-type financial instruments business — a designated dispute resolution organization other than a designated first-type dispute resolution organization;
 - (b) specific second-type financial instruments business — a designated dispute resolution organization other than a designated first-type dispute resolution organization;
 - (c) specific investment advisory and agent business — a designated dispute resolution organization other than a designated investment advisory and agent dispute resolution organization;
 - (d) specific investment management business — a designated dispute resolution organization other than a designated investment management dispute resolution organization;
 - (e) specific registered financial institution business — a designated dispute resolution organization other than a designated registered financial institution dispute resolution organization;
 - (f) specific securities finance company business — a designated dispute resolution organization other than a designated securities finance company dispute resolution organization;
- (5) promotion of the settlement of financial instruments business, etc. operations related disputes by means of the procedures to promote the resolution of disputes taken by a juridical person having the resources of accounts and personnel structure sufficient to carry out operations to settle financial instruments business, etc. operations related disputes in a fair and accurate manner.

115-2.3. Notwithstanding the provisions of Articles 115-2.1 and 115-2.2 (limited to Article 115-2.1 (5) and 115-2.2 (5)), a financial instruments concerned firm shall not promote to settle grievances regarding financial instruments business, etc. operations or settle disputes regarding financial instruments business, etc. operations by means of procedures taken by any of the following juridical person:

- (1) a juridical person who has been fined pursuant to the provisions of the Act or the Attorney-At-Law Law, if five years have not yet passed since the date that execution of the criminal penalty was completed or since the date of release therefrom;
- (2) a juridical person whose designation under Article 156-39.1 of the Act has been revoked pursuant to the provisions of Article 156-61.1 of the Act, if five years have not yet passed since the date of the revocation or whose designation under the items of Article 19-7 of the Order has been revoked, if five years have not passed since the date of the revocation;
- (3) a juridical person who has an officer executing the operations (including, if the officer is a juridical person, a person responsible for the duties; hereinafter in (3), the same) who is any of:
 - (a) a person who has been subject to a criminal penalty no less severe than imprisonment or subject to a criminal penalty pursuant to the provisions of the Act or the Attorney-At-Law Law, if five years have not yet passed since the date that execution of the criminal penalty was completed or since the date of release therefrom;
 - (b) with respect to a juridical person whose designation under Article 156-39.1 of the Act has been revoked pursuant to the provisions of Article 156-61.1 of the Act, a person who was an officer of such juridical person within one month prior to the date of such revocation if five years have not yet passed since the date of the revocation, or with respect to a juridical person whose designation referred to in the items of Article 19-7 of the Order has been revoked, a

person who was an officer of such juridical person within one month prior to the date of such revocation if five years have not passed since the date of such revocation.

Article 116. — Exceptions for Prohibition of Unrequested Solicitation, etc.

116.1 Acts prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 38 of the Act shall be, with respect to the act referred to in (4) of said Article 38, the following acts:

- (1) an act to solicit a customer with whom the financial instruments firm, etc. has a continuous trading relationship (limited to a person with whom more than one over-the-counter financial instruments transactions contract for over-the-counter financial futures transactions were conducted within one year before the date of the solicitation and a person having the balance of unsettled over-the-counter financial futures transactions as of the date of the solicitation) to enter into a financial instruments transaction contract for over-the-counter financial instruments transactions;
- (2) an act to solicit a juridical person engaging in the foreign trade or other business regarding foreign exchange transactions to enter into a financial instruments transaction contract for over-the-counter financial futures transactions for the purpose of reducing the risk of loss arising from the fluctuation of exchange rates related to the juridical person's assets and liabilities.
- (3) an act to solicit an individual to enter into a financial instruments transactions contract for the following transactions among securities related over-the-counter derivatives transactions (which means the transactions referred to in Article 28.8 (4) of the Act; in (4), the same):
 - (a) transactions referred to in (4) (a) of Article 28.8 of the Act in which such individual agrees to sell securities owned by such individual at a specified future time and lends, or provides as collateral, such securities to a financial instruments firm, etc. which is the counterparty of such sale;
 - (b) transactions referred to in (4) (a) of Article 28.8 of the Act (limited to the transactions in which transactions concluded as a result of the exercise of rights provided in said (4) (c) are transactions referred to in (4) (c) (i) of said Article 28.8) in which such individual agrees to grant the right to conclude purchase of securities owned by such individual to a financial instruments firm, etc. and lends, or provides as collateral, such securities to such financial instruments firm, etc.;
- (4) an act to solicit a customer, who is an individual, with whom the financial instruments firm, etc. has a continuous trading relationship (limited to a person with whom there were more than one over-the-counter financial instruments transactions contract for securities related over-the-counter derivatives transactions (excluding the transactions referred to in (a) and (b) of Article 116.1; hereinafter in (4), the same) were conducted for one year before the date of the solicitation and a person having the balance of unsettled securities related over-the-counter derivatives transactions as of the date of the solicitation) to enter into a financial instruments transaction contract for securities related over-the-counter derivatives transactions;
- (5) an act to solicit a customer, who is an individual, with whom the financial instruments firm, etc. has a continuous trading relationship (limited to a person with whom there were more than one over-the-counter financial instruments transactions contract for over-the-counter derivatives transactions (limited to the following transactions; hereinafter in (5), the same) were conducted for one year before the date of the solicitation and a person having the balance of unsettled over-the-counter derivatives transactions as of the date of the solicitation) to enter into a financial instruments transaction contract for over-the-counter derivatives transactions;
 - (a) a transaction in which a party agrees to grant to the other party the right, subsequent to a declaration of intent by the other party, to enter into a transaction between the parties to pay or receive money computed based on the difference between the value agreed in advance as a financial index (limited to the price of a financial instrument (limited to a financial instrument referred to in (2) or (3) of Article 2.24 of the Act) or interest rate, etc. of a financial instrument (limited to a financial instrument referred to in (2) of said Article 2.24; in (b), the same) or value computed based thereon; hereinafter in (5), the same) where such intent is declared and the actual value of the financial index at the time of the declaration of intent and the other party agrees to pay to the first-mentioned party the consideration therefor, or transaction similar thereto;
 - (b) a transaction in which the parties mutually agree that, for the amount agreed by the parties as a principal amount, one of the parties pays money based on the rate of change, during the agreed period, in an interest rate, etc. of a financial instrument or financial index (excluding an interest rate, etc. of a financial instrument and value computed based on such interest rate, etc.; hereinafter in (b), the same) agreed by the parties, and the other party pays money based on the rate of change, during the agreed period, in an interest rate, etc. of the financial instrument or financial index agreed by the parties (including a transaction in which the parties agree, in addition to such payment of money, to pay and receive money or financial

instruments for an amount equivalent to the amount agreed as a principal amount), or a transaction similar thereto;

- (c) a transaction in which a party agrees to grant to the other party the right to enter into the transaction referred to in (b) between the parties subsequent to a declaration of intent by the other party to enter into the transaction and the other party agrees to pay to the first-mentioned party the consideration therefor, or transaction similar thereto;

116.2 Acts prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 38 of the Act shall be, with respect to the act referred to in (5) and (6) of said Article 38, the acts referred to in (3) of Article 116.1.

Article 116-2. — Credit Rating Which is Determined That It will Unlikely Constitute Failure of Protection of Investor

Credit rating prescribed by the Cabinet Office Ordinance as provided in Article 38 (3) of the Act shall be:

- (1) credit rating to value the credit standing of the underlying assets (which means underlying assets as defined in Article 295.3 (2)) of assets securitized instruments (which mean assets securitized instruments as defined in Article 295.3.3 (1); hereinafter in (1), the same) under such financial instruments transactions contract (excluding credit rating which is determined to value the credit standing of such assets securitized instruments effectively); or
- (2) in addition to credit rating referred to in (1), credit rating mainly to value the credit standing of a security other than a security under such financial instruments transactions contract or a person other than the issuer of a security under such financial instruments transactions contract (excluding credit rating which is determined to value the credit standing of a security under such financial instruments transactions contract or the issuer of such security effectively).

Article 116-3. — Significance of Registration or Other Matters of Credit Rating Firm

116-3.1 Matters prescribed by the Cabinet Office Ordinance as provided in Article 38 (3) of the Act shall be:

- (1) significance of registration under Article 66-27 of the Act;
- (2) the following matters regarding a person for whom credit rating was made:
 - (a) the name or trade name;
 - (b) in the case of a juridical person (including an organization, other than a juridical person, having the provisions of a representative or manager), the name of an officer (in the case of an organization, other than a juridical person, having the provisions of a representative or manager, its representative or manager);
 - (c) the name and location of the principal business office or other principal office;
- (3) the outline of the policy and method used by a person making credit rating for making such credit rating;
- (4) assumption, significance and limitation of credit rating.

116-3.2 Notwithstanding the provisions of Article 116-3.1, with respect to credit rating made by a connected juridical person of a credit rating firm (which means a connected juridical person as defined in Article 295.3 (10); hereinafter in Article 116-3.2, the same) which is a person designated by the Commissioner of the Financial Services Agency for a specified effective period considering the type of business and manner of operations of credit rating business, state of publication of information of credit rating and other circumstances of a connected juridical person of such credit rating firm (hereinafter in Article 116-3.2, such person is referred to as "specific connected juridical person"), matters prescribed by the Cabinet Office Ordinance as provided in Article 38 (3) of the Act shall be:

- (1) significance of registration under Article 66-27 of the Act;
- (2) the name or trade name and registration number of such credit rating firm;
- (3) the referring name used by such specific connected juridical person to show credit rating business;
- (4) the outline of policies and methods used by a specific connected juridical person who has made credit rating for the purpose of making such credit rating or methods to obtain information of such outline from such credit rating firm;
- (5) assumption, significance and limitation of credit rating.

Article 117. — Prohibited Acts

117.1. Acts prescribed by the Cabinet Office Ordinance as provided in Article 38 (7) of the Act shall be the following acts:

- (1) an act to enter into a financial instruments transaction contract without explanation to the customer by methods and to the extent necessary for a customer (excluding a specific investor

(excluding a person who is deemed to be a customer other than a specific investor pursuant to the provisions of Article 34-2.5 of the Act and including a person who is deemed to be a specific investor pursuant to the provisions of Article 34-3.4 (including the *mutatis mutandis* application under Article 34-4.6 of the Act) of the Act; hereinafter the same); hereinafter in (1), the same) to understand the matters referred to in (3) to (7) of Article 37-3.1 of the Act (in the case of furnishing the written statement referred to in (d), matters stated in the written statement and related to the matters referred to in (3) to (7) of said Article 37-3.1) in furnishing the following written statements in light of knowledge, experience and financial resource of the customer and the purpose to enter into a financial instruments transaction contract:

- (a) a written statement prior to transaction;
 - (b) a listed security, etc. statement;
 - (c) a prospectus provided in (3) of Article 82.1 in the case referred to in said (3) (in the case where there is a written statement furnished as a unit with such prospectus pursuant to the provisions of said (3), such prospectus and such written statement);
 - (d) a contract change statement;
- (2) an act to make a false representation or a representation that will likely give a false impression on important matters regarding entering into a financial instruments transaction contract or solicitation therefor;
 - (3) an act to make a promise to a customer or a person designated by the customer to offer a special profit, or to offer a special profit to a customer or a third party (including an act to cause a third party to make a promise to offer a special profit or cause a third party to offer a special profit) regarding a financial instruments transaction contract;
 - (4) an act to employment of deception, violence or duress in entering into or cancellation of a financial instruments transaction contract;
 - (5) refusing or taking unreasonably long time for the performance of a financial instruments transactions act under a financial instruments transaction contract or performance of, in whole or in part, other obligations under a financial instruments transaction contract;
 - (6) an act to acquire money, securities or other property or customer margin or other guarantee money which belong to customers' account under a financial instruments transaction contract by falsifying market prices or through other unlawful means;
 - (7) an act to solicit a customer to enter into or cancel a financial instruments transaction contract (in the case where such financial instruments transaction contract is concerned with purchase or sale or other type of transaction of a mortgage security, etc. or commodity fund related beneficial interest and a contract other than or the contracts referred to in Article 16-4.1 (1) or the items of Article 16-4.2 of the Order, such customer is limited to an individual) by telephoning or visit at a time that the customer feels annoyed;
 - (8) gathering customers (excluding a specific investor) without, in advance, informing that the financial instruments firm will solicit to enter into a financial instruments transaction contract (excluding a financial instruments transaction contract for the transactions referred to in (a) and (b) of Article 116.1 (3)) provided in Article 38 (4) of the Act and solicit such customers to enter into such financial instruments transaction contract;
 - (9) an act, in respect of entering into a financial instruments transaction contract (excluding a financial instruments transaction contract for the transactions referred to in (a) and (b) of Article 116.1 (3)) provided in Article 38 (6) of the Act, to solicit a customer (excluding a specific investor) to enter into such financial instruments transaction contract despite the customer's showing of the intent that the customer does not want to enter into such financial instruments transaction contract (including the intent that the customer does not want such solicitation of such financial instruments transaction contract);
 - (10) an act that a financial instruments firm, etc. accepts an order placement, etc. (which means an order placement, etc. as defined in Article 44 (1) of the Act; hereinafter the same) for purchase or sale of a security or market derivatives transaction or foreign market derivatives transaction from a customer, and, prior to concluding purchase or sale or transaction for such order placement, etc. and for the purpose of concluding purchase or sale of the same issue name of a security as the first-mentioned security or a transaction identical to the market derivatives transaction or the foreign market derivatives transaction for its house account, conduct purchase or sale of a security or market derivatives transaction or foreign market transaction (including a transaction conducted based on a discretionary trading contract (limited to a contract for purchase or sale of a security or market derivatives transaction or foreign market derivatives transaction; hereinafter referred to as "discretionary trading contract") as defined in Article 16.1.1 (8) (b) of the Cabinet Office Ordinance on Definition as Provided in Article 2 of the Financial Instruments and Exchange Act) at the price (in the case of a market derivatives

- transaction or foreign market derivatives transaction, a matter equivalent thereto; hereinafter in (9), the same) equivalent to or favorable compared with the price of the order placement, etc. for purchase or sale of a security or market derivatives transaction or foreign market derivatives transaction placed by the customer;
- (11) an act to conduct purchase or sale or other type of transaction or derivatives transaction, etc. of a security (excluding security, etc. clearing broking) for a customer's account without obtaining the customer's consent;
 - (12) an act that a financial instruments firm which is an individual or an officer (in the case where an officer is a juridical person, including a partner to perform the duty of an officer) or employee of a financial instruments firm, etc. uses its responsibility to conduct purchase or sale or other type of transaction, etc. of a security based on information of customers' behavior regarding orders for purchase or sale or other type of transaction, etc. of a security placed by a customer or other special information obtained in the course of carrying out the duties or for the purpose of seeking speculative profit entirely;
 - (13) an act to conduct acceptance, etc. of an order for purchase or sale or other type of transaction, etc. of a security despite knowing that such purchase or sale or other type of transaction, etc. of a security conducted by a customer violates or likely violate the provisions of Article 166.1 or 166.3 of the Act or Article 167.1 or 167.3 of the Act;
 - (14) an act, in respect of purchase or sale or other type of transaction of a security or derivatives transaction related to a security or acting as an intermediary, broker or agent therefor, to solicit by furnishing a customer with corporate related information of the issuer of the security;
 - (15) an act, in respect of public offer (limited to public offer of a security issued by a listed corporation, etc. as defined in Article 163.1 of the Act) as provided in Article 166.2 (1) (a) of the Act, to furnish, in the case of conducting research regarding the estimate of investors' demand for a security subject to the public offer, the object person of such research (hereinafter in (15), referred to as "research object person") or, in the case where a third party is commissioned to or is furnished corporate related information subject to such public offer and to conduct such research, such third party with such corporate related information subject to such public offer without taking measures provided in each of the following (a) or (b) according to the classification of the case referred to in such (a) or (b):
 - (a) the case where a financial instruments firm, etc. conducts such research — the following measures:
 - (i) an approval has been granted in advance for appropriateness of conducting such research, the research object person and the details of corporate related information furnished to the research object person and the timing and method of such furnishing from a division responsible for compliance with laws and regulations, etc. (which means judgment whether a financial instruments firm, etc. carries out the business in compliance with, or ensuring an officer or employee to comply with, the laws and regulations, etc. (which mean the laws and regulations (including foreign laws and regulations), administrative disposition under the laws and regulations (including similar disposition under foreign laws and regulations) or the articles of incorporation or other rules of a financial instruments firms association or a financial instruments exchange (including the articles of incorporation or other rules of an association or exchange, equivalent to such financial instruments firms association or financial instruments exchange, under foreign laws or regulations); hereinafter in (15), Article 153.1 (7) (h) and Article 154 (4) (h), the same); in (b) (i), the same);
 - (ii) the research object person has agreed not to conduct purchase or sale or other assignment or acquisition by assignment for value or derivatives transaction of specific security, etc. as defined in Article 163.1 of the Act issued by the listed corporation, etc. for the period until such corporate related information or such public offer has been published or a notice that such public offer is not made after such research has been given by a financial instruments, firm, etc. (hereinafter in (15), referred to as "purchase or sale, etc. of specific security, etc.") (excluding the cases referred to in (1) to (6) and (8) of Article 166.6 of the Act and the case where purchase or sale, etc. of specific security, etc. is conducted at a place other than on-exchange financial instruments market or over-the-counter traded security market between persons to whom such corporate related information has been furnished pursuant to the provisions of (15); hereinafter in (15), the same), and not to furnish a person other than the research object person with such corporate related information (excluding the case where the research object person is a person to whom such corporate related information is requisite for carrying out business in connection with such research and the corporate related information is furnished to a person who has obligation not to conduct purchase or sale, etc. of specific security, etc. or obligation

- not to disclose the corporate related information pursuant to a contract with the research object person or in the case of furnishing based on the laws or regulations, etc.);
- (iii) measures necessary for preparing a written statement containing the name of a person, in the financial instruments, firm, etc., responsible for operation of the research and a person who has actually conducted operation of the research, the name and address of the research object person and the details of corporate related information furnished to the research object person and the date and time and method of such furnishing and keeping the written statement for 5 years after the preparation have been taken;
 - (b) the case where a third party is commissioned to or is furnished corporate related information in connection with such public offer to conduct the research — the following measures:
 - (i) an approval has been granted in advance for appropriateness of conducting such research, the third party, the research object person and the details of corporate related information furnished to the third party and the research object person and the timing and method of such furnishing from a division responsible for compliance with laws and regulations, etc.;
 - (ii) the third party has agreed in advance not to conduct purchase or sale of specific security, etc. and not to furnish such corporate related information to a person other than the research object person (excluding the case where the corporate related information is furnished to a person for whom such corporate related information is requisite for the purpose that the third party carries out such research or carries out business in connection with such public offer on commission from such listed company, etc. or financial instruments firm, etc. and who has obligation not to conduct purchase or sale, etc. of specific security, etc. and obligation not to disclose the corporate related information pursuant to a contract with the third party or in the case of furnishing based on the laws or regulations);
 - (iii) measures necessary for preparing a written statement containing the name of a person, in the financial instruments, firm, etc., responsible for operation of the research and a person who has actually conducted operation of the such commissioning or furnishing of corporate related information to the third party, the name and address of the third party and the details of corporate related information furnished to the third party and the date and time and method of such furnishing and keeping the written statement for 5 years after the preparation have been taken;
 - (iv) measures necessary to prevent such third party from conducting such research without taking measures equivalent to the measures referred to in (a) (ii) and (a) (iii) have been taken;
 - (16) an act (limited to an act conducted by a financial instruments firm (limited to a person carrying out the first-type financial instruments business) carrying out security related business or its officer or employee and including an act to conduct such transaction based on a discretionary trading contract) to conduct purchase or sale or other type of transaction, etc. of a security (in the case where such purchase or other type of transaction, etc. of a security is purchase or sale of a security, excluding purchase or sale of a security concluded when an option (including a right similar to an option which is concerned with a transaction similar to Article 28.8 (3) (c) (i) of the Act among foreign market derivatives transactions) has been exercised) in connection with corporate related information for its house account based on such corporate related information;
 - (17) an act to solicit unspecified and many customers, concurrently and excessively, continuously for a certain period to conduct purchase or sale or derivatives transaction of a specific and small number of issue names of securities or to make an order placement, etc. therefor (including an act to cause a registered financial institution commissioning financial instruments intermediary business or a financial instruments intermediary firm to solicit; in (18), the same), which likely fail to form fair prices (in the case of market derivatives transaction, matters equivalent to prices);
 - (18) an act to solicit unspecified and many customers, concurrently and excessively and continuously for a certain period to conduct purchase or sale or derivatives transaction of a security or to make an order placement, etc. therefor using movements of prices, indices, values or amounts of consideration reflected by a customer's transactions or for the purpose of generating profit of its own or a third party other than the first-mentioned customer;
 - (19) an act, with the intent to move, peg, fix or stabilize market prices or value computed based on market prices or trading volume of or increase trading volume of a listed financial instrument, etc. (which means a financial instrument, financial index or option listed by a financial instruments exchange; hereinafter the same) on an on-exchange financial instruments market or over-the-counter traded security on an over-the-counter traded security market, to conduct

- purchase or sale or derivatives transaction of the listed financial instruments, etc. or over-the-counter traded security or make an offer therefor or make an order placement, etc. therefor;
- (20) an act, despite knowing that moving, pegging, fixing or stabilizing market prices or value computed based on market prices or trading volume of or increase trading volume of a listed financial instrument, etc. on an on-exchange financial instruments market or over-the-counter traded security on an over-the-counter traded security market will form prices artificial which do not reflect the real market price, to make acceptance, etc. of orders for conducting purchase or sale or derivatives transaction (excluding security, etc. clearing broking) of the listed financial instruments, etc. or over-the-counter traded security;
- (21) in the case of entering into a contract that, in respect of purchase or sale or derivatives transactions of a security or acceptance, etc. of orders therefor, after obtaining a consent for the total amount of funds from a customer, matters to which a customer does not give a consent among the distinction of purchase or sale, issue name, volume and prices (in the case of derivatives transaction, matters equivalent thereto) are determined by processing of a computer or other prefixed method in the event of occurrence of a specified event and a financial instruments firm, etc. shall conduct transactions in accordance therewith, failure to enter into such contract in writing (excluding the case of entering into by the method using an electronic data processing and network system or other method using information technology);
- (22) the following acts performed by any of the financial instrument firm referred to in the items of Article 20.2 of the Order regarding purchase during the stabilization period provided in Article 24.1 (1) (a) of the Order for a share certificate (share certificate or share warrant certificate representing share warrants to issue or transfer share certificate at the current market price or at a specified price close to the current market price (hereinafter in (22), (23) and Article 231.1 (8), referred to as "current market price share warrant certificate") in the case of public offer (limited to the case of public offer to more than 49 counterparties; hereinafter in (22), the same) or public sale (excluding public sale to more than 49 counterparties; hereinafter in (22), the same) or solicitation of subscription to specific investors (limited to solicitation of subscription to more than 49 specific investors; hereinafter in (22), the same) or solicitation of sale, etc. (limited to solicitation of sale, etc. to more than 49 counterparties; hereinafter in (22), the same) to specific investors of a current market price share warrant certificate, and share certificate or corporate debt security carrying current market price share warrants (hereinafter in (22), (23) and Article 231.1 (8), referred to as "corporate debt security carrying current market price share warrant") in the case of public offer or public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors of a corporate debt security carrying current market price share warrant), preferred capital contribution certificate or investment certificate (which means a investment certificate as defined in Article 2.15 of the Law on Investment Trust and Investment Corporation; hereinafter the same) issued by the issuer of a security (excluding share warrant certificate or corporate debt security other than current market price share warrant certificate or corporate debt security carrying current market price share warrant and preferred capital contribution certificate other than preferred capital contribution certificate issued at the current market price or a specified price close to the current market price) subject to public offer or public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors under each item of Article 20.2 of the Order, which are listed on a financial instruments exchange or to which over-the-counter traded security is applicable:
- (a) an act to make a purchase (excluding purchase by purchase or sale transaction of a security concluded in the case where a right acquired or granted by security related derivatives transaction (limited to the transaction referred to in (3) (c) of Article 28.8 of the Act (limited to a transaction related to (3) (c) (i) of said Article 28.8) or (4) (c) of said Article 28.8 (limited to a transaction related to (4) (c) (i) of said Article 28.8); hereinafter in (22), the same) has been exercised, purchase, etc. provided in Article 6-2.1 (15) of the Order (limited to purchase), stabilization transaction as defined in Article 20.1 of the Order conducted in accordance with the provisions of Articles 20 to 25 of the Order (hereinafter, excluding (c), referred to as "stabilization transaction"), purchase necessary to promote smooth trade of a security on an on-exchange financial instruments market operated by the financial instruments exchange and purchase, which is determined not to be based on investment judgment for individual issue name, pursuant to the rules of a financial instruments exchange (limited to rules approved by the Commissioner of the Financial Services Agency under the provisions of Article 149.1 of the Act) and purchase necessary to promote smoothness of trade of an over-the-counter traded security registered by an approved financial instruments firms association pursuant to the rules of the approved financial instruments firms association (limited to rules approved by the

- Commissioner of the Financial Services Agency under the provisions of Article 67-12 of the Act) and purchase which is determined not to be based on individual judgment for individual issue name) for its house account;
- (b) an act to make an order placement, etc. (excluding placing an order for security, etc. clearing broking (excluding placing an order for security, etc. clearing broking in connection with purchase for its house account)) for purchase with an other financial instruments firm, etc.;
 - (c) an act to conduct acceptance, etc. of an order (excluding acceptance of an order for security, etc. clearing broking) for purchase of a share certificate for the account of a corporation which is the issuer of a security subject to stabilization transaction provided in Article 20.1 of the Order;
 - (d) an act to conduct acceptance, etc. of an order (excluding acceptance of an order for security, etc. clearing broking, purchase by purchase or sale of a security concluded in the case where a right acquired or granted by securities related derivatives transactions has been exercised and acceptance, etc. of an order for stabilization transaction) for purchase for the account of the persons referred to in the items of Article 20.3 of the Order;
 - (e) an act to make a purchase based on a discretionary trading contract (excluding purchase by purchase or sale transaction of a security concluded in the case where a right acquired or granted by security related derivatives transaction has been exercised, purchase necessary to promote smooth trade of a security on an on-exchange financial instruments market operated by the financial instruments exchange and purchase, which is determined not to be based on investment judgment for individual issue name, pursuant to the rules of a financial instruments exchange (limited to rules approved by the Commissioner of the Financial Services Agency under the provisions of Article 149.1 of the Act) and purchase necessary to promote smoothness of trade of an over-the-counter traded security registered by an approved financial instruments firms association pursuant to the rules of the approved financial instruments firms association (limited to rules approved by the Commissioner of the Financial Services Agency under the provisions of Article 67-12 of the Act) and purchase which is determined not to be based on individual judgment for individual issue name);
- (23) an act that a financial instruments firm which has conducted stabilization transactions or acceptance, etc. of an order therefor (excluding acceptance of an order for security, etc. clearing broking) conducts, during the period from the time of the first stabilization transaction until the end of the period under (22), without representing that stabilization transactions have been conducted for a security subject to such stabilization transaction, acceptance, etc. of an order for purchase, or sale (excluding acceptance, etc. of an order for purchase from a financial instruments firm, etc., sale to a financial instruments firm, etc. and security, etc. clearing broking in connection with sale), of a share certificate, current market price share warrant certificate, corporate debt security carrying current market price share warrant, preferred capital contribution certificate or investment certificate issued by an issuer of such security or acceptance, etc. of an order (excluding acceptance, etc. of an order from a financial instruments firm, etc.) for securities related derivatives transactions (limited to acquisition of a call or granting a put) for purchase or sale of such security;
- (24) an act, in the case where a financial instruments firm, etc. has conducted purchase or sale (including purchase or sale for a discretionary trading contract) for its house account opposite to a customer's margin transaction and concluded the purchase or sale by a method without delivery of money or security, to conduct purchase or sale opposite to the first-mentioned purchase or sale in order to settle unsettled account of the first-mentioned purchase or sale;
- (24-2) an act to conduct short selling or act as a broker for an order for such short selling without confirming with the supplier of securities subject to settlement measures as defined in Article 26-2-2.1 of the Order (in (24-3), Articles 157.1 and 158-2, referred to as "settlement measures");
- (24-3) an act to agree lending of securities as settlement measures without owning, borrowing or taking measures to borrow such securities in advance;
- (24-4) an act to accept an order of sale of securities (limited to securities designated by the Commissioner of the Financial Services Agency provided in Article 26-2-2.1 of the Order (including the *mutatis mutandis* application under Article 26-2-2.6 of the Order)) or accept an order for, or accept offering of acting as a broker for an order of the sale of such securities without owning, borrowing or taking measures to borrow such securities subject to general margin transactions (which mean margin transactions other than transactions in which money or securities necessary to settle margin transactions can be borrowed through the clearing system of an on-exchange financial instruments market operated by a financial instruments exchange or an over-the-counter traded security market operated by an approved financial instruments firms association);
- (24-5) an act to clarify to a financial instruments exchange or approved financial instruments firms association or a member, etc. of a financial instruments exchange or a member of an

approved financial instruments firms association that sale of securities (limited to securities which are not deposited; hereinafter in (24-5), the same) is not short selling, without confirming with the counterparty who has placed an order or offered to act as a broker for such order of sale of such securities the method to keep securities so sold in custody (in the case any of the transactions under the items of Article 10 (excluding (1) to (5) and (17)) or items of Article 11 (excluding (1) to (3)) of the Cabinet Office Ordinance on Regulations of Securities Trading, etc. (Cabinet Office Ordinance No. 59 of 2007; in Article 158-3, referred to as "Trading, etc. Regulations Ordinance") is applicable to such sale, an act to make such sale or act as a broker for an order of such sale without confirming the method to keep securities subject such transaction in custody);

(25) in the case of performing any of the acts referred to in (1) to (3) of Article 2.8 of the Act (excluding purchase of such beneficial interest certificate, acting as an intermediary, broker or agent for sale of such beneficial interest certificate and acting as an intermediary, broker or agent for sale of such beneficial interest certificate on an on-exchange financial instruments market or foreign financial instruments market) and the acts referred to in Article 2.8 (9) of the Act, without explaining a customer (excluding a specific investor) that, or without furnishing a customer (excluding a specific investor) with a written statement containing that the following documents related to a security (in Article 275, referred to as "foreign corporation report, etc.") is written in English (excluding the case where such explanation has been made, and furnished, to such customer within one year prior to the day of performing such act or the case where a registered financial institution commissioning financial instruments intermediary business or financial instruments intermediary firm has made such explanation to the customer and furnished such written statement):

(a) a foreign corporation report provided in Article 24.8 of the Act (including the *mutatis mutandis* application under Article 27 of the Act);

(b) a foreign corporation quarterly report provided in Article 24-4-7.6 of the Act (including the *mutatis mutandis* application under Article 27 of the Act);

(c) a foreign corporation interim report provided in Article 24-5.7 of the Act (including the *mutatis mutandis* application under Article 27 of the Act);

(d) a foreign corporation acknowledgment provided in Article 1 (18-4) of the Cabinet Office Ordinance on Corporate Disclosure (Ministry of Finance Ordinance No. 5 of 1973);

(e) a foreign corporation internal control report provided in Article 2 (3-2) of the Cabinet Office Ordinance on System to Ensure Appropriateness of Account Documents and Other Information (Cabinet Office Ordinance No. 62 of 2007);

(f) documents to amend the documents referred to in (a) to (e) written in English;

(g) a foreign parent corporation, etc. report provided in Article 19-4.2 of the Cabinet Office Ordinance on Corporate Disclosure;

(26) an act, in respect of over-the-counter derivatives transactions or acceptance, etc. of an order therefor (limited to those for transactions for which margins or other guarantee money are deposited), to solicit a customer (excluding a specific investor and, in the case where such over-the-counter derivatives transactions are transactions other than over-the-counter financial futures transactions, limited to an individual) to conduct transactions opposite to the customer's purchase or sale or other transaction equivalent thereto of over-the-counter derivatives transactions (such transactions opposite means transactions to reduce loss which may arise from such purchase or sale or other transactions) or act similar thereto;

(27) in the case where the amount of margins, etc. (which mean customer margins or other guarantee money; in (28) and Articles 117.3 to 117.5, the same) deposited by a customer (limited to an individual (excluding, in the case where a business operation association member, etc. meeting the requirement referred to in (24) (b) (i) of Article 10.1 of the Cabinet Office Ordinance on Definitions Provided in Article 2 of the Financial Instruments and Exchange Act (which means a business operation association member, etc. as defined in (23) of said Article 10.1; hereinafter in (27), the same) conducts currency related derivatives transactions as a business operation association member, etc., such business operation association member, etc.); hereinafter in (27), (28) and Articles 117.6 to 117.9, the same) with a margin, etc. depository (which means a financial instruments firm, etc. or financial instruments exchange or financial instruments clearing organization (including an organization equivalent thereto in a foreign jurisdiction); hereinafter in (27) and (28), the same) net of the amount of profits for the customer if such currency related derivatives transactions is closed (in (28) and Article 117.6, referred to as "net amount on deposit") is short of the amount of initial margins at the time of entering into a contract for a currency related derivatives transaction (which means a currency related derivatives transaction as defined in Article 123.1 (21-2) and excludes such transaction conducted for the purpose of closing open positions; hereinafter in (27), (28) and Articles 117.4

- and 117.6 to 117.10, the same), an act to continue to keep such contract without requiring such customer to deposit the amount of such shortage with the margin, etc. depository immediately after entering into such contract;
- (28) in the case where the net amount on deposit of margins, etc. in respect of a currency related derivatives transaction as at a fixed time each business day is short of the amount of maintenance margins, an act to continue to keep a contract for a currency related derivatives transaction without requiring a customer for the currency related derivatives transaction to deposit the amount of such shortage with the margins, etc. depository (excluding the act referred to in (27));
- (29) in the case where, at the time to enter into a contract for securities related over-the-counter derivatives transactions (which mean the following transactions and exclude transactions for the purpose of settlement; hereinafter in (29), Article 117.16 and 117.18, the same), the amount of margins, etc. (which means customer margins and other guarantee money; in (30) and Article 117.13 to 117.15, the same) deposited by a customer (limited to an individual (excluding an executive member, etc. of an association (which means executive member, etc. of an association as defined in (23) of Article 10.1 of the Cabinet Office Ordinance of Definitions as Provided in Article 2 of the Financial Instruments and Exchange Act; hereinafter in (29), the same) meeting the requirement referred to in (24) (b) (i) of said Article 10.1 in the case where such executive member, etc. of an association conducts securities related over-the-counter derivatives transactions as an executive member, etc. of an association); hereinafter in (29), (30) and Article 117.16 to 117.19, the same) with a margin, etc. depository (including a financial instruments firm, etc. or financial instruments clearing organization (including its equivalent in a foreign jurisdiction); hereinafter in (29) and (30), the same) plus the amount of profits arising from the settlement of such securities related over-the-counter derivatives transactions for the customer or less the amount of losses arising from the settlement of such securities related over-the-counter derivatives transactions for the customer (in (30) and Article 117.16, referred to as "net amount on deposit" is short of initial margins, an act to continue such contract without requiring such customer to deposit the shortage with the margin, etc. depository immediately after entering into such contract;
- (a) transactions referred to in (4) (a) of Article 28.8 of the Act (excluding transactions in which a customer agrees to sell securities owned by the customer at a specified future time and lend such securities to the financial instruments firm, etc. which is the counterparty of such sale);
- (b) transactions referred to in (4) (b) of Article 28.8 of the Act;
- (c) transactions referred to in (4) (c) of Article 28.8 of the Act (limited to transactions in which transactions concluded as a result of the exercise of a right provided in said (4) (c) are transactions referred to in (4) (a) or (4) (b) of said Article 28.8 or transactions referred to in (4) (c) (i) of said Article 28.8 (excluding transactions in which a customer grant a right to conclude purchase of securities owned by the customer to a financial instruments firm, etc. and lend such securities to such financial instruments firm, etc.);
- (30) in the case where the net amount on deposit of margins, etc. for securities related over-the-counter derivatives transactions is short of maintenance margins at a specified time on each business day, an act to continue the contract for such securities related over-the-counter derivatives transactions without immediately requiring such customer of such securities related over-the-counter derivatives transactions to deposit such shortage with the margin, etc. depository (excluding the act referred to in (29));
- (31) any of the act referred to in Article 2.11 (1) of the Act, in the case where a commissioning financial instruments firm becomes an underwriter of a security (excluding the security referred to in Article 33.2 (1) of the Act and the security referred to in (17) of Article 2.1 of the Act, which have the nature of (1) and (2) of said Article 2.1) issued by a person having liabilities related to borrowing from a parent corporation, etc. or subsidiary corporation, etc. of such commissioning financial instruments firm for such security without, despite the fact that a registered financial institution or its offer (including a partner responsible for such duty if such officer is a juridical person) or employee know that the proceeds in connection with such security is used for the repayment of liabilities related to such borrowing, informing the fact to a customer (such act is limited to an act to sell such security during the period from the day on which such commissioning financial instruments firm which has made underwriting of such security has become an underwriter until the day on which six months has passed therefrom) or the act referred to in Article 2.11 (3) of the Act (excluding the case where explanation has been made to a customer of the fact provided in Article 150 (4) (limited to the fact related to Article 150 (4) (a));
- (32) an act to conduct purchase or sale or other type of transaction of a mortgage security, etc. by means other than endorsement.

117.2. The provisions of (19) and (20) of Article 117.1 shall not apply, in the case where a series of purchase or sale, etc. of a security (which means purchase or sale, etc. of a security as defined in Article 159.2 of the Act; hereinafter in Articles 117.2, 231.2 and 275.3, the same) are conducted on an on-exchange financial instruments market or over-the-counter traded security market for the purpose of facilitating public offer (limited to public offer to more than 49 persons) solicitation of subscription to specific investors (limited to solicitation of subscription to more than 49 persons) of a security or public sale (limited to public sale to more than 49 counterparties) or solicitation of sale, etc. to specific investors of a security (limited to solicitation of sale, etc. to more than 49 persons), to such series of purchase or sale, etc. of a security or making an order placement, etc. therefor.

117.3. Margins, etc. under (27) and (28) of Article 117.1 may be deposited in the form of securities.

117.4. The value for securities used pursuant to the provisions of Article 117.1 for the whole or part of margins, etc. required to be deposited with a financial instruments firm, etc. shall be the amount provided in each of the following items according to the classification of the currency related derivatives transaction referred to in such item:

- (1) currency related market derivatives transaction as defined in Article 123.3 — the amount provided in Article 68.2 of the Cabinet Office Ordinance on Financial Instruments Exchange, etc. (Cabinet Office Ordinance No. 54 of 2007); or
- (2) currency related over-the-counter derivatives transaction as defined in Article 123.4 or currency related foreign market derivatives transaction as defined in Article 123.5 — the amount provided in Article 68.2 of the Cabinet Office Ordinance on Financial Instruments Exchange, etc. at one of financial instruments exchanges.

117.5. If the whole or part of margins, etc. under (27) or (28) of Article 117.1 is deposited by corporate debt securities, etc. provided in Article 2.1 of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc. and dealt by a transfer agency provided in Article 2.2 of said Law pursuant to the provisions of Article 117.3 (hereinafter in Article 117.5, referred to as "book transfer corporate debt security, etc.") and entries or recording of such book transfer corporate debt security, etc. in such holding column is made in a holding column (which means a holding column as defined in said Law) at the account of the financial instruments firm, etc., such entries or recording in such holding column shall be made separate from a column for transactions of the financial instruments firm, etc.

117.6. The net amount on deposit under (27) or (28) of Article 117.1, the amount of initial margins under (27) of Article 117.1 and the amount of maintenance margins under (28) of Article 117.1 may be calculated by combining more than one currency related derivatives transactions for each customer: For this purpose, in applying the provisions of (27) of Article 117.1, "such currency related derivatives transaction" in said (27) shall be read as "currency related derivatives transactions conducted by the customer."

117.7. "Amount of initial margins" under (27) of Article 117.1 and Article 117.6 shall mean the amount obtained from multiplying the amount provided in each of the following items according to the classification of the case referred to in such item by 4/100 or the amount after properly reflecting the movement of foreign exchange rates to such amount obtained from multiplying:

- (1) the case to compute such amount for each of currency related derivatives transactions that a customer conducts — the amount of such currency related derivatives transactions (in the case where such currency related derivatives transactions are the following transactions, zero; in Article 117.8 (1), the same):
 - (a) the transaction referred to in Article 2.21 (3) (limited a transaction which causes a customer to become a party to acquire an option);
 - (b) the transaction referred to in Article 2.22 (3) (limited a transaction which causes a customer to become a party to acquire an option); or
 - (c) a foreign market derivatives transaction similar to the transaction referred to in (a);
- (2) the case to compute such amount by combining currency related derivatives transactions that a customer wishes to conduct and other currency related derivatives transactions conducted at the time of entering into a contract for such currency related derivatives transactions — the amount obtained from reducing the amount of currency related derivatives transactions for the transactions referred to in (a) to (c) of (1) from the total amount of the amounts of such currency related derivatives transactions.

117.8. "Amount of maintenance margins" under (28) of Article 117.1 and Article 117.6 shall mean the amount obtained from multiplying the amount provided in each of the following items according to the classification of the case referred to in such item by 4/100 or the amount after

properly reflecting the movement of foreign exchange rates to such amount obtained from multiplying:

- (1) the case to compute such amount for each of currency related derivatives transactions that a customer conducts — the amount of such currency related derivatives transactions;
- (2) the case to compute such amount by combining more than one currency related derivatives transactions — the amount obtained from reducing the amount of currency related derivatives transactions for the transactions referred to in (a) to (c) of Article 117.7 (1) from the total amount of the amounts of such more than one currency related derivatives transactions.

117.9. In the case referred to in (2) of Article 117.7 and (2) of Article 117.8, if a customer conducts sale, etc. of one currency against purchase, etc. of another currency and conducts sale, etc. of such other currency against purchase, etc. of such one currency, the larger of the amounts of such currency related derivatives transactions may be the amount of currency related derivatives transactions for such one currency or such other currency.

117.10. "Amount of currency related derivatives transaction" under Articles 117.7 to 117.9 shall mean the amount provided in each of the following items according to the classification of the currency related derivatives transaction in such item:

- (1) currency related derivatives transactions other than the following currency related derivatives transactions — the amount obtained from multiplying the price of currency or value of financial index for such currency related derivatives transactions by the number or volume of such transactions:
 - (a) the transaction referred to in Article 2.21 (3) of the Act;
 - (b) the transaction referred to in Article 2.22 (3) of the Act; or
 - (c) a foreign market derivatives transaction similar to the transaction referred to in (a);
- (2) the following currency related derivatives transactions — the amount obtained from multiplying the price of currency or value of financial index for such currency related derivatives transactions provided in each of the following items by the number or volume of the transactions according to the classification of the currency related derivatives transactions referred to in such item:
 - (a) the transaction referred to in Article 2.21 (3) of the Act — transaction referred to in (a) or (b) of said (3) concluded as a result of the exercise of the right provided in such (3);
 - (b) the transaction referred to in Article 2.22 (3) of the Act — transaction referred to in (a) or (b) of said (3) concluded as a result of the exercise of the right provided in such (3); or
 - (c) a foreign market derivatives transaction similar to the transaction referred to in (a) — transaction similar to the transaction provided in such (a);

117.11. "Sale, etc. of currency" under Articles 117.9 shall mean the following transactions:

- (1) sale of a currency;
- (2) the transaction referred to in Article 2.21 (2) of the Act (limited to a transaction which results in becoming a party to pay money if the actual value has exceeded the trade value);
- (3) the transaction referred to in Article 2.22 (2) of the Act (limited to a transaction which results in becoming a party to pay money if the actual value has exceeded the trade value);
- (4) foreign market derivatives transactions (limited to a transactions similar to the transaction referred to in (2)).

117.12. "Purchase, etc. of currency" under Articles 117.9 shall mean the following transactions:

- (1) purchase of a currency;
- (2) the transaction referred to in Article 2.21 (2) of the Act (limited to a transaction which results in becoming a party to receive money if the actual value has exceeded the trade value);
- (3) the transaction referred to in Article 2.22 (2) of the Act (limited to a transaction which results in becoming a party to receive money if the actual value has exceeded the trade value);
- (4) foreign market derivatives transactions (limited to a transactions similar to the transaction referred to in (2));

117.13. Margins, etc. under (29) and (30) of Article 117.1 may be deposited in the form of securities.

117.14. In the case where the whole or part of margins, etc. to be deposited with a financial instruments firm, etc. is deposited in the form of securities pursuant to the provisions of Article 117.13, the value of such securities shall be the amount provided in Article 68.2 of the Cabinet Office Ordinance on Financial Instruments Exchange, etc. at any one of financial instruments exchanges.

117.15. When the whole or part of margins, etc. under (29) or (30) of Article 117.1 are deposited in the form of corporate debt securities, etc. as defined in Article 2.1 of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc. which are treated by a book transfer organization as defined in Article 2.2 of said Law (hereinafter in Article 117.15, referred to as

"book transfer corporate debt security, etc.") pursuant to the provisions of Article 117.13 and such book transfer corporate debt securities, etc. are stated or recorded in the holding column (which means a holding column as defined in Article 69.2 (1) (a) of said Law (including the *mutatis mutandis* application under Articles 113, 115, 117, 118, 120, 121, 122, 124 and 127 of said Law)) at the account of a financial instruments firm, etc., such financial instruments firm, etc. shall separate such column from a column for transactions of such financial instruments firm, etc.

117.16. Net amount on deposit under (29) or (30) of Article 117.1, initial margins under (29) of Article 117.1 and maintenance margins under (30) of Article 117.1 may be computed in lump for each customer for securities related over-the-counter derivatives transactions provided in each of the following items according to the classification of securities related over-the-counter derivatives transactions referred to in such item. For the purpose of application of the provisions of (29) of Article 117.1, "such securities related over-the-counter derivatives transactions" and "or less" in said (29) shall be read as "securities related over-the-counter derivatives transactions conducted by such customer" and ", less":

- (1) individual stock related over-the-counter derivatives transactions (which means securities related over-the-counter derivatives transactions of share certificates (including the security referred to in Article 2.1 (17) of the Act having the nature of share certificates; in (2), the same) or transactions similar thereto; hereinafter in Article 117, the same) — more than one individual stock related over-the-counter derivatives transactions;
- (2) stock index related over-the-counter derivatives transactions (which means securities related over-the-counter derivatives transactions of the followings or transactions similar thereto; hereinafter in Article 117, the same) — more than one stock index stock related over-the-counter derivatives transactions:
 - (a) a stock index (which means the value computed based on prices of share certificates (limited to value representing comprehensive level of prices of many issue names) listed on a financial instruments exchange (including exchanges similar to a financial instruments exchange established under laws or regulations in a foreign jurisdiction; in (b), the same);
 - (b) an investment trust (limited to an investment trust having investment trust agreement (which means investment trust agreements as defined in Article 4.1 of the Act) listed on a financial instruments exchange providing that investment management is made in a manner that the rate of movement of net asset value for one unit of its investment trust properties (which means investment trust properties as defined in Article 3 (2) of the Law on Investment Trust and Investment Corporation) is linked with a stock index or beneficial interest certificate of foreign investment trust similar thereto;
- (3) debt security related over-the-counter derivatives transactions (which mean securities related over-the-counter derivatives transactions of any of the securities referred to in (1) to (5) of said Article 2.1 (including the security referred to in (17) of Article 2.1 of the Act) having the nature of the securities referred to in (1) to (5) of said Article 2.1) or an investment corporation debt security provided in the Law on Investment Trust and Investment Corporation or a foreign investment certificate similar to investment corporation debt security or transactions similar thereto; hereinafter in Article 117, the same) — more than one debt security related over-the-counter derivatives transactions;
- (4) other securities related over-the-counter derivatives transactions (which mean securities related over-the-counter derivatives transactions other than securities related over-the-counter derivatives transactions referred to in (1) to (3) above; hereinafter in Article 117, the same) — more than other securities related over-the-counter derivatives transactions;

117.17. "Initial margin" under (29) and Article 117.16 shall mean the amount provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case to compute such amount only for individual stock related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of such individual stock related over-the-counter derivatives transactions referred to in Article 28.8 (4) (c) of the Act, zero; in Article 117.18 (1), the same) (in the case where such individual stock related over-the-counter derivatives transactions are transactions (limited to transactions in which a customer becomes a counterparty to acquire an option) by 20/100;
- (2) the case to compute such amount only for stock index related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of such stock index related over-the-counter derivatives transactions (in the case where such stock index related over-the-counter derivatives transactions are transactions referred to in Article 28.8 (4) (c) of the Act, zero; in Article 117.18 (2), the same) (limited to transactions in which a customer becomes a counterparty to acquire an option) by 10/100;

- (3) the case to compute such amount only for debt security related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of such debt security related over-the-counter derivatives transactions (in the case where such debt security related over-the-counter derivatives transactions are transactions referred to in Article 28.8 (4) (c) of the Act, zero; in Article 117.18 (3), the same) (limited to transactions in which a customer becomes a counterparty to acquire an option) by 2/ 100;
 - (4) the case to compute such amount only for other securities related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of such other securities related over-the-counter derivatives transactions (in the case where such other securities related over-the-counter derivatives transactions are transactions referred to in Article 28.8 (4) (c) of the Act, zero; in Article 117.18 (4), the same) (limited to transactions in which a customer becomes a counterparty to acquire an option) by 20/ 100;
 - (5) the case to compute such amount for individual stock related over-the-counter derivatives transactions to be conducted by a customer and other individual stock related over-the-counter derivatives transactions conducted at the time of entering into a contract of the first-mentioned individual stock related over-the-counter derivatives transactions in a lump — the amount obtained from multiplying the total amount of such individual stock related over-the-counter derivatives transactions less the amount of individual stock related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 20/ 100;
 - (6) the case to compute such amount for stock index related over-the-counter derivatives transactions to be conducted by a customer and other stock index related over-the-counter derivatives transactions conducted at the time of entering into a contract of the first-mentioned stock index stock related over-the-counter derivatives transactions in a lump — the amount obtained from multiplying the total amount of such stock index stock related over-the-counter derivatives transactions less the amount of stock index related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 10/ 100;
 - (7) the case to compute such amount for debt security related over-the-counter derivatives transactions to be conducted by a customer and other debt security related over-the-counter derivatives transactions conducted at the time of entering into a contract of the first-mentioned debt security related over-the-counter derivatives transactions in a lump — the amount obtained from multiplying the total amount of such debt security related over-the-counter derivatives transactions less the amount of debt security related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 2/ 100;
 - (8) the case to compute such amount for other securities related over-the-counter derivatives transactions to be conducted by a customer and other securities related over-the-counter derivatives transactions conducted at the time of entering into a contract of the first-mentioned other securities related over-the-counter derivatives transactions in a lump — the amount obtained from multiplying the total amount of such other securities related over-the-counter derivatives transactions less the amount of other securities related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 20/ 100;
- 117.18. "Maintenance margin" under (30) of Article 117.1 and Article 117.16 shall be the amount provided in each of the following items (if such amount exceeds the amount of money necessary for the performance of liabilities absorbed by a customer regarding securities related over-the-counter derivatives transaction under each of such items, such amount of money) according to the classification of the case referred to in such item:
- (1) the case to compute such amount for each individual stock related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of each of such individual stock related over-the-counter derivatives transactions by 20/ 100;
 - (2) the case to compute such amount for each stock index related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of each of such stock index related over-the-counter derivatives transactions by 10/ 100;
 - (3) the case to compute such amount for each debt security related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of each of such debt security related over-the-counter derivatives

transactions by 2/ 100;

- (4) the case to compute such amount for each other securities related over-the-counter derivatives transactions to be conducted by a customer — the amount obtained from multiplying the amount of such other securities related over-the-counter derivatives transactions by 20/ 100;
- (5) the case to compute such amount for multiple individual stock related over-the-counter derivatives transactions to be conducted by a customer and other individual stock related over-the-counter derivatives transactions conducted at the time of entering into a contract of the first-mentioned individual stock related over-the-counter derivatives transactions in a lump — the amount obtained from multiplying the total of the amounts of such multiple individual stock related over-the-counter derivatives transactions less the amount of individual stock related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 20/ 100;
- (6) the case to compute such amount for multiple stock index related over-the-counter derivatives transactions multiplying the total of the amounts of such multiple stock index stock related over-the-counter derivatives transactions less the amount of stock index related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 10/ 100;
- (7) the case to compute such amount for multiple debt security related over-the-counter derivatives transactions in a lump — the amount obtained from multiplying the total of the amounts of such multiple debt security related over-the-counter derivatives transactions less the amount of debt security related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 2/ 100;
- (8) the case to compute such amount for multiple other securities related over-the-counter derivatives transactions in a lump — the amount obtained from multiplying the total of the amounts of such multiple other securities related over-the-counter derivatives transactions less the amount of other securities related over-the-counter derivatives transactions for the transactions referred to in Article 28.8 (4) (c) of the Act (limited to transactions in which a customer becomes a counterparty to acquire an option) by 20/ 100.

117.19. In the cases referred to in (5) to (8) of Article 117.17 or (5) to (8) of Article 117.18 where a customer makes sale, etc. of a security and purchase, etc. of a security for the same security or security index (which means a security index as defined in Article 2.8 (11) (a) of the Act; hereinafter in Articles 117.19 and 117.20, the same), the largest amount among the amount of individual stock related over-the-counter derivatives transactions, the amount of stock index related over-the-counter derivatives transactions, the amount of debt security related over-the-counter derivatives transactions and the amount of other securities related over-the-counter derivatives transactions may be the amount of individual stock related over-the-counter derivatives transactions, the amount of stock index related over-the-counter derivatives transactions, the amount of debt security related over-the-counter derivatives transactions or the amount of other securities related over-the-counter derivatives transactions for such same securities or securities index.

117.20. "The amount of individual stock related over-the-counter derivatives transactions," "the amount of stock index related over-the-counter derivatives transactions," "the amount of debt security related over-the-counter derivatives transactions" or "the amount of other securities related over-the-counter derivatives transactions" under Articles 117.17, 117.18 and 117.19 shall mean the amount provided in each of the following items according to the classification of the amount of individual stock related over-the-counter derivatives transactions, the amount of stock index related over-the-counter derivatives transactions, the amount of debt security related over-the-counter derivatives transactions or the amount of other securities related over-the-counter derivatives transactions referred to in such item:

- (1) individual stock related over-the-counter derivatives transactions, stock index related over-the-counter derivatives transactions, debt security related over-the-counter derivatives transactions or other securities related over-the-counter derivatives transactions other than the transactions referred to in Article 28.8 (4) (c) of the Act — the amount obtained from multiplying the prices of underlying securities or, values of underlying securities index, of such individual stock related over-the-counter derivatives transactions, stock index related over-the-counter derivatives transactions, debt security related over-the-counter derivatives

transactions or other securities related over-the-counter derivatives transactions by the number or volume of such transactions;

- (2) the transactions referred to in (4) (c) of Article 28.8 of the Act — the amount obtained from multiplying the prices of underlying securities, or values of underlying securities index, of the transactions referred to in (c) (i) or (c) (ii) of said Article 28.8 concluded as a result of the exercise of the right provided in said (4) (c) by the number or volume of such transactions.

117.21. "Sale, etc. of a security" under Article 117.19 shall mean:

- (1) sale of a security;
- (2) the transactions referred to in (4) (b) of Article 28.8 of the Act (limited to transactions which, if the actual value of a security (which means actual value of a security as defined in (3) (b) of said Article 28.8; in Article 117.22 (2), the same) exceeds the trade value of a security (which means trade value of a security as defined in (3) (b) of said Article 28.8; in Article 117.22 (2), the same), result in becoming a party to pay money).

117.22. "Purchase, etc. of a security" under Article 117.19 shall mean:

- (1) purchase of a security;
- (2) the transactions referred to in (4) (b) of Article 28.8 of the Act (limited to transactions which, if the actual value of a security exceeds the trade value of a security, result in becoming a party to receive money).

Article 118. — Accidents

Act prescribed by the Cabinet Office Ordinance as provided in Article 39.3 of the Act shall be:

- (1) an act from which a customer has suffered a loss as a result of the following acts performed by an representative, agent, employee or other member of staff (hereinafter referred to as "representative, etc.") of a financial instruments firm, etc. regarding business of such financial instruments firm, etc. in conducting purchase or sale or other type of transaction of a security, etc. (which means purchase or sale or other type of transaction of a security, etc. as defined in Article 39.1 (1) of the Act and excludes security, etc. clearing broking; in (a), the same):
 - (a) conducting purchase or sale or other type of transaction of a security, etc., without confirming the details of a customer's order, for such customer's account;
 - (b) soliciting a customer in a manner to give the customer false impression concerning:
 - (i) the nature of a security, etc. (which means a security, etc. as defined in Article 39.1 (1) of the Act);
 - (ii) conditions of transactions;
 - (iii) whether the price of a financial instrument or the amount of consideration of an option will rise or decline, whether trade value or actual value of the transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transactions similar thereto) or the transaction referred to in Article 2.22 (2) of the Act will rise or decline, whether the financial index or the price of a financial instrument for the transaction referred to in Article 2.21 (4) of the Act or Article 2.22 (5) of the Act will rise or decline or whether the event referred to in (a) or (b) of Article 2.21 (5) of the Act or (a) or (b) of Article 2.22 (6) of the Act in respect of the transaction referred to in Article 2.21 (5) of the Act or Article 2.22 (6) of the Act will occur or not occur;
 - (c) mishandling of operation to execute a customer's order due to negligence;
 - (d) mishandling of execution of a customer's order due to an error of an electronic data processing and network system;
 - (e) performing other act in violation of the laws or regulations;
- (2) an act from which a customer or interest holder (which means an interest holder as defined in Article 42.1 of the Act) has suffered a loss as a result of performing the following acts regarding investment advisory business or investment management business:
 - (a) mishandling of operations due to a negligence or an error of an electronic data processing and network system;
 - (b) neglecting the duties;
 - (c) performing other act in violation of the laws or regulations or any of investment advisory contract or the contracts referred to in the items of Article 42-3.1 of the Act or other juristic acts.

Article 119. — Case where Confirmation of Accident is Not Required

119.1. Cases prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 39.3 of the Act shall be:

- (1) the case where a final judgment has been made by a court;

- (2) the case where a reconciliation has been concluded in a lawsuit (excluding a reconciliation provided in Article 275.1 of the Civil Procedure Code (Law No. 109 of 1996));
- (3) the case where a mediation provided in Article 16 of the Civil Mediation Law (Law No. 222 of 1951) has been settled or the case where the ruling by a court has been made pursuant to the provisions of Article 17 of said Law and a petition for objection has not been filed during the period provided in Article 18.1 of said Law;
- (4) the case where a reconciliation has been concluded by mediation (which means mediation as defined in Article 77-2.1 of the Act (including the *mutatis mutandis* application under Articles 78-7 and 79-13 of the Act); in Article 277.1 (4), the same) conducted by a financial instruments firms association or recognized inventors protection organization or dispute resolution procedures taken by a designated dispute resolution organization (including any of the designated persons referred to in the items of Article 19-7 of the Order; in Article 277.1 (4), the same);
- (5) the case where a reconciliation has been concluded by mediation conducted by an organization provided in the association rules as defined in Article 33.1 of the Attorney-At-Law Law or the rules prescribed by such association rules or the case where reconciliation judgment has been made pursuant to mediation procedures by such organization;
- (6) the case where a reconciliation has been concluded by mediation provided in Article 19.1 or 25 of the Consumer Basic Law or the settlement has been made by an agreement provided in said Article 25;
- (7) the case where reconciliation has been concluded as a result of authenticated dispute settlement procedures (which means authenticated dispute settlement procedures as defined in Article 2 (4) of the Law on Promotion of Usage of Extra-Judicial Settlement Procedures (Law No. 151 of 2004), in Article 277.1 (7), the same) taken by an authenticated dispute settlement business person (which means an authenticated dispute settlement business person as defined in Article 2 (4) of said Law, and limited to an authenticated dispute settlement business person who takes such procedures for a dispute concerning purchase or sale or other type of transaction of a security, etc. (which means purchase or sale or other type of transaction of a security, etc. as defined in Article 39.1 (1) of the Act) within the scope of a dispute provided in Article 6 (1) of the Law on Promotion of Usage of Extra-Judicial Settlement Procedures);
- (8) the case where reconciliation has been concluded and all of the following requirements are met:
 - (a) an attorney-at-law or a judicial scrivener (limited to a person who conducts operations referred to in Article 3.1 (7) of the Judicial Scrivener Law (Law No. 197 of 1950)) acts as an agent for a customer for procedures of such reconciliation;
 - (b) the amount to be paid by a financial instruments firm, etc. to a customer as a result of such reconciliation is ¥10,000,000 (in the case where a judicial scrivener under (a) acts as an agent, the amount provided in Article 3.1 (7) of the Judicial Scrivener Law) or less;
 - (c) an attorney-at-law or judicial scrivener under (a) has furnished a financial instruments firm, etc. with a written statement certifying that the attorney-at-law or judicial scrivener has investigated and confirmed the fact that the payment under (b) is made in order to compensate the whole or part of loss arisen from an accident (which means an accident as defined in Article 39.3 of the Act; hereinafter in Articles 119 to 121, the same);
- (9) the case where the amount payable to a customer has been fixed between a financial instruments firm, etc. and the customer for losses as a result of an accident and all of the following requirements are met (excluding the cases referred to in (1) to (8)):
 - (a) the amount payable from the financial instruments firm, etc. to the customer does not exceed ¥10 million (in the case where the committee provided in (b) is composed of committee members who are judicial scriveners, the amount provided in Article 3.1 (7) of Judicial Scrivener Law);
 - (b) the committee formed in a financial instruments firms association (which means a committee composed of more than one committee members (limited to attorneys at law or judicial scriveners who have no special interest in the financial instrument firm or customer related to the accident) appointed by the financial instruments firms association) has examined and confirmed that the payment under (a) will made to compensate the losses arisen from the accident;
- (10) the case where a representative, etc. of a financial instruments firm, etc. has caused a loss to a customer as a result of any of the acts referred to in (a) to (e) of Article 118 (1) and the amount of financial profit offered, promised or provided to the customer for such loss arisen from transactions conducted during one day does not exceed the amount equivalent to ¥100,000;

(11) the case where a representative, etc. of a financial instruments firm, etc. has caused a loss to a customer as a result of the act referred to in (c) or (d) of Article 118 (1) (limited to the case where it is clear that an accident has caused such loss from books and records provided in Article 46-2, 47 or 48 of the Act or the record of a customer's order and excluding the cases referred to in (1) to (9)).

119.2. Profits under Article 119.1 (10) shall be computed for each category of the acts referred to in (a) to (e) of Article 118.1 (1); in this case, in respect of the amount of profits for a category of the act referred to in (c) or (d) of Article 118.1 (1), the amount of financial profits offered, promised or provided in the case referred to in Article 119.1 (10) shall be reduced.

119.3. When a financial instruments firm, etc. has, in the cases referred to in (9) to (11) of Article 119.1, offered or promised to provide financial profits, or provided financial profits, to a customer without confirming under the proviso to Article 39.3 of the Act, the financial instruments firm, etc. shall make report of the matters referred to in the items of Article 121 to the director-general of a local finance bureau (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan; in Article 120, the same) having jurisdiction of the location of the principal business office or other business office or other type of office, where an accident in connection with such offering or promise or providing has occurred, no later than the end of the month immediately following the month to which the day of such offering, promise or providing belongs.

Article 120. — Application for Confirmation of Accident

A person who wishes to confirm under the proviso to Article 39.3 of the Act shall file an original copy of an application and attachments together with a copy thereof pursuant to the provisions of Article 39.5 of the Act with the director-general of a local finance bureau having jurisdiction of the location of the principal business office or other business office or other type of office where an accident in connection with such confirmation has occurred.

Article 121. — Entries in Application for Confirmation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 39.5 of the Act shall be:

- (1) the name or trade name and registration number of a financial instruments firm, etc.;
- (2) the name and location of the principal business office or other business office or other type of office where an accident has occurred;
- (3) the following matters regarding the fact for which the confirmation is applied:
 - (a) the name of a representative, etc. who, or the name of a division which, has been involved in an act resulting in an accident;
 - (b) the name and address of a customer (in the case of a juridical person, the name or trade name, the location of the principal business office or other type of office and the name of a representative);
 - (c) the summary of the accident;
 - (d) the reason that an accident has caused customer's loss to be compensated;
 - (e) the amount of financial profits to be offered, promised or provided;
- (4) other matters for reference.

Article 122. — Attachments to Application for Confirmation

122.1. Documents prescribed by the Cabinet Office Ordinance as provided in Article 39.5 of the Act shall be documents certifying that a customer has confirmed the matters referred to in the items of Article 121 and other information for reference.

122.2. The provisions of Article 122.1 shall not apply in the case where an application under Article 39.5 of the Act is concerned with an offer under Article 39.1 (2) of the Act.

Article 123. — State of Business Management Which Will Likely Be Inconsistent with Public Interest or Constitute Failure of Protection of Customers

123.1 State prescribed by the Cabinet Office Ordinance as provided in Article 40 (2) of the Act shall be:

- (1) the state of conducting purchase or sale or other type of transaction or derivatives transaction, etc. of a security (excluding security, etc. clearing broking) for such customer's account frequently without confirming the details of the customer's order in advance;
- (2) the state of conducting acceptance, etc. of an order for purchase or sale or derivatives transaction of a security, etc. from a person (excluding a person who performs a financial

- instruments transactions act in accordance with the laws and regulations) who has solicited unspecified and many investors and has been commissioned for purchase or sale or derivatives transactions of a security without prior confirmation of the intent of an investor, despite knowing that such transaction is conducted for such investors' account;
- (3) the state of underwriting a security for grossly improper volume or at grossly improper price or on other conditions;
 - (4) the state of being determined to have failed to make proper examination of matters which contribute to the judgment of suitability of underwriting such as financial condition or business performance of an issuer in the case of conducting primary underwriting of a security;
 - (5) the state of being determined to have failed to take measures necessary and appropriate to prevent unfair transaction using corporate related information in respect of management of corporate related information handled by the financial instruments firm, etc. or management of information regarding purchase or sale or other type of transaction, etc. of a security by a customer;
 - (6) the state of being determined, in handling information of its customer who is an individual, to have failed to take measures necessary and appropriate to prevent leakage, loss or damage of such information in respect of the security, supervision of employees and, in the case of commissioning the handling of such information to any other person, the supervision of such other person;
 - (7) the state of being determined, in handling information about races, creed, family origin, domicile of origin, health care or criminal background regarding its customer who is an individual or other special nonpublic information obtained in the course of the duties, to have failed to take measures to ensure that such information shall be used only for the purpose of ensuring appropriate management of business or other purpose deemed necessary;
 - (8) the state of being determined to have failed to furnish properly a customer with the state of delivery or other information necessary for the customer regarding purchase or sale or other type of transaction, etc. of a security conducted by the customer;
 - (9) the state of failure, in soliciting to make a switch of investment trust beneficial interest certificate, etc. (which means a beneficial interest certificate (excluding the beneficial interest certificates referred to in (a) to (c) of Article 65 (2) and a beneficial interest certificate with similar nature) of investment trust or foreign investment trust as defined in the Law on Investment Trust and Investment Corporation, an investment certificate or foreign investment certificate (which means a foreign investment certificate as defined in Article 220.1 of said Law; hereinafter the same), which is a security similar to an investment certificate and excluding a security listed on a financial instruments exchange and to which an over-the-counter trades security is applicable; hereinafter in (9) and Article 281 (6), the same; and switch means acquisition or purchase of an investment trust beneficial interest certificate, etc. or making an order placement, etc. therefor associated with partial cancellation of an investment trust contract for currently holding investment trust beneficial interest certificate, etc. or refund of an investment unit or sale of an investment trust beneficial interest certificate, etc. or making an order placement, etc. therefor, hereinafter in (9) and Article 281 (6), the same), to give explanation of important matters regarding such switch to a customer (excluding a specific investor; in (10), the same);
 - (10) the state of failure, in the case where a financial instruments firm performs the act referred to in Article 2.8 (7) of the Act for the security referred to in Article 2.8 (7) (a) of the Act (including an interest represented by such security which is deemed to be a security pursuant to the provisions of Article 2.2 of the Act) or buying back for a purpose other than resale of such security or other act similar thereto, and, regarding such act, accepts the deposit of a customer's subscription money or sale proceeds for such security or cancellation proceeds, profit or redemption money of an investment trust for such security, to deposit money so deposited by the customer, in a trust of a trust company or a financial institution engaged in trust business in Japan for the purpose of managing the amount of money equivalent to the amount required to be returned to such customer by the method equivalent to the method provided in Article 43-2.2 of the Act in the case where such financial instruments firm discontinues financial instruments business or otherwise does not carry out financial instruments business;
 - (11) the state of failure, in causing acquisition or selling the security referred to in Article 2.1 (5) of the Act or the security (limited to a security with the nature of any of the securities referred to in (1) to (5) of Article 2.1 of the Act) referred to in Article 2.1 (17) of the Act by the act referred to in (8) or (9) of Article 2.8 of the Act, to explain to a customer who is an individual (excluding a specific investor) concerning an important event, which has occurred during the offering period of acquisition or purchase of such security and influences investment judgment;
 - (12) the state of being determined to make insufficient trade control to prevent an act of acceptance, etc. of an order for purchase or sale or derivatives transaction of a listed financial

- instrument, etc. on an on-exchange financial instruments market or over-the-counter traded security on an over-the-counter traded security market which will likely form artificial prices or value not reflecting the real market prices or value by means of moving, pegging, fixing or stabilizing market prices or value computed based on market prices or trading volume of, or increasing trading volume of, such listed financial instrument, etc. or over-the-counter traded security;
- (13) the state that, in the case where a financial instruments firm, etc. performs the following acts as the first-type financial instruments business or the second-type financial instruments business, the financial instruments firm, etc. fails to maintain internal control system in advance sufficient to prevent such acts from constituting a failure of the protection of investors, impairing the fairness of transactions or damaging the credit of financial instruments business, etc.:
 - (a) the act referred to in (a) or (b) of Article 16.1 (8) of the Cabinet Office Ordinance on Definition provided in Article 2 of the Financial Instruments and Exchange Act;
 - (b) purchase or sale of a security or derivatives transaction under a contract providing that, after obtaining a consent from a customer the distinction of purchase or sale, issue name and number (in the case of derivatives transactions, matters equivalent thereto), the financial instruments firm, etc. is allowed to determine the price (in the case of derivatives transactions, matters equivalent to price) within a consent to allow an appropriate range considering market prices as of the first-mentioned consent (if there is no market price as of the first-mentioned consent, the latest market price as of the first-mentioned consent) (in (c), such consent to allow an appropriate range is referred to as "specific consent");
 - (c) purchase or sale of a security or derivatives transaction under a contract providing that, after obtaining a consent (in the case of a price, including specific consent) from a customer the distinction of purchase or sale, issue name and the total amount of individual transaction (in the case of derivatives transactions, matters equivalent thereto), number and price (in the case of derivatives transactions, matters equivalent thereto) on the one side and, on the other side, the financial instruments firm, etc. is allowed to determine;
 - (d) purchase or sale of a security or derivatives transaction under a contract provided in Article 117.1 (21);
 - (e) purchase or sale of a security or derivatives transaction under a contract providing that that, after obtaining a consent from a relative (limited to a spouse and blood-relative or relative-in-law within the second degree of relationship) of an officer (including a partner responsible for such duty in the case where an officer is a juridical person) or employee of the financial instruments firm, etc. the distinction of purchase or sale, issue name and number (in the case of derivatives transactions, matters equivalent thereto), the financial instruments firm, etc. is allowed to determine the price (in the case of derivatives transactions, matters equivalent to price);
 - (14) the state that the control of an electronic data processing and network system for financial instruments business, etc. is determined to be insufficient;
 - (15) the state of being determined to have failed to take procedures sufficient to prevent an act in violation of the laws and regulations for financial instruments intermediary business conducted by a financial instruments intermediary firm who has been commissioned;
 - (16) the state of being determined to have failed to take appropriate procedures to compensate a loss arising from an accident (which means an accident as defined in Article 258 (3)) by a financial instruments intermediary firm who has been commissioned;
 - (17) the state of causing a financial instruments intermediary firm who has been commissioned to deliver money or a security to a customer;
 - (18) the state of furnishing unpublished information regarding a customer's properties or other special information (excluding the following information) acquired by the financial instruments firm, etc. with a registered financial institution or financial instruments intermediary firm to whom the financial instruments firm, etc. commissions without prior consent from the customer in writing or the state of soliciting to conduct purchase or sale or other type of transaction, etc. of a security using unpublished information regarding a customer's properties or other special information (limited to information furnished by such registered financial institution or financial instruments intermediary firm without obtaining a consent from the customer in writing) acquired from such registered financial institution or financial instruments intermediary firm to which the financial instruments firm, etc. has commissioned:
 - (a) information concerning financial instruments intermediary act of such registered financial institution or financial instruments intermediary firm;
 - (b) information which is determined to be necessary for such registered financial institution or

- financial instruments intermediary firm to comply with the laws and regulations for financial instruments intermediary business;
- (c) in the case provided in Article 150 (4), information that proceeds from such security is used to repay liabilities for such borrowing;
 - (d) information which is determined to be necessary to be furnished to such registered financial institution for the purpose that such registered financial institution or commissioning financial instruments firm complies with the provisions concerned (which means the provisions of Article 36.2 of the Act, Article 13-3-2.1 of the Banking Law (including the *mutatis mutandis* application under Article 17 of the Long-Term Credit Bank Law, Article 6.1 of the law on Financial Business by Cooperative Association, Article 89.1 of the Shinkin Bank Law and Article 94.1 of the Labor Bank Law), Article 59-2-2.1 of the Norinchukin Bank Law, Article 58-5-2.1 of the Law on Cooperatives of Small Business, etc., Article 11-5-2.1 or 11-12-3.1 of the Agriculture Cooperative Association Law, Article 11-13.1 of the Fisheries Cooperative Association Law (including the *mutatis mutandis* application under Article 92.1, 96.1 and 100.1 of said Law) or Article 15-9-3.1 of said Law (including the *mutatis mutandis* application under Article 96.1 and 100-8.1 of said Law), Article 28-2.1 of the Business Corporation Shoko Chukin Bank Law or Article 100-2-2.1 or 193-2.1 of the Insurance Business Law; in (24) (c), the same);
 - (e) in the case where the commissioning financial instruments firm is a parent juridical person, etc. or subsidiary juridical person, etc. of the commissioned registered financial institution or the registered financial institution to which the commissioning financial instruments firm commissions is a parent juridical person, etc. or subsidiary juridical person, etc. of the commissioning financial instruments firm, and such commissioning financial instruments firm furnishes the registered financial institution with information necessary to carry out the whole or part of business operation, etc. regarding internal control (which means business operation to maintain or control an electronic data processing and network system and business operation regarding the internal control provided in Article 153.3; hereinafter in (e) and (24) (d), the same) (limited to the case where such commissioning financial instruments firm and such registered financial institution has taken the measures to prevent the leakage of such information from the division responsible for the business operation, etc. regarding the internal control accurately and such commissioning financial instruments firm furnishes a person other than an officer (including, if the officer is a juridical person, a partner responsible for such duties) and employee engaged in financial instruments intermediary business of such registered financial institution with such information), such information;
- (19) the state that an officer (including a partner responsible for the duty in the case where an officer is a juridical person; hereinafter in (19), the same) or employee responsible for the overall control of business of an organization carrying out financial instruments business or financial instruments intermediary business (limited to an organization carrying out loan business or financial institution agent business together) acquires, by its own or from an officer or employee engaged in loan business or financial institution agent business, a customer's nonpublic loan, etc. information of a customer who is the issuer of a security (excluding the security referred to in Article 33.2 (1) of the Act and the security, referred to in Article 2.1 (17) of the Act, having the nature under (1) or (2) of Article 2.1 of the Act; hereinafter in (19), the same) and solicits any of the acts referred to in the items of Article 2.8 of the Act concerning such security (including the state that such officer or employee responsible for the overall control furnishes the customer's nonpublic loan, etc. information (excluding corporate related information) with an officer or employee engaged in financial instruments business or financial instruments intermediary business without obtaining a prior consent from the customer in writing);
- (20) the state that, in the case where, with respect to over-the-counter derivatives transactions, there are prices, or matters equivalent to prices, of both of purchase and sale, a financial instruments firm, etc. fails to quote such prices or matters equivalent to prices simultaneously (in the case where such over-the-counter derivatives transactions are transactions other than over-the-counter financial futures transactions, the state that such price or matters equivalent to prices are not quoted to a customer who is an individual simultaneously);
- (21) the state that, with respect to over-the-counter derivatives transactions, a financial instruments firm, etc. fails to quote prices or matters equivalent to prices quoted at the time of a customer's trading (such customer shall be limited to an individual in the case where such over-the-counter derivatives transactions are transactions other than over-the-counter financial futures transactions) to the customer who has requested the quote of such prices or matters equivalent to prices;

- (21-2) the state that the financial instruments firm, etc. fails to establish sufficient control system to close currency related derivatives transactions (which means currency related market derivatives transaction, currency related over-the-counter derivatives transaction or currency related foreign market derivatives transaction; hereinafter in (21-2) and (21-3), the same) initiated by a customer (limited to an individual (excluding, in the case where a business operation association member, etc. meeting the requirement referred to in (24) (b) (i) of Article 10.1 of the Cabinet Office Ordinance on Definitions Provided in Article 2 of the Financial Instruments and Exchange Act (which means a business operation association member, etc. as defined in (23) of said Article 10.1; hereinafter in (21-2), the same) conducts currency related derivatives transactions as a business operation association member, etc., such business operation association member, etc.); hereinafter in (21-2), the same) for the account of the customer in the case where a customer suffers the amount of losses equal to or larger than the amount computed by the method agreed in advance between the financial instruments firm, etc. and the customer (in (21-3), such closing transaction is referred to as "loss cut");
- (21-3) the state that the financial instruments firm, etc. is determined to fail to conduct loss cut for currency related derivatives transaction;
- (22) the state that, in the case where a financial instruments firm carries out business at the principal business office or other business office or other type of office located at the same building as the principal business office or other business office or other type of office of a financial institution (which means a bank, cooperative financial institution, trust company or other financial institution referred to in the items of Article 1-9 of the Order) or its agent (including business office or other type of office of a banking agent firm as defined in Article 2.15 of the Banking Law, long-term credit bank agent firm as defined in Article 16-5.3 of the Long-Term Credit Bank Law, shinkin bank agent firm as defined in Article 85-2.3 of the Shinkin Bank Law, credit cooperative association agent firm as defined in Article 6-3.3 of the Law on Financial Business by Cooperative Association, labor bank agent firm as defined in Article 89-3.3 of the Labor Bank Law, specific credit business agent firm as defined in Article 92-2.3 of the Agriculture Cooperative Association Law, specific credit business agent firm as defined in Article 121-2.3 of the Fisheries Cooperative Association Law and Norinchukin Bank agent firm as defined in Article 95-2.3 of the Norinchukin Bank Law), the financial instruments firm is determined to fail to take measures appropriate to prevent a customer's false impression that such financial instruments firm were such financial institution;
- (23) the state that, in the case where a financial instruments firm uses a computer connecting with telecommunication network to carry out business, the financial instruments firm is determined to fail to take measures appropriate to prevent a customer's false impression that such financial instruments firm were an other person;
- (24) the state that a registered financial institution furnishes a commissioning financial instruments firm with non-published financial information or other special information of a customer's financial condition (excluding the following information) acquired by the registered financial institution without obtaining prior consent in writing from a customer or the state that a registered financial institution uses non-published financial information or other special information of a customer's financial condition (limited to information furnished by the commissioning financial instruments firm without obtaining written consent from the customer) acquired from the commissioning financial instruments firm to solicit to conduct purchase or sale or other type of transaction, etc. of a security:
- (a) information which is determined to be necessary for a registered financial institution to be furnished to a commissioning financial instruments firm in order to perform financial instruments intermediary act;
 - (b) information obtained from a commissioning financial instruments firm in the course of carrying out commissioned financial instruments intermediary business, which is determined necessary to be furnished to such commissioning financial instruments firm for a registered financial institution to comply with the laws and regulations;
 - (c) information which is determined to be necessary to be furnished to the commissioning financial instruments firm for the purpose that such registered financial institution or commissioning financial instruments firm complies with the provisions concerned;
 - (d) in the case where the registered financial institution is a parent juridical person, etc. or subsidiary juridical person, etc. of the commissioning financial instruments firm or the commissioning financial instruments firm is a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution, and the registered financial institution furnishes such commissioning financial instruments firm with information necessary

to carry out the whole or part of business operation, etc. regarding internal control (limited to the case where such registered financial institution and such commissioning financial instruments firm has taken the measures to prevent the leakage of such information from the division responsible for the business operation, etc. regarding the internal control and a person other than an officer (including, if the officer is a juridical person, a partner responsible for such duties) and employee engaged in financial instruments intermediary business of the registered financial institution furnishes such commissioning financial instruments firm with such information), such information;

(25) the state that a registered financial institution fails to disclose the following matters to a customer before performing financial instruments intermediary act:

- (a) in the case where there are more than one commissioning financial instruments firms and the amount of money or fee, etc. payable by a customer for transactions that the customer wishes to conduct differs among the commissioning financial instruments firms, such fact;
- (b) the trade name of a commissioning financial instruments firm which will become a counterparty of the customer;
- (c) in the case where a financial instruments firm carries out investment advisory and agent business (excluding the act referred to in Article 28.3 (2) of the Act; hereinafter in (c), the same) and performs financial instruments intermediary act on behalf of a customer of investment advisory and agent business (excluding the case where the amount of fee, etc. for financial instruments intermediary act for the a specified period is fixed regardless of the number of times of such financial instruments intermediary acts and the type or amount of such fee, etc. is clarified to a customer in advance), the amount of fee, etc. receivable from such financial instruments intermediary act (in the case where the amount of fee, etc. is unknown in advance, the computation method of the amount of fee, etc.).

123.2 In applying the provisions of (18) and (24) of Article 123.1 in the case where the registered financial institution is a parent juridical person, etc. or subsidiary juridical person, etc. of the commissioning financial instruments firm or the commissioning financial instruments firm is a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution, and in the case where the registered financial institution or commissioning financial instruments firm provides a customer (limited to a juridical person; hereinafter in Article 123.2, the same) with an opportunity appropriately to request to cease the furnishing of unpublished information of such customer's assets or other special information of the customer to the commissioning financial instruments firm or registered financial institution (hereinafter in Article 123.2, referred to as "furnishing of special information"), the commissioning financial instruments firm and registered financial institution shall be deemed to have obtained a written consent from the customer for furnishing of such special information until the customer request such cessation: *Provided*, That this shall not apply in the case where an officer (including, if the officer is a juridical person, a partner responsible for the duties) or employee engaged in the financial instruments intermediary business of the registered financial institution furnishes the commissioning financial instruments firm with, or receives from the commissioning financial instruments firm, such information.

123.3. "Currency related market derivatives transaction" under Article 123.1 (21-2) means a market derivatives transaction with underlying assets of currencies which is the transaction referred to in (1) or (2) of Article 2.21 of the Act or (3) of said Article 2.21 (limited to a transaction carrying a right if a transaction concluded as a result of the exercise of such right provided in said (3) is the transaction referred to in (a) of said (3) or a transaction referred to in (b) of said (3) (limited to a transaction related to the transaction referred to in (1) or (2) of said Article 2.21)).

123.4. "Currency related over-the-counter derivatives transaction" under Article 123.1 (21-2) means an over-the-counter derivatives transaction with underlying assets of currencies which is the transaction referred to in (1) or (2) of Article 2.22 of the Act or (3) of said Article 2.22 (limited to a transaction carrying a right if a transaction concluded as a result of the exercise of such right provided in said (3) is the transaction referred to in (1), (2) or (3) (a) of said Article 2.21).

123.5. "Currency related foreign market derivatives transaction" under Article 123.1 (21-2) means a foreign market derivatives transaction which is a transaction similar to currency related market derivatives transaction as defined in Article 123.3.

Article 124. — Best Execution Policy, etc.

124.1. Security prescribed by the Cabinet Office Ordinance as provided in Article 16-6.1 (1) (a) of the Order shall be:

- (1) share certificate;
- (2) corporate debt security carrying share warrants;

- (3) share warrant certificate;
- (4) security referred to in Article 2.1 (6) of the Act;
- (5) preferred capital contribution certificate;
- (6) beneficial interest certificate of an investment trust or foreign investment trust;
- (7) investment certificate or foreign investment certificate similar to investment certificate;
- (8) security referred to in Article 2.1 (14) of the Act; or
- (9) security referred to in Article 2.1 (17) of the Act having the nature of any of the securities referred to in (1) to (5) or (8);

124.2. A financial instruments firm, etc. shall, under the provisions of Article 40-2.2 of the Act, make the best execution policy, etc. (which means best execution policy, etc. as defined in Article 40-2.1 of the Act; hereinafter in Article 124, the same) public by the method to display the best execution policy, etc. at a prominent location in the principal business office, etc. or method make the best execution policy, etc. available for public inspection and, in the case referred to in each of the following items, by the method provided in such item:

- (1) the case where a financial instruments firm, etc. accepts a customer's order for a security, etc. transaction (which means a security, etc. transaction as defined in Article 40-2.1 of the Act; in Article 124.5 (1), the same) (hereinafter in Article 124.2, referred to as "customer's order") at the business office, other type of office or other place (excluding the principal business office, etc.; hereinafter in (1), referred to as "business office, etc.") — the method to display the best execution policy, etc. at a prominent location at each business office, etc. where a customer's order is accepted or to make the best execution policy, etc. available for public inspection;
- (2) the case where a financial instruments firm, etc. accepts a customer's order by means of transmitting by wireless communication or cable telecommunication automatically in response to request by a public for the purpose to allow a public to receive directly (hereinafter in (2), referred to as "automatic transmission") (excluding the case referred to in (1)) — the method to make automatic transmission of the best execution policy, etc. or transmit by postal mail or facimile in response to a customer's request;

124.3. A financial instruments firm, etc. shall state the best execution policy, etc. in a written statement furnished pursuant to the provisions of Article 40-2.4 of the Act.

124.4. Period prescribed by the Cabinet Office Ordinance as provided in Article 40-2.5 of the Act shall be three months.

124.5. A financial instruments firm, etc. shall state the following matters in a written statement explaining that the customer's order has been executed in accordance with the best execution policy, etc. provided in Article 40-2.5 of the Act (hereinafter in Article 124.6, referred to as "best execution explanatory statement"):

- (1) the issue name, volume and the distinction of purchase or sale of a security, etc. transaction for which an order is placed;
- (2) the date and time of an order receipt;
- (3) the date and time of trade and the financial instruments market where an order is executed and otherwise a method of execution;

124.5. A financial instruments firm, etc. wishing to furnish a best execution explanatory statement pursuant to the provisions of Article 40-2.5 of the Act shall furnish the customer with the best execution explanatory statement within 20 days after the day on which a customer has requested (in the case where the financial instruments firm, etc. has obtained a consent from a customer who is a specific investor, the period (limited to a period of 20 days or longer) under the consent).

Article 125. — Money for Which Segregation is Ensured

Money prescribed by the Cabinet Office Ordinance as provided in Article 40-3 of the Act shall be, with respect to a person who uses money as capital contribution or other type of contribution regarding interests or securities provided in Article 40-3 of the Act to carry out business (including a person who executes operation for such business; hereinafter in Article 125, referred to as "business person"), such money for which segregation from such business person's own properties or other properties in connection with other business carried out by such business person is ensured by the articles of incorporation of the business person (including the provisions for such business or other contract or other juristic act concerning interests or securities) which require to meet the following criteria:

- (1) the object of business which such business person uses such money to carry out and the method of business is clarified and each of properties in connection with such business is accounted separately and its details are appropriate to promote the protection of investors;
- (2) such money is managed appropriately by the following methods:
 - (a) deposit with an other financial instruments firm, etc. (limited to deposit that such other

financial instruments firm, etc. receives as security, etc. custody business) or deposit with a person carrying out security, etc. custody business in a foreign jurisdiction in accordance with the laws and regulations in the foreign jurisdiction;

- (b) money deposit or money saving (limited to money deposit or money saving under the name which clearly shows that such money deposit or money saving is for such money) with a bank, cooperative financial institution, Business Corporation Shoko Chukin Bank or a person carrying out the business referred to in Article 10.1 (1) of the Banking Law in a foreign jurisdiction in accordance with the laws and regulations in the foreign jurisdiction;
- (c) money trust with a financial institution engaged in trust business or a person carrying out trust business in a foreign jurisdiction in accordance with the laws and regulations in the foreign jurisdiction with a compensation contract of the principals (limited to money trust under the name which clearly shows that such money trust is for such money).

Article 125-2. — Person Who is Not Included in Retail Investors

125-2.1. Person prescribed by the Cabinet Office Ordinance as provided in Article 44-4 of the Act shall be:

- (1) a director, etc. (director, auditor, executive officer or a person equivalent thereto) of the issuer of such security intended to be placed with specific investors who holds voting rights (including voting rights attached to a share of stock or capital contribution which cannot counter the issuer pursuant to the provisions of Articles 147.1 and 148.1 of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc. (including the *mutatis mutandis* application of these provisions under Articles 228.1, 235.1, 239.1 and 276 (limited to the portion related to (2)) of said Law) of said Law) exceeding 50/ 100 of the voting rights on the issuer held by all of its shareholders, etc. (hereinafter in Article 125-2, referred to as "eligible voting rights") in the name of such director, etc. or an other person (hereinafter in Article 125-2, referred to as "specific officer") or controlled juridical person, etc. (excluding the issuer) of such specific officer;
- (2) a corporation holding eligible voting rights exceeding 50/ 100 of voting rights on the issuer of securities intended to be placed with specific investors held by all of its shareholders, etc. in the name of the corporation or an other person (excluding the person referred to in (1));
- (3) an officer, etc. of the issuer of a security intended to be placed with specific investors (limited to the followings) (limited to a person who makes purchase of such security intended to be placed with specific investors (limited to purchase based on a contract that purchase is made jointly with other officers, etc. of the issuer, continuously, according to a certain plan and without relying on an individual investment decision if the amount of contribution for each officer, etc. and each purchase is less than 1 million Yen) and excluding the person referred to in (1)):
 - (a) the security referred to in Article 2.1 (9) of the Act;
 - (b) the security referred to in (17) of Article 2.1 of the Act to which the security referred to in (9) of said Article 2.1 is by nature applicable;
 - (c) a certificate of a beneficial interest in a security trust (which means a certificate of beneficial interest in a certificate of a beneficial interest in a security trust as defined in (3) of Article 2-3 of the Order; hereinafter the same), the trustee security (which means a trustee security as defined in said (3)) of which is the security referred to in (a) or (b);
 - (d) the security referred to in Article 2.1 (20) of the Act which represents interests in the security referred to in (a) and (b);

125-2.2. In the case where a specific officer and its controlled juridical person, etc. jointly hold eligible voting rights exceeding 50/ 100 of the voting rights on an other juridical person, etc. (which means a juridical person or other type of organization; hereinafter in Article 125-2, the same) held by all of its shareholders, etc. in the name of the specific officer or its controlled juridical person, etc. or an other person, such other juridical person, etc. shall be deemed to be a controlled juridical person, etc. of such specific officer and the provisions of Articles 125-2.1 and 125-2.2 shall apply.

125-2.3. "Controlled juridical person, etc." under Article 125-2.1 (1) and Article 125-2.2 means, in the case where a specific officer holds eligible voting rights exceeding 50/ 100 of the voting rights on an other juridical person, etc. held by all of its shareholders, etc. in the name of the specific officer or an other person, such other juridical person, etc.

125-2.4. "Officer, etc." under Article 125-2.1 (3) means an officer, etc. as defined in Article 1-3-3 (5) of the Order.

Article 125-3. — Exceptions for Restriction of Purchase or Sale, etc. of Securities Intended to Be Placed with Specific Investors

Case prescribed by the Cabinet Office Ordinance as provided in Article 44-4 of the Act shall

be:

- (1) the case of performing the following acts without based on solicitation to a retail investor (which means a retail investor as defined in Article 40-4 of the Act; hereinafter in Articles 125-3 and 125-6.2 (4), the same):
 - (a) purchase conducting with a retail investor as a counterparty;
 - (b) acting as a broker or agent for sale on behalf of a retail investor (excluding the case of performing with a retail investor as a counterparty);
 - (c) acting as an intermediary, broker or agent for purchase on behalf of a person (excluding a retail investor) who conducts purchase from a retail investor;
 - (d) acting as an intermediary, broker or agent for an order of sale on an on-exchange financial instruments market or foreign financial instruments market on behalf of a retail investor;
 - (e) acting as an intermediary, broker or agent for an order on behalf of a person who accepts the order of sale on an on-exchange financial instruments market or foreign financial instruments market from a retail investor;
- (2) the case of making sale of a share certificate, etc. (which means a share certificate, etc. provided in Article 27-2.1 of the Act; in (3), the same) subject to tender offer (limited to the case where the provisions of the main text of said Article 27-2.1; in (3), the same) provided in said Article 27-2.1;
- (3) the case of acting as an intermediary or agent for purchase of a share certificate, etc. subject to tender offer provided in Article 27-2.1 of the Act on behalf of a person who conducts such tender offer (excluding the case provided in (1));
- (4) the case of acting as an intermediary or agent for purchase of a listed share certificate, etc. provided in Article 24-6.1 of the Act subject to tender offer provided in Article 27-22-2.1 of the Act (limited to the case where the provisions the main text of said Article 27-22-2.1 are applicable) on behalf of a person who conducts such tender offer (excluding the case provided in (1)).

Article 125-4. — Sale, etc. for Which Notice of Securities Intended to Be Placed with Specific Investors is Not Required

125-4.1. Acts prescribed by the Cabinet Office Ordinance as provided in Article 16-7-2 (1) (f) of the Order shall be:

- (1) sale of a security conducted based on a contract of cumulative investment (which means a contract based on which a financial instruments firm, etc. accepts the deposit of money from the counterparty and sells a security continuously to such counterparty on a predetermined date for the consideration of such money; in Article 125-4.2 (1), the same) (excluding the case where the counterparty has not acquired or held the same issue name of security as such security in the past);
- (2) sale of the same issue name of security as the security referred to in Article 2.1 (10) of the Act owned by the counterparty for which revenue arising from such security is used;
- (3) sale of the security referred to in Article 2.1 (10) of the Act (limited to a beneficial interest certificate of a debt security investment trust provided in Article 25 (2) of the Law on Investment Trust and Investment Corporation Enforcement Regulations with account period of one day; in Article 125-4.2 (3), referred to as "specific debt security investment trust beneficial interest certificate") (excluding the case where the counterparty has not acquired or held the same issue name of security as such security in the past);

125-4.2. Acts prescribed by the Cabinet Office Ordinance as provided in Article 16-7-2 (2) (d) of the Order shall be:

- (1) acting as an intermediary, broker or agent for periodical purchase of a security conducted based on a contract of cumulative investment (excluding the case where the counterparty has not acquired or held the same issue name of security as such security in the past);
- (2) acting as an intermediary, broker or agent for purchase of the same issue name of security as the security referred to in Article 2.1 (10) of the Act owned by the counterparty for which revenue arising from such security is used;
- (3) acting as an intermediary, broker or agent for purchase of a specific debt security investment trust beneficial interest certificate (excluding the case where the counterparty has not acquired or held the same issue name of security as such security in the past).

Article 125-5. — Methods to Give Notice Regarding Securities Intended to Be Placed with Specific Investors

125-5.1. A financial instruments firm, etc. wishing to give a notice pursuant to the provisions of Article 40-5.1 of the Act shall give such notice no later than performing the act provided in Article

16-7-2 of the Order (hereinafter in Article 125-5, referred to as "notice required act") without making solicitation of subscription provided in Article 2.3 of the Act or solicitation of sale, etc. provided in Article 2.4 of the Act (in the case of the notice required act referred to in (1) of said Article 16-7-2, no later than entering into a contract for such notice required act).

125-5.2. Matters prescribed by the Cabinet Office Ordinance as provided in Article 40-5.1 of the Act shall be:

- (1) such securities intended to be placed with specific investors are securities intended to be placed with specific investors;
- (2) the case where disclosure is made for such securities intended to be placed with specific investors (which means the case where disclosure is made as provided in Article 4.7 of the Act) is not applicable;
- (3) Articles 4.3, 4.5 and 4.6 apply to security delivery solicitation, etc.(which means security delivery solicitation, etc. as defined in Article 4.2 of the Act; hereinafter the same) of such securities intended to be placed with specific investors;
- (4) if specific security, etc. information (which means specific security, etc. information as defined in Article 27-33 of the Act; hereinafter the same) for solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors for such securities conducted in the past is published pursuant to the provisions of Article 27-31.2 or 27-31.4 of the Act or the case where issuer, etc. information (which means issuer, etc. information as defined in Article 27-34 of the Act; hereinafter the same) pursuant to the provisions of Articles 27-32.1 to 27-32.3 of the Act, such fact and the method of publication (including, if the internet is used for such publication, the home page address (which means automated public transmission system (which means automated public transmission system as defined in Article 2.1 (9-5) (a) of the Copy Right Law (Law No. 48 of 1970) which make such information available for browsing by inputting letters, number, symbols or other codes or their combination to identify the portion for the use in the internet in the computer used by a person who receives information));
- (5) issuer, etc. information provided in Article 27-32 of the Act is provided or published to owners of such securities intended to be placed with specific investor.

125-5.3. Notwithstanding the provisions of Article 125-5.2, in the case where more than one financial instruments firms, etc. are required to give a notice for one notice required act pursuant to the provisions of Article 40-5.1 of the Act and one of such financial instruments firms, etc. has given such notice of the matters referred to in the items of said Article 125-5.2, the other financial instruments firm, etc. shall not be required to give a notice of the matters referred to in the items of said Article 40-5.2.

Article 125-6. — Contract, etc. of Transactions of Securities Intended To Be Placed with Specific Investors

125-6.1 Contract prescribed by the Cabinet Office Ordinance as provided in Article 40-5.2 of the Act shall be:

- (1) a contract to make purchase or sale of a security intended to be placed with specific investors as a result of the act referred to in Article 2.8 (10) of the Act (limited to purchase or sale for which a financial instruments firm performing such act acts as an intermediary, broker or agent);
- (2) a contract to make purchase or sale of a security intended to be placed with specific investors with an on-exchange permit firm as a counterparty (limited to purchase or sale on an on-exchange financial instruments market);
- (3) a contract to make purchase or sale of a security intended to be placed with specific investors (limited to those related to financial instruments liability assumption business (including, if a financial instruments clearing organization (including, if such financial instruments clearing organization carries out link financial instruments liability assumption business, link clearing organization, etc.; hereinafter in (3), the same) carries out link financial instruments liability assumption business, a link financial instruments liability assumption business) carried out by such financial instruments clearing organization or foreign financial instruments clearing organization) with a financial instruments clearing organization or foreign financial instruments clearing organization;

125-6.2 Matters prescribed by the Cabinet Office Ordinance as provided in Article 40-5.2 (1) of the Act shall be:

- (1) the issuer of a security intended to be placed with specific investors is not obliged to file the documents referred to in (4) to (10) of Article 25.1 of the Act, unless otherwise provided in the Act;
- (2) Articles 4.3, 4.5 and 4.6 if the Act shall apply to security delivery solicitation, etc. of such securities intended to be placed with specific investors;

- (3) The issuer, etc. information is provided or published to an owner of securities intended to be placed with specific investors pursuant to the provisions of Articles 27-32.1 to 27-32.3 of the Act;
- (4) A financial instruments firm, etc. shall not act as an intermediary, broker for purchase or sale or otherwise agent or perform any of the acts referred in the items of (1) to (4) and (10) of Article 2.8 of the Act with a retail investor or on behalf of a retail investor in respect of securities intended to be placed with specific investors, unless otherwise provided in the Act.

Subsection 2. Special Provisions for Investment Advisory Business and Investment Management Business

Article 126. — Prohibited Acts regarding Investment Advisory Business

Act prescribed by the Cabinet Office Ordinance as provided in Article 41-2 (6) of the Act shall be:

- (1) giving an advice, for the purpose of generating profit of its own or a third party, to conduct transactions to cause harming a customer's interest;
- (2) giving an advice, in respect of purchase or sale or other type of transaction, etc. of a security, to conduct transactions to cause increasing trading volume improperly or making an artificial pricing;
- (3) in the case where a related foreign juridical person, etc. of the financial instruments firm (which means a person who is referred to in Article 32 (3) and falls under any of the items of Article 15-16.1 of the Order or the items of Article 15-16.2 of the Order; hereinafter in (3) and Article 130.1 (9) (a), the same) conducts public offer or private placement of a security, and under the circumstance that the amount of offering of acquisition or purchase of such security to such related foreign juridical person, etc. is expected to fail to reach the amount expected by such related foreign juridical person, etc., giving an advice to acquire or purchase such security in response to request by such related foreign juridical person, etc.

Article 127. — Person Excluded from Person Having Close Relation with Financial Investments Firm, etc.

Person prescribed by the Cabinet Office Ordinance as provided in the portion other than the items of Article 16-10 of the Act shall be:

- (1) a financial instruments firm (limited to a person engaged in security, etc. custody business);
- (2) a bank;
- (3) a cooperative financial institution;
- (4) an insurance company;
- (5) a trust company; and
- (6) Business Corporation Shoko Chukin Bank, Limited.

Article 128. — Exclusion from Prohibition of Transaction for House Account, etc.

Act referred to in (1) of Article 42-2 of the Act prescribed by the Cabinet Office Ordinance as provided in said Article 42-2 shall be:

- (1) carrying out investment management to act as a broker for purchase or sale or derivatives transaction of a security in respect of properties under investment management as the first-type financial instruments business, second-type financial instruments business or registered financial institution business;
- (2) carrying out investment management to conduct transactions which meet all of the following criteria:
 - (a) a financial instruments firm, etc. has explained the details of and the reason for conducting such transaction to all interest holders (in the case where any of the interest holders is a registered investment corporation as defined in Article 2.13 of the Law on Investment Trust and Investment Corporation, an investor as defined in Article 2.16 of said Law; in (a), Article 129.1 (2) (a) and Article 130.1 (6), the same) for each transaction (in (ii), referred to as "transaction explanation") and has obtained a consent from such all interest holders (with respect to transactions conducted in the case where there are all provisions for the following matters in a contract or other juristic act in respect of the interests referred to in (a) to (c) of Article 2.8 (15) of the Act, including a consent under (i)):
 - (i) in the case where a consent from half or more (in the case of requiring a ratio more than half, such ratio or more) of all interest holders and 3/4 (in the case where a ratio more 3/4, such ratio or more) or more of the interests referred to in (a) to (c) of Article 2.8 (15) of the Act held

- by all interest holders has been given, the statement that the act referred to in Article 42-2 (1) of the Act may be performed;
- (ii) in the case where an interest holder who does not give consent to the act referred to in Article 42-2 (1) of the Act has requested within 20 days (in the case where a period longer than 20 days has been provided, such period) after the day on which such interest holder has been given transaction explanation, the statement that the interests referred to in (a) to (c) of Article 2.8 (15) of the Act held by such interest holder will be bought for properties under investment management at a fair value (including the statement that a contract for such interests is canceled) no later than the day on which 60 days (in the case where a period shorter than 60 days has been provided, such period);
- (b) any of the followings is applicable:
 - (i) purchase or sale of a security on an on-exchange financial instruments market or an over-the-counter traded security market;
 - (ii) market derivatives transaction or foreign market derivatives transaction;
 - (iii) transaction conducted for the value computed based on the published last price on the immediately preceding day or the value computed by a reasonable method equivalent thereto;
- (3) otherwise, carrying out investment management to conduct transactions approved by the competent Commissioner of the Financial Services Agency, etc. as transaction which will cause no likeliness to constitute a failure of the protection of investors, impair the fairness of transactions or damage the credit of financial instruments business.

Article 129. — Exclusion from Prohibition of Transaction Between Properties under Investment Management

129.1. Acts referred to in (2) of Article 42-2 of the Act prescribed by the Cabinet Office Ordinance as provided in said Article 42-2 shall be:

- (1) an act to carry out investment management to conduct transactions which meet all of the following requirements:
 - (a) any of the following cases is applicable:
 - (i) the case where the transaction is conducted to terminate investment management of one investment asset;
 - (ii) the case where the transaction is conducted to prepare the payment of cancellation money for the security referred to in Article 2.1 (10) of the Act or refund in connection with the security referred to in Article 2.1 (11) of the Act or any of the interests referred to in (a) to (c) of Article 2.8 (15) of the Act;
 - (iii) the case where, in the case where there is likeliness to exceed the limit on the holding amount or the holding ratio of assets which is the object of the investment provided in any of the contracts referred to in the laws or regulations or the items of Article 42-3.1 of the Act or other juristic acts, the transaction is conducted to prevent such exceeding the limit;
 - (iv) the case where it is determined to be necessary and reasonable to conduct the transaction in light of the investment policy, the amount of properties under investment management and market conditions in respect of each of the both properties under investment management;
 - (b) the transaction is purchase or sale of a reportable security, etc. and is conducted at a fair value in the manner provided in Article 129.3;
- (2) investment management is made to conduct transactions which meet all of the following requirements:
 - (a) a financial instruments firm, etc. has explained the details of and the reason for conducting a transaction to all interest holders of the both properties under investment management for each of such transactions (in (ii), referred to as "transaction explanation") and has obtained a consent from such all interest holders (with respect to transactions conducted as the act referred to in Article 2.8 (15) of the Act in the case where there are all provisions for the following matters in a contract or other juristic act, of the both properties under investment management in respect of the interests, referred to in (a) to (c) of Article 2.8 (15) of the Act, including consent under (i) for the both properties under investment management):
 - (i) in the case where a consent from half or more (in the case of requiring a ratio more than half, such ratio or more) of all interest holders and 3/4 (in the case where a ratio more than 3/4, such ratio or more) or more of the interests referred to in (a) to (c) of Article 2.8 (15) of the Act held by all interest holders has been given, the statement that the act referred to in Article 42-2 (2) of the Act may be performed;
 - (ii) in the case where an interest holder who does not give consent to the act referred to in Article 42-2 (2) of the Act has requested within 20 days (in the case where a period longer than

20 days has been provided, such period) after the day on which such interest holder has been given transaction explanation, the statement that the interests referred to in (a) to (c) of Article 2.8 (15) of the Act held by such interest holder will be bought for properties under investment management at a fair value (including the statement that a contract for such interests is canceled) no later than the day on which 60 days (in the case where a period shorter than 60 days has been provided, such period);

(b) falling under any of (i) to (iii) of Article 128 (2) (b);

(3) otherwise, carrying out investment management to conduct transactions approved by the competent Commissioner of the Financial Services Agency, etc. as transaction which will cause no likeliness to constitute a failure of the protection of investors, impair the fairness of transactions or damage the credit of financial instruments business.

129.2. "Purchase or sale of reportable security, etc." under Article 129.1 (1) (b) shall mean:

(1) purchase or sale of the following securities (including, among the security referred to in Article 2.1 (20) of the Act representing interests in connection with such securities and an interest which is deemed to be a security pursuant to the provisions of Article 2.2 of the Act, interests represented by such securities):

(a) a security listed on a financial instruments exchange;

(b) an over-the-counter traded security;

(c) in addition to the securities referred to in (a) and (b), the following securities:

(i) the securities referred to in (1) to (5) of Article 2.1 of the Act (including the security referred to in (17) of said Article 2.1 having the nature of such securities);

(ii) the security referred to in Article 2.1 (9) of the Act (including the security referred to in (17) of said Article 2.1 having the nature of the first-mentioned security), the price of which is published pursuant to the rules of an approved financial instruments firms association or an organization established in a foreign jurisdiction having the nature similar thereto;

(iii) the securities referred to in (10) and (11) of Article 2.1 of the Act;

(2) market derivatives transaction;

(3) foreign market derivatives transaction.

129.3. Purchase or sale of reportable security, etc. under Article 129.1 (1) (b) shall be conducted by the method provided in each of the following items according to the classification of the transaction referred to in such item:

(1) purchase or sale of the security referred to in Article 129.2 (1) (a) of the Act — the method to conduct on an on-exchange financial instruments market or conducting by the value computed based on the published last price on the immediately preceding day or the value computed by reasonable method equivalent thereto;

(2) purchase or sale of the security referred to in Article 129.2 (1) (b) — the method to conduct on an over-the-counter traded security market or conducting by the value computed based on the published last price on the immediately preceding day or the value computed by reasonable method equivalent thereto;

(3) purchase or sale of the security referred to in Article 129.2 (1) (c) — the method to conduct by the value computed based on the published last price on the immediately preceding day or the value computed by reasonable method equivalent thereto;

(4) transaction referred to in Article 129.2 (2) — the method to conduct on an on-exchange financial instruments market;

(5) transaction referred to in Article 129.2 (3) — the method to conduct on a foreign financial instruments market.

Article 130. — Prohibited Acts regarding Investment Management Business

130.1. Acts prescribed by the Cabinet Office Ordinance as provided in Article 42-2 (7) of the Act shall be the following acts:

(1) carrying out investment management to conduct transactions with its auditor (a member of an auditing committee as defined in Article 400.4 of the Corporation Law in the case of a corporation maintaining committees; in Article 134.1 (6) (a), the same), a person in a position similar to an officer or an employee (excluding the acts referred to in the items of Article 128);

(2) carrying out investment management, for the purpose of generating profit of its own or a third party, to conduct transactions to harm an interest holder's interest;

(3) carrying out investment management, for the purpose of generating profit of a third party, to conduct transactions unnecessary in light of management principles, amount of properties under investment management or market conditions regarding its investment management business (excluding the acts referred to in Article 44-3.1 (3) of the Act and Article 44-3.2 (3) of the Act);

- (4) carrying out investment management of properties under improper restriction on transaction or other duress from an other person;
 - (5) carrying out investment management, in respect of purchase or sale or other type of transaction, etc. of a security, to conduct transactions for the purpose of increasing trading volume improperly or making an artificial pricing;
 - (6) becoming an agent of a third party and carrying out investment management to conduct transactions with the third party (excluding carrying out investment management as an agent of the third party as the first-type financial instruments business, second-type financial instruments business or registered financial institution business and carrying out investment management after explaining the details of such transaction and the reason for such transaction to and obtaining consents from all interest holders for each transaction in advance);
 - (7) regarding investment management of properties, specifying properties under investment management after offering transactions;
 - (8) regarding properties under investment management (limited to properties under investment management in connection with business to perform the act referred to in Article 2.8 (14) of the Act; hereinafter in (8) and Article 130.2, the same), carrying out investment management to conduct or to continue to conduct derivatives transactions (including transactions related to a share warrant certificate or a security or certificate representing an option and purchase or sale of a debt security with options) in the case where the amount computed in advance by a reasonable method fixed by a financial instruments firm, etc. as the amount corresponding to risk of loss arising from fluctuation of interest rate, prices of currencies, market prices on a financial instruments market or other indices or for other reason exceeds the amount of net assets of such properties under investment management;
 - (9) in the case where any of the following persons makes underwriting, etc. (which means the acts referred to in (6) to (9) of Article 2.8 of the Act; in Article 147 (4), Article 153.1 (13) and Article 154 (7), the same) of a security and the amount offered to acquire or purchase of such security to such person is expected to fail to reach the amount projected by the person, carrying out investment management to acquire or purchase such security in response to a request from the person:
 - (a) a related foreign juridical person, etc. of the financial instruments firm;
 - (b) if the total amount of a security in connection with properties under investment management (limited to a security representing an interest held by an interest holder of such properties under such investment management or such interest; hereinafter in (9), the same) for which a person has performed the acts referred to in (1) to (3), (8) and (9) of Article 2.8 of the Act during the latest two business years exceeds 50/ 100 of the amount of a security in connection with properties under investment management issued during such two business years, such person;
 - (10) in commissioning the whole or part of authorities to carry out investment management on behalf of an interest holder pursuant to the provisions of Article 42-3.1 of the Act, failure to take measures to ensure that the commissioned person will not re-commission further (excluding commissioning further (limited to the case where measures to ensure that such further commissioned person will not commission further the authorities so commissioned has been taken) a part of such authorities to a person prescribed by the Cabinet Order as provided in said Article 42-3.1) the authorities in connection with the first-mentioned commissioning;
 - (11) in the case of accepting from a customer the deposit of money or a security belonging to such customer's account with the account under the name of the financial instruments firm in order to settle transactions pursuant to the proviso to Article 42-5 of the Act, using such account for the purpose other than such settlement of transactions or keep such money or security in such account for the period longer than the period necessary for such settlement of transactions.
- 130.2. The provisions of Article 130.1 (limited to the portion related to (8)) shall not apply in the case where solicitation to offer acquisition of a beneficial interest certificate in connection with properties under investment management (which means a security representing an interest held by an interest holder of such properties under investment management or such interest; hereinafter in Article 130.2, the same) is conducted by means of private placement of a security (excluding the case where solicitation to offer acquisition of the beneficial interest certificate in connection with other properties under investment management for the purpose of acquiring such beneficial interest certificate is conducted by means of public offer of a security).

Article 131. — Matters regarding Commissioning of Investment Management Authorities

Matters prescribed by the Cabinet Office Ordinance Person as provided in Article 42-3.1 of the Act shall be:

- (1) the statement that the whole or part of authorities to carry out investment management on behalf of an interest holder is commissioned (including further commissioning of a part of authorities under such investment management; hereinafter in Article 131, the same) and the name or trade name of a person to whom the authorities are commissioned;
- (2) the summary of commissioning; and
- (3) in the case where a remuneration for commissioning is paid out of properties under investment management, the amount of such remuneration (in the case where the amount of remuneration is not fixed in advance, the computation method of such amount of remuneration).

Article 132. — Segregation

132.1. In the case where a financial instruments firm, etc. keeps properties under investment management in custody under the provisions of Article 42-4 of the Act and such properties under investment management are money, the financial instruments firm, etc. shall keep such money by the methods referred to in (a) to (c) of Article 125 (2).

132.2. In the case where a financial instruments firm, etc. keeps properties under investment management in custody under the provisions of Article 42-4 of the Act and such properties under investment management are securities, etc. (which mean securities and other properties other than money; hereinafter in Article 132, the same), the financial instruments firm, etc. shall keep such securities, etc. by the method provided in each of the following items according to the classification of the security, etc. referred to in such item:

- (1) securities, etc. which are kept in custody of the financial instruments firm, etc. (excluding securities, etc. commingled with other assets; in (2), the same) — in the manner that securities, etc. which are properties under investment management (hereinafter in Article 132, referred to as "investment securities, etc.") shall be kept at a place clearly separate from the place where the firm's own securities, etc. or other securities, etc. other than investment securities, etc. (hereinafter in Article 132.2, referred to as "the firm's own securities, etc.") are kept and in the condition that such investment securities, etc. are readily identified as securities for which properties under investment management;
- (2) securities, etc. which are kept in a custody of a third party which is commissioned by the financial instruments firm, etc. — in the manner requiring such third party to keep investment securities, etc. at a place clearly separate from the place where the firm's own securities, etc. are kept and in the condition that such investment securities, etc. are readily identified as securities, etc. for which properties under investment management;
- (3) securities, etc. which are kept in a custody of the financial instruments firm, etc. (limited to securities, etc. commingled with other assets; in (4), the same) — in the manner that investment securities, etc. shall be kept at a place clearly separate from the place where the firm's own securities, etc. are kept and in the condition that the share in each of properties under investment management in such investment securities, etc. is readily identified by the firm's books and records;
- (4) securities, etc. which are kept in a custody of a third party which is commissioned by the financial instruments firm, etc. — in the condition that each owner's share in investment securities, etc. is readily identified in the manner requiring such third party to maintain an account for properties under investment management carried out by the financial instruments firm, etc. clearly separate from the house account of the financial instruments firm, etc. or in other similar manners and that the share of each of properties under investment management in such investment securities, etc. is readily identified by the firm's books and records (in the case where a financial instruments firm, etc. commissions a third party in a foreign jurisdiction and it is impossible for such third party to keep the share in such investment securities, etc. separate from the share of the firm's own securities, etc. or otherwise it is determined that there is unavoidable reason for the third party to be unable to keep the share in such investment securities, etc. under the laws or regulation of the foreign jurisdiction, in the condition that the share in such investment securities, etc. is readily identified by the firm's books and records);
- (5) an interest which deemed to be a security pursuant to the provisions of Article 2.2 of the Act an interest in derivatives transactions or other security, etc. (excluding the securities referred to in the above items) — in the manner provided in (a) or (b) according to the classification of the case referred to in such (a) or (b):
 - (a) the case where there are documents certifying an interest necessary or other documents in the exercise of the right of such interest in such security, etc. — the manner to deem such documents as securities, etc. and keep securities, etc. according to the classification of the securities, etc. referred to in the above items;
 - (b) the case other than the case referred to in (a) — the manner requiring a third party to keep such interest in securities, etc. clearly as investment securities, etc. and in the condition to make available readily identification of the state of keeping by the firm's books and records;

132.3. Notwithstanding the provisions of Article 132.2, a financial instruments firm, etc. shall keep securities, etc. which are held by the financial instruments firm, etc. and the properties under investment management jointly and are unable to be kept pursuant to the provisions of Article 132.2 in a condition that the share of each of properties under investment management in such investment securities, etc. is readily identified by the firm's books and records.

Article 133. — Exceptions for Prohibition of Lending, etc. of Money or Securities regarding Investment Management Business

Case prescribed by the Cabinet Office Ordinance as provided in Article 16-13 (5) of the Order shall be the case where a financial instruments firm acts as an intermediary or agent of lending of money or securities to an investment corporation carrying out investment management of assets.

Article 134. — Furnishing of Investment Management Report

134.1. A financial instruments firm, etc. shall contain the following matters in an investment management report under Article 42-7.1 of the Act (hereinafter in Article 134, referred to as "investment management report"):

- (1) the reporting period covered by the investment management report (which means a period from the day immediately following (if the investment management report is prepared for the first time, the day on which the investment management of properties has been commenced) the immediately preceding base date (which means a day based on which an investment management report is prepared; hereinafter in Article 134, the same) until the base date of the investment management report; hereinafter in Article 134, the same);
- (2) the following matters as the state of properties under investment management as of the base date of the investment management report:
 - (a) the amount of money;
 - (b) the issue name, number and value of a security;
 - (c) the underlying assets (including a financial instrument, financial index or its equivalent which becomes an object of transactions; in (3) (c) (ii), the same), trade volume (if there is no volume, matters equivalent to number of volume; in (3) (c) (ii), the same) and unit prices, etc. (which means unit prices, amounts of consideration or other amount of money or value per one unit of transactions; in (3) (c) (ii), the same) of derivatives transactions;
- (3) the following matters as the state of investment management for the reporting period covered by an investment management report:
 - (a) the date on which a transaction has been conducted;
 - (b) the type of transaction and the name or trade name of the counterparty of a financial instruments transactions act;
 - (c) the following matters as the details of a transaction:
 - (i) in the case of purchase or sale or other transactions of a security, the issue name, number, value of a security and the distinction of purchase, or sale, etc. for each transaction;
 - (ii) in the case of a derivatives transaction, the underlying assets, trade volume, unit price, etc. and the distinction of purchase, etc. or sale, etc. of the derivatives transaction for each transaction (in the case of the transactions referred to in (a) to (d) of Article 100.1 (2), matters provided in (a) to (d));
- (4) the amount of remuneration for investment management of properties paid for the reporting period covered by the investment management report;
- (5) in the case where a financial instruments firm, etc. has performed, in respect of transactions in connection with properties under investment management, an act to which the first-type financial instruments business, the second-type financial instruments business or registered financial institution business is applicable during the reporting period covered by the investment management report, the amount of fees, remuneration and other amount of consideration in respect of such act for the reporting period covered by the investment management report;
- (6) in the case where a financial instruments firm, etc. has conducted transactions with the following persons for the reporting period covered by the investment management report, the details thereof:
 - (a) the financial instruments firm, etc. or its director, executive officer, auditor, a person in a position similar to an officer or employee;
 - (b) other properties under investment management;
 - (c) the parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm, etc.;
- (7) the ratio of total trading amount in connection with a financial instruments transactions act performed with any of the persons referred to in (6) (a) to (6) (c) as a counterparty per total trading amount in connection with a financial instruments transactions act performed during the

reporting period covered by the investment management report;

(8) in the case where there is a person who is a counterparty of a financial instruments transactions act performed as investment management of properties during the reporting period covered by an investment management report and trading amount with whom is 10/ 100 or more of the total trading amount in connection with financial instruments transactions acts performed for such properties under investment management, the name or trade name of such counterparty and the ratio of the total trading amount in connection with financial instruments transactions act with such counterparty per the total trading amount in connection with financial instruments transactions acts performed during the reporting period covered by an investment management report.

134.2. A reporting period shall be six months or less.

134.3. An investment management report shall be prepared after the reporting period has passed without delay and furnished to known interest holders.

134.4. Case prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 42-7.1 of the Act shall be:

(1) the case where a person living together with an interest holder is expected to be furnished an investment management report with certainty and such interest holder gives a consent for not being furnished of such investment management report no later than the base date (excluding the case where such interest holder has requested to issue such investment management report no later than the base date);

(2) the case where a security intended to be placed with specific investors is applicable to a certificate of beneficial interest of properties under investment management (which means a certificate to represent an interest held by an interest holder in respect of such properties under investment management or such interest) and information of matters required to be stated in investment management report is provided or published as issuer, etc. information under Article 27-32.1 of the Act without delay after the reporting period passes pursuant to the provisions of Article 27-32.1 or 27-32.2 (limited to the case where there are provisions in a contract or other juridical act for such certificate of beneficial interest that such information is provided or published in lieu of furnishing an investment management report);

(3) the case where a written statement containing matters required to be stated in an investment management report is furnished to known interest holders of properties under investment management at least once per six months pursuant to the provisions of other laws or regulations or the case where an electronic or magnetic record containing such matters is furnished.

Article 135. — Case Where Notification of Investment Management Report is Not Required

Case prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 42-7.3 of the Act shall be the case where a securities report (limited to a securities report containing matters required to be stated in an investment management report) as defined in Article 24.1 of the Act pursuant to the provisions of said Article 24.1 which is applied *mutatis muntandis* under Article 24.5 of the Act (including the *mutatis mutandis* application under Article 27 of the Act) in respect of the interests referred to in (a) to (c) of Article 2.8 (15) of the Act in such properties under investment management held by an interest holder of such properties under investment management shall be submitted.

Subsection 3. Special Provisions for Securities, etc. Custody Business

Article 136. — Manner of Keeping in Custody Securely and Orderly

136.1. Manner prescribed by the Cabinet Office Ordinance as provided in Article 43-2.1 of Law shall be the manner provided in each of the following items according to the classification of the security referred to in such item:

(1) securities which are kept in a custody of the financial instruments firm, etc. (excluding securities commingled with other assets; in (2), the same) — in the manner that securities which are required to be segregated from own properties of the financial instruments firm, etc. pursuant to the provisions of Article 43-2.1 of the Act (hereinafter referred to as "customer securities") shall be kept at a place clearly separate from the place where the firm's own securities or other securities other than customer securities (hereinafter in Article 136.1, referred to as "the firm's own securities, etc.") are kept and in the condition that each customer's securities are readily identified in respect of such customer securities;

(2) securities which are kept in a custody of a third party which is commissioned by the financial instruments firm, etc. — in the manner requiring such third party to keep customer securities at a place clearly separate from the place where the firm's own securities, etc. are kept

- and in the condition that each customer's customer securities are readily identified;
- (3) securities which are kept in a custody of the financial instruments firm, etc. (limited to securities commingled with other assets; in (4), the same) — in the manner that customer securities shall be kept at a place clearly separate from the place where the firm's own securities, etc. are kept and in the condition that each customer's share in such customer securities is readily identified by the firm's books and records;
 - (4) securities which are kept in a custody of a third party which is commissioned by the financial instruments firm, etc. — in the condition that each owner's share in such customer securities is readily identified by means of requiring such third party to maintain an account for customers of the financial instruments firm, etc. clearly separate from the house account of the financial instruments firm, etc. or in other similar manners and that each customer's share in the customer securities is readily identified by the firm's books and records (in the case where a financial instruments firm, etc. commissions a third party in a foreign jurisdiction and it is impossible for such third party to keep a share in such customer securities separate from a share in the firm's own securities, etc. under the laws or regulations in the foreign jurisdiction or otherwise it is impossible for such third party to keep a share in customer securities in the condition that each owner's share in customer securities is readily identified and it is determined that there is unavoidable reason for such impossibility, in the manner that each customer's share in the customer securities is readily identified by the firm's books and records);
 - (5) an interest which is deemed to be a security pursuant to the provisions of Article 2.2 of the Act (excluding the securities referred to in the above items) — in the manner provided in (a) or (b) according to the classification of the case referred to in such (a) or (b):
 - (a) the case where there are documents certifying an interest necessary or other documents in the exercise of the right of such interest — the manner to deem such documents as securities and keep such documents according to the classification of the securities referred to in the above items;
 - (b) the case other than the case referred to in (a) — the manner requiring a third party to keep such interest clearly as customer securities and in the condition to make the state of the keeping by the firm's books and records available for identification readily;
- 136.2. Notwithstanding the provisions of Article 136.1, a financial instruments firm, etc. shall keep securities which are held jointly with a customer and are unable to be kept pursuant to the provisions of Article 136.1, in a condition that each customer's share in such customer securities is readily identified by the firm's books and records.

Article 137. — Business Incidental to Security Related Business

Business prescribed by the Cabinet Office Ordinance as provided in Article 43-2.1 (2) of the Act as a business incidental to securities related business shall be, among businesses incidental to financial instruments business, business other than the following businesses:

- (1) business to perform any of the acts referred to in (1) and (10) to (15) of Article 35.1 of the Act;
- (2) business to perform the act referred to in Article 35.1 (9) of the Act (limited to an act related to the following business):
 - (a) financial instruments businesses (including registered financial institution business carried out by a registered financial institution) other than security related business;
 - (b) security related businesses related to over-the-counter derivatives transactions (limited to transactions provided in Article 137-2) or the transactions provided in Article 16-15 of the Order (limited to transactions provided in Article 137-2);
 - (c) business referred to in (1);
- (3) business similar to the businesses referred to in (1) and (2).

Article 137-2. — Over-The-Counter Derivatives Transactions related to Securities related business Excluded from Segregation

Transactions, as the counterparty, with a financial instruments firm carrying out securities related business and is registered under Article 29 to carry out the first-type financial instruments business or other transaction prescribed by the Cabinet Office Ordinance in light of the nature of the counterparty of the transaction as provided in Article 43-2.1 (2) of the Act shall be transactions with any of the persons referred to in (a) or (b) of Article 1-8-6.1 (2) of the Order as the counterparty.

Article 138. — Computation of Amount of Segregated Customer Money

Amount required to be returned to a customer as provided in Article 43-2.2 of the Act shall be computed for each customer and the total amount of the amount of money referred to in (1) and (2)

of said Article 43-2.2 subject to such computation and market prices of the security referred to in (3) of said Article 43-2.2 (which means the published last price on the same day or a price computed in a reasonable manner as equivalent thereto; in Articles 139 to 141, the same).

Article 139. — Deduction from Amount of Segregated Customer Money

139.1. In the computation of the amount for each customer pursuant to the provisions of Article 138, the financial instruments firm, etc. may deduct the following amounts:

- (1) claims that the financial instruments firm, etc. holds on a customer (limited to an advance money for purchase cost of a security (limited to a security segregated pursuant to the provisions of Article 43-2.1 of the Act) that the customer has purchased);
- (2) money as proceeds from a customer's sale of a security by margin transactions (limited to money pledged for claims in connection with credit that the financial instruments firm has granted to the customer for such margin transactions);
- (3) the amounts referred to in the items of Article 8.1 of the Cabinet Office Ordinance on Transaction Provided in Article 161-2 of the Financial Instruments and Exchange Act and its Guarantee Money (limited to the amount for a customer's margin transaction and, in the case where such amount exceeds the total of the amount of money and the market price of a security deposited as receiving guarantee money (which means receiving guarantee money as defined in Article 3 (1) of said Ordinance) for such customer's margin transactions, such total amount);
- (4) the amount of money pledged by a customer under a contract of transaction under repurchase agreement (which means the transaction referred to in (b) or (c) of Article 110.1 (2); hereinafter the same).

139.2. Profit or loss based on the movement of market prices of a security traded by a customer's margin transaction under Article 8.1 of the Cabinet Office Ordinance on Transaction Provided in Article 161-2 of the Financial Instruments and Exchange Act and its Guarantee Money in computing the amount of the customer's margin transaction provided in Article 139.1 (3) shall, notwithstanding the provisions of Article 8.3 of said Ordinance, profit or loss of the difference between the trade value of such security and the amount valued by the market price on the day of computation.

Article 140. — Special Provisions for Funding Transaction

140.1. In the computation of the market price of a security provided in Article 138, the financial instruments firm shall, in the case where the financial instruments firm pledges a security to be used as money provided in Article 161-2.1 of the Act pursuant to the provisions of Article 161-2.2 of the Act deposited by the customer (hereinafter in Article 140, such customer is referred to as "security used as margin transaction guarantee money") to a security finance company or an other financial instruments firm which does business (including business carried out as a result of acting as a customer of security, etc. clearing broking (limited to those meeting the requirement referred to in Article 2.27 (1) of the Act; hereinafter in Article 140, the same) and an agent of a person conducting the security, etc. clearing broking; in (1), the same) with the financial instruments firm or a person who has accepted an order for security, etc. clearing broking from the financial instruments firm (hereinafter in Article 140, referred to as "depot financial instruments firm, etc.") for the purpose of funding money or a security to be lent to a customer for margin transaction and all of the following requirements are met, the market price of such security used as margin transaction guarantee money shall be deducted:

- (1) a financial instruments firm and security finance company or depot financial instruments firm, etc. shall manage transactions, for the purpose of funding money or a security to be lent to a customer for margin transaction, conducted by the financial instruments firm with the security finance company or depot financial instruments firm, etc. (hereinafter in Article 140.1, referred to as "funding transactions") separate clearly from other transactions conducted by the financial instruments firm with the security finance company or depot financial instruments firm, etc. (hereinafter in Article 140.1, referred to as "non-funding transactions");
- (2) in the case where funding transactions are conducted with a depot financial instruments firm, etc., such depot financial instruments firm, etc. shall manage funding transactions separately for each customer;
- (3) the a customer shall maintain an ownership of a security used as margin transaction guarantee money pledged to a security finance company or depot financial instruments firm, etc. in respect of funding transactions (hereinafter in Article 140.1, referred to as "specific margin security");
- (4) a security finance company or a depot financial instruments firm, etc. shall keep a specific

margin security clearly separate from a security for non-funding transactions and a financial instruments firm (including, in the case where funding transactions are conducted with a depot financial instruments firm, etc., such depot financial instruments firm, etc.) shall keep a specific margin security in the condition that the type and the amount of such specific margin security owned by each customer is clearly identified by the books and records;

- (5) a financial instruments firm and a security finance company or a depot financial instruments firm, etc. shall compute and pay and receive daily the difference between the total amount of market prices of money and securities that the financial instruments firm has funded from the security finance company or depot financial instruments firm, etc. by funding transactions and the total amount of market prices of securities that the financial instruments firm has purchased by funded money pledged to the security finance company or depot financial instruments firm, etc. by such funding transactions and sale proceeds of securities so funded;
- (6) a security finance company or depot financial instruments firm, etc. shall not be allowed, by a contract, to dispose specific margin security for the purpose of using it as claims (in the case where funding transactions are conducted with a depot financial instruments firm, etc., including claims that the depot financial instruments firm, etc. has regarding funding transactions for other customers) that the security finance company or depot financial instruments firm, etc. has on a financial instruments firm regarding non-funding transactions.

140.2. The provisions of Article 140.1 (excluding (2)) shall apply *mutatis mutandis* in the case where a financial instruments firm, etc. is commissioned for security, etc. clearing broking from an other financial instruments firm which is a customer and pledges securities deposited as margin transaction guarantee money deposited from such other financial instruments firm. For this purpose, "financial instruments firm (including, in the case where funding transactions are conducted with a depot financial instruments firm, etc., such depot financial instruments firm, etc.)" in Article 140.1 (4) shall be read as "financial instruments firm, etc." and "claims (in the case where funding transactions is conducted with a depot financial instruments firm, etc., including claims that the depot financial instruments firm, etc. has regarding funding transactions for other customers)" in Article 140.1 (6) shall be read as "claims".

Article 140-2. — Computation of Amount of Customer Segregated Money for Eligible Securities Related Over-The-Counter Derivatives Transactions, etc.

Notwithstanding the provisions under Articles 138 to 140, the amount required to be returned to a customer provided in Article 43-2.2 of the Act for money referred to in (2) of said Article 43-2.2 and securities (limited to securities regarding eligible securities related transactions (limited to transactions to which the following transactions are applicable; hereinafter in Subsection 3, referred to as "eligible securities related over-the-counter derivatives transactions, etc.") provided in (2) of said Article 43-2.2) referred to in (3) of said Article 43-2.2 shall be computed for each customer and the total amount of the amount of such money subject to such computation and the current value of such securities:

- (1) over-the-counter derivatives transactions;
- (2) foreign market derivatives transactions; or
- (3) transactions provided in Article 16-15 of the Order.

Article 140-3. — Deduction from Amount of Segregated Customer Money for Eligible Securities related Over-The-Counter Derivatives Transactions, etc.

140-3.1. The amount of money under Article 140-2 shall include the amount of profits for a customer when the eligible securities related over-the-counter derivatives transactions, etc. under Article 140-2 are closed, and may deduct the amount of losses for a customer when the eligible securities related over-the-counter derivatives transactions, etc. under Article 140-2 are closed.

140-3.2. In computing the amount for each customer pursuant to the provisions of Article 140-3, if a financial instruments firm, etc. conducts eligible securities related over-the-counter derivatives transactions, etc. based on a master agreement (which means a master agreement as defined in Article 2.5 of the Act; hereinafter in Articles 140-3.2 and 143-2.3, the same) agreeing collective liquidation (which means collective liquidation as defined in Article 2.6 of the Law on Collective Liquidation of Specific Financial Transactions Conducted by Financial Institution, etc. (Law No. 108 of 1998); in Article 143-2.3, the same) between a financial instruments firm, etc. and the customer and there is a valuation amount (which means a valuation amount under Article 2.6 of said Law; in Article 143-2.3, the same) which is a valuation loss for the customer (excluding a valuation loss related to such eligible securities related over-the-counter derivatives transactions, etc.) in the event that such collective liquidation reason (which means collective liquidation reason

as defined in Article 2.4 of the Act; hereinafter in Articles 140-3.2 and 143-2.3, the same) has occurred in respect of specific financial transactions (which means specific financial transactions as defined in Article 2.1 of said Law; hereinafter in Articles 140-3.2 and 143-2.3, the same) conducted based on such master agreement in the event that a collective liquidation reason has occurred for such customer at the time of such computation, such financial instruments firm, etc., may deduct the amount of such valuation losses to the extent that it is determined not to constitute a failure of the protection of customers even if such eligible securities related over-the-counter derivatives transactions, etc. have been closed based on such master agreement.

Article 141. — Requirements for Segregated Customer Money Trust

141.1. A financial instruments firm, etc. shall arrange that a trust provided in Article 43-2.2 of the Act (hereinafter referred to as "segregated customer money trust") shall meet all of the following requirements (in the case of a registered financial institution, excluding the requirements referred to in (3) and (10)):

- (1) with respect to a contract of trust for segregated customer money trust (excluding segregated customer money trust for eligible securities related over-the-counter derivatives transactions, etc.; hereinafter in Article 141, the same) (hereinafter in Article 141, referred to as "contract of segregated customer money trust"), a financial instruments firm, etc. shall be a trusting person, a trust company or financial institution engaged in trust business shall be a trustee and a customer for financial instruments business (including registered financial institution business) carried out by such financial instruments firm, etc. shall be a beneficiary for the principal;
- (2) with respect to a contract of segregated customer money trust, an agent of a beneficiary shall be appointed and, in the case where a financial instruments firm, etc. enters into multiple contracts of segregated customer money trust, agents of beneficiaries for such multiple contracts of segregated customer money trust shall be the same person;
- (3) in the case where a notice financial instruments firm (which means a notice financial instruments firm as defined in Article 79-54 of the Act; in (10), the same) has become applicable to a financial instruments firm, etc., an investor protection fund (limited to an investor protection fund to which the financial instruments firm belongs; hereinafter in Article 141.1, the same) shall be an agent for a beneficiary, except for the case where the investor protection fund determines specifically;
- (4) money belonging to trust properties of a segregated customer money trust (excluding a money trust with a financial institution engaged in trust business which has a compensation contract of the principals) shall be invested only by the following methods:
 - (a) holding of national government bonds or other securities designated by the Commissioner of the Financial Services Agency;
 - (b) deposit with a bank or other financial institution designated by the Commissioner of the Financial Services Agency (excluding the financial instruments firm, etc. itself);
 - (c) other method designated by the Commissioner of the Financial Services Agency;
- (5) in the case where a segregated customer money trust is a trust of securities or a trust of money and securities, securities trusted shall be limited to national government bonds or other securities designated by the Commissioner of the Financial Services Agency and securities which is trust properties of a segregated customer money trust shall not be invested by means of loan;
- (6) a financial instruments firm, etc. shall compute daily the amount of each customer segregated money (which means the amount required to be returned to each customer, which is computed for each customer pursuant to the provisions of Articles 138 to 140; hereinafter in (6) and (12), the same) and the required amount of segregated customer money (which means the total amount of each customer segregated money; hereinafter the same);
- (7) in the case where the valued amount of the principal of trust properties as of a base date set at least once a week (hereinafter referred to as "base date of replacement computation") is less than the required amount of segregated customer money, the amount of trust properties equivalent to such shortage shall be added within three business days since the day immediately following such base date of replacement computation;
- (8) the valued amount of securities which are trust properties shall be the amount provided in (a) to (c) according the classification of the cases referred to in (a) to (c):
 - (a) the case where a segregated customer money trust is a money trust with a financial institution engaged in trust business which has a compensation contract of the principals — the principal amount of such money trust;
 - (b) the case where a segregated customer money trust is a trust of securities or a trust of money and securities — the amount equivalent to or less than the amount obtained from

computation of multiplying the market price as of the base date of replacement computation by the ratio determined by the Commissioner of the Financial Services Agency considering to ensure the protection of customers who are beneficiaries of the principals of the segregated customer money trust;

- (c) the case other than the cases referred to in (a) to (c) — the market price as of the base date of replacement computation;
 - (9) cancellation or partial cancellation of a contract of a segregated customer money trust is allowed in the following cases:
 - (a) the case where the valued amount of the principal of trust properties as of the base date of replacement computation exceeds the required amount of segregated customer money and cancellation or partial cancellation of a contract of segregated customer money trust within the amount equivalent to such excess amount is to be made;
 - (b) the case where cancellation or partial cancellation of a contract of segregated customer money trust is to be made within the amount equivalent to the required amount of segregated customer money for money received for public offer, etc. (which means guarantee money for subscription or payment money received from a customer for a share certificate, debt security, beneficial interest certificate of investment trust or investment certificate subject to public sale or solicitation of sale, etc. to specific investors, public offer or handling of public offer or public sale or handling of private placement or solicitation of sale, etc. to specific investors, public offer; hereinafter in Article 141, the same) (in the case where the first-mentioned amount exceeds the residuary amount of segregated customer money, such residuary amount of segregated customer money) on the payment date of such money received for public offer, etc.;
 - (c) the case where cancellation or partial cancellation of a contract of segregated customer money trust is to be made in order to replace it with an other contract of segregated customer money trust;
 - (10) in the case where a notice financial instruments firm has become applicable to a financial instruments firm, the financial instruments firm shall not give a trustee direction of investment management, except for the case where an investor protection fund approves specifically;
 - (11) the exercise of the right of beneficial interest of the principal of a contract of segregated customer money trust shall be made only if an agent of beneficiaries (in the case where a trusting person is a financial instruments firm, limited to an investor protection fund which is an agent of beneficiaries; hereinafter in (11) and Article 141.6, the same) has determined it necessary and such agent of beneficiaries exercises the rights in a lump for all customers;
 - (12) the value equivalent to beneficial interests of the principal for each customer who is a beneficiary of the principal shall be an amount obtained from computation of multiplying the principal conversion value of the segregated customer money as at the exercise of the right of a beneficial interest of the principal by the ratio of each customer segregated money for such customer to the required amount of segregated customer money as of the date of the exercise of the right of such beneficial interest (in the case where the first-mentioned amount exceeds the amount of each customer segregated money, such amount of each customer segregated money);
 - (13) if the principal conversion value exceeds the total amount of the value equivalent to beneficial interests of the principal of each customer, such excess amount shall belong to a financial instruments firm, etc. which is a trusting person.
- 141.2. In the case of (7) of Article 141.1, if there is required amount of segregated customer money which are for money received as subscription to public offer (limited to money paid for the period under said (7) until the day on which trust properties are added pursuant to the provisions of Article 141. (7); hereinafter in Article 141.2, the same), such required amount of segregated customer money which are for money received as subscription to public offer may be deducted from the shortage under Article 141.1 (7).
- 141.3. Trust properties in connection with cancellation or partial cancellation of a contract of segregated customer money trust made pursuant to the provisions of Article 141.1 (9) may belong to the financial instruments firm, etc. which is a trusting person.
- 141.4. "Residuary amount of segregated customer money" under (9) (b) of Article 141.1 shall mean an amount of the valued amount of the principal of trust properties under a contract of segregated customer money trust as of the day of computation of the required amount of segregated customer money in connection with money received for public offer, etc. regarding cancellation or partial cancellation of a contract of segregated customer money trust made pursuant to the provisions of said (9) (b) less the required amount of segregated customer money (excluding the required amount of segregated customer money).
- 141.5. In the case of (11) of Article 141.1, a contract of segregated customer money trust under

said (11) may be deemed to have achieved its purpose and terminated.

141.6. "Principal conversion value" under (12) and (13) of Article 141.1 shall mean the amount obtained as a result of conversion of trust properties which is the principal of a contract of segregated customer money trust or an amount computed by an agent of beneficiaries by a reasonable method as equivalent thereto.

Article 141-2. — Requirements for Segregated Customer Money Trust

141.1. Notwithstanding the provisions of Article 141, a contract for segregated customer money trust for eligible securities related over-the-counter derivatives transactions, etc. (hereinafter referred to as "segregated customer money trust") shall meet all of the following requirements:

- (1) a financial instruments firm, etc. shall be a trusting person, a trust company or financial institution engaged in trust business shall be a trustee and a customer for eligible securities related over-the-counter derivatives transactions, etc. conducted by such financial instruments firm, etc. shall be a beneficiary for the principal;
- (2) an agent of a beneficiary shall be appointed and at least one of such agents of beneficiaries shall be a lawyer, attorney at law corporation, certified accountant, audit corporation, certified tax accountant, tax accountant corporation or a person designated by the Commissioner of the Financial Services Agency (hereinafter in Article 141-2.1, referred to as "attorney-at-law, etc.");
- (3) in the case where a financial instruments firm, etc. enters into multiple contracts of segregated customer money trust, agents of beneficiaries for such multiple contracts of segregated customer money trust shall be the same person;
- (4) in the case where any of the following requirements has become applicable to a financial instruments firm, etc., only an agent of beneficiary which is an attorney-at-law, etc. shall exercise the authorities (excluding the case where such agent of beneficiary allow other agent of beneficiary to exercise the authorities);
 - (a) revocation, pursuant to the provisions of Article 52.1, 52.4, 53.3, 54 or 57-6.3 of the Act, of registration under Article 29 of the Act;
 - (b) revocation, pursuant to the provisions of Article 52-2.1, 52-2.3 or 54 of the Act, of registration under Article 33-2 of the Act;
 - (c) filing of a petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of special liquidation proceedings (in the case of a financial instruments firm, etc. which is a foreign juridical person, filing of a petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of special liquidation proceedings in Japan or filing of the same type of petition under the laws or regulations of a jurisdiction, where the principal business office is located, in such jurisdiction);
 - (d) cessation of financial instruments business, etc. (in the case of a financial instruments firm, etc. which is a foreign juridical person, cessation of financial instruments business, etc. at all of the business offices or other type of offices in Japan; in (d), the same) or dissolution (in the case of a financial instruments firm, etc. which is a foreign juridical person, commencement of liquidation of any of the business offices or other type of offices in Japan; in (d), the same), or public notice of cessation of financial instruments business, etc. or dissolution pursuant to the provisions of Article 50-2.6 of the Act;
 - (e) issuance of an order under Article 52.1 of the Act to suspend the whole or part of business (limited to the case falling under (7) of said Article 52.1);
 - (f) filing of a petition by the Prime Minister with a court for commencement of bankruptcy proceedings pursuant to the provisions of Article 490.1 of the Law on Exceptions, etc. for Reorganization Proceedings of Financial Institution, etc. (Law No. 95 of 2000);
 - (g) receipt by the Prime Minister of a notice pursuant to the provisions of Article 379, 448 or 492 of the Law on Exceptions, etc. for Reorganization Proceedings of Financial Institution, etc. or other notice regarding special liquidation;
- (5) trust properties of such segregated customer money trust (excluding a money trust with a financial institution engaged in trust business which has a compensation contract for the principals) shall be invested by the following methods:
 - (a) holding of the following securities:
 - (i) national government bonds;
 - (ii) local municipal bonds;
 - (iii) securities issued by a public corporation, public finance corporation and government corporation or other securities for which the national government guarantees the payment of the principal and interests;

- (iv) national federation bond under Article 54-2-4.1 of the Shinkin Bank Law, long-term credit bank bond under Article 8 of the Long-Term Credit Bank Law, agriculture and forestry bond under Article 60 of the Norinchukin Bank Law and commerce and industry bond under Article 33 of the Business Corporation Shokochukin Bank Law (including securities which are deemed to be commerce and industry bond issued under Article 33 of said Law pursuant to the provisions of Article 37 of the Supplementary Provisions of said Law);
- (v) specific corporate debt security pursuant to the provisions of Article 8.1 of the Law on Merger and Transformation of Financial Institution (Law No. 86 of 1968) (including the *mutatis mutandis* application under Article 55.4 of said Law) (including debt securities pursuant to the provisions of Article 17-2.1 (including the *mutatis mutandis* application under Article 24.1 (7) of the Law on Merger and Transformation of Financial Institution) of said Law before amendment pursuant to the provisions of Article 199 of the Law on Maintenance, etc. of Relevant Laws Associated with Enforcement of the Corporations Law(Law No. 87 of 2005));
- (vi) beneficial interest certificate under the Loan Trust Law (Law No. 195 of 1952) which has a compensation contract of the principals;
- (vii) secured corporate debt securities (limited to debt securities having no experience of delay of redemption or interest payment);
- (viii) beneficial interest certificate of investment trusts referred to in (a) to (c) of Article 65 (2) (limited to the extent equivalent to 1/ 3 of the required amount of segregated customer money (which means the total amount of individual amount of segregated customer money (which means the amount required to be returned to such customer computed for each customer pursuant to the provisions of Articles 140-2 and 140-3; in (14) and Article 141-3, the same); hereinafter in Articles 141-2.1 and 141-3, the same));
- (b) money deposit or money saving with the following financial institutions (in the case where a financial instruments firm, etc. is such financial institution, excluding money deposit or money saving with itself):
 - (i) bank;
 - (ii) shinkin bank, federation of shinkin banks, labor bank and federation of labor banks;
 - (iii) Norinchukin Bank and Business Corporation Shokochukin Bank;
 - (iv) a credit cooperative association, the federation of credit cooperative associations and agriculture cooperative association, federation of agriculture cooperative associations, fisheries cooperative association, federation of fisheries cooperative association, fisheries processors' cooperative and federation of fisheries processors' cooperatives which may accept money saving as a business;
- (c) call loan;
- (d) loan for bank account to a financial institution engaged in trust business which is a trustee;
- (e) money trust with a financial institution engaged in trust business which has a compensation contract for the principals;
- (6) if the valued amount of the principal of trust properties is less than the required amount of customer segregated money, the financial instruments firm, etc. shall add the amount of money equivalent to such shortage to trust properties within two business days since the day immediately following the day when such shortage has occurred;
- (7) the financial instruments firm, etc. shall compute the valued amount of securities which are trust properties at the current market price (excluding the case where such customer segregated money trust is a money trust with a financial institution engaged in trust business which has a compensation contract for the principals);
- (8) in the case where the customer segregated money trust is a money trust with a financial institution engaged in trust business which has a compensation contract for the principals, the valued amount of principals of trust properties shall be the principal amount of such money trust;
- (9) cancellation, in whole or in part, of a contract of a customer segregated money trust is allowed only in the following cases:
 - (a) the case where, if the valued amount of the principal of trust properties exceeds the required amount of customer segregated money, cancellation, in whole or in part, of a contract of customer segregated money trust is made within the amount equivalent to such excess amount;
 - (b) the case where cancellation, in whole or in part, cancellation of a contract of customer segregated money trust is made in order to replace it with other contract of customer segregated money trust;
- (10) causing trust properties subject to cancellation, in whole or in part, cancellation of customer segregated money trust made in the case referred to in (a) or (b) of (9) to belong to a trusting person.
- (11) in the case where the financial instruments firm, etc. has fallen under any of (a) to (g) of (4),

- the financial instruments firm, etc. shall not direct a trustee regarding investment management, unless an agent of beneficiaries who is an attorney-at-law, etc. approves specifically;
- (12) an agent of beneficiaries who is an attorney-at-law, etc. shall exercise the right of the beneficial interests of customers in a lump for all customers if such agent of beneficiaries has determined it necessary;
 - (13) if the right of the beneficial interest of customers has been exercised in a lump by an agent of beneficiaries who is an attorney-at-law, etc., the trust contract of such right of beneficial interests may be terminated;
 - (14) the amount to be paid to each customer as a result of the exercise of the right of the beneficial interest by the customer shall be an amount obtained from computation of multiplying the principal conversion value as of the date of the exercise by the ratio of each customer segregated money for such customer to the required amount of customer segregated money as of the date of the exercise (in the case where the second-mentioned amount exceeds the amount of each customer segregated money, such amount of each customer segregated money); and
 - (15) if the principal conversion value exceeds the required amount of customer segregated money as of the day on which the customer exercises the right of the beneficial interest, such excess amount shall belong to the trusting person.
- 141-2.2. "Principal conversion value" under (14) and (15) of Article 143-2.1 shall mean the amount obtained from the conversion of trust properties (limited to the part of the principal) of customer segregated money trust (if the customer segregated money trust has a compensation contract for the principals, the amount of the principals).

Article 141-3. — Computation of amount of Individual Customer Segregated Money, etc.

A financial instruments firm, etc. shall compute the amount of individual customer segregated money and the required amount of customer segregated money each day.

Article 142. — Segregation Audit

- 142.1. The state of management under the provisions of Articles 43-2.1 and 43-2.2 of the Act shall be audited by a certified public accountant or accounting corporation periodically at least once a year in a manner prescribed by the rules of a financial instruments firms association (limited to the rules designated by the Commissioner of the Financial Services Agency (hereinafter in Article 142, referred to as "association rules") to which the financial instruments firm belongs and, in the case of a financial instruments firm which is not a member of a financial instruments firms association prescribing the association rules, the association rules designated by the Commissioner of the Financial Services Agency) (hereinafter referred to as "segregation audit") under the provisions of Article 43-2.3 of the Act.
- 142.2. Association rules shall provide for the following matters:
- (1) matters regarding criteria and procedures for segregation audit;
 - (2) matters regarding report of the result of segregation audit;
 - (3) measures in the case where a member of a financial instruments firms association has violated the laws or regulations, administrative dispositions under the laws or regulations or the articles of incorporation or other rules of the financial instruments firms association, and other matters regarding measures required for the state of control of such member under Articles 43-2.1 and 43-2.2 of the Act;
 - (4) matters regarding change in association rules; and
 - (5) in addition to the matters referred to in the above items, matters required for enforcement of segregation audit.
- 142.3. The following persons shall not conduct segregation audit:
- (1) a person who is not allowed to conduct operations of audit under Article 43-2.3 of the Act pursuant to the provisions of the Certified Public Accountant Law;
 - (2) an officer, employee or specific individual shareholder (which means a specific individual shareholder as defined in Article 15-16.1 (4) of the Order) of the financial instruments firm;
 - (3) a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm;
 - (4) a person receiving remuneration continuously for operations other than operations of a certified public accountant or audit corporation from the financial instruments firm or any of the persons referred to in (2) and (3) or the spouse of the first-mentioned person;
 - (5) an audit corporation having, among the audit corporation's partners, any of the persons referred to in (2) and (4).

Article 143. — Segregation of Money

143.1. In the case where a financial instruments firm, etc. manages money or other guarantee money under the provisions of Article 43-3.1 of the Act and such guarantee money is money, the financial instruments firm, etc. shall keep such money separate from the firm's own property in the manner provided in each of the following items according to the classification of the derivatives transactions, etc (excluding securities related derivatives transactions, etc.). referred to in such item:

- (1) currency related derivatives transaction, etc. — money trust with a trust bank or a financial institution engaged in trust business;
- (2) derivatives transaction, etc. other than the derivatives transaction, etc. referred to in (1) — the following manners;
 - (a) money deposit or money saving with a bank, cooperative financial institution or Business Corporation Shoko Chukin Bank, Limited (limited to money deposit under the name which clearly shows that such money deposit is such guarantee money);
 - (b) money trust with a financial institution engaged in trust business which has compensation contracts of the principals or money trust with a trust company or financial institution engaged in trust business which is managed safely (limited to money trust under the name which clearly shows that such money trust is such guarantee money);
 - (c) deposit with a covering counterparty (limited to, in the case where a financial instruments firm, etc. conducts covering transactions with a specific firm, etc. (which means an other financial instruments firm, etc. or a bank (excluding a registered financial institution) or a person equivalent thereto under the laws or regulations in a foreign jurisdiction who is supervised by the authority which enforces the laws or regulations in the foreign jurisdiction; hereinafter in Article 143.1, the same) as a counterparty or conducts covering transactions on an on-exchange financial instruments market (including a foreign financial instruments market; hereinafter in (c), the same), money equivalent to an amount deposited as guaranteed money for such covering transactions with such specific firm, etc. or a person who operates such on-exchange financial instruments market);
 - (d) deposit with an intermediary, etc. counterparty (limited to, in the case where a financial instruments firm, etc. assumed the duties of an intermediary, broker or agent for over-the-counter derivatives transactions (excluding over-the-counter derivatives transactions to which securities related derivatives transactions are applicable; hereinafter in (4) and Article 143.2, the same) other than currency related over-the-counter derivatives transaction as defined in Article 123.4 with a specific firm, etc. as an intermediary, etc. counterparty, money equivalent to an amount deposited as guaranteed money for such over-the-counter derivatives transaction with such specific firm, etc.);

143.2. Money under Article 143.1 shall not include money pledged by a customer regarding over-the-counter derivatives transactions (excluding over-the-counter financial futures transactions; in Article 144.3, the same).

143.3. "currency related derivatives transaction, etc." under the items of Article 143.1 shall be the following acts:

- (1) currency related market derivatives transaction as defined in Article 123.2 or any of the acts referred to in (2) or (3) of Article 2.8 of the Act related thereto;
- (2) currency related over-the-counter derivatives transaction as defined in Article 123.4 (excluding currency related over-the-counter derivatives transaction for the purpose of reducing the risk of loss arising from the fluctuation of exchange rates related to assets and liabilities held by a juridical person engaged in foreign trade or other business regarding foreign exchange transactions if the financial instruments firm, etc. confirms that such currency related over-the-counter derivatives transaction reduces the risk of loss) or acting as an intermediary, broker (excluding securities, etc. clearing broking) or agent therefor; and
- (3) currency related foreign market derivatives transaction as defined in Article 123.5 or any of the acts referred to in (2) or (3) of Article 2.8 of the Act related thereto.

Article 143-2. — Requirements for Separate Customer Money Trust

143-2.1. A contract for a trust provided in Article 143.1 (1) (hereinafter referred to as "separate customer money trust") shall meet all of the following requirements:

- (1) a financial instruments firm, etc. shall be a trusting person, a trust company or financial institution engaged in trust business shall be a trustee and a customer for currency related derivatives transaction, etc. (which means currency related derivatives transaction, etc. as defined in Article 143.3; hereinafter in Article 143-2, the same) conducted by such financial instruments firm, etc. shall be a beneficiary for the principal;
- (2) an agent of a beneficiary shall be appointed and at least one of such agents of beneficiaries

- shall be an attorney-at-law, attorney-at-law corporation, certified public accountant, audit corporation, certified public tax accountant, certified public tax accountant corporation or person designated by the Commissioner of the Financial Services Agency (hereinafter in Article 143-2.1, referred to as "attorney-at-law, etc.");
- (3) in the case where more than one separate customer money trust are arranged, the same agent of a beneficiary shall be appointed for such more than one separate customer money trust;
 - (4) if any of the following events occurs with the financial instruments firm, etc., only agent of beneficiaries appointed among attorneys at law, etc. shall exercise the authorities (excluding the case where such agent of beneficiaries approves other agent of beneficiaries to exercise the authorities):
 - (a) revocation, pursuant to the provisions of Article 52.1, 52.4, 53.3, 54 or 57-6.3 of the Act, of registration under Article 29 of the Act;
 - (b) revocation, pursuant to the provisions of Article 52-2.1, 52-2.3 or 54 of the Act, of registration under Article 33-2 of the Act;
 - (c) filing of a petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of special liquidation proceedings (in the case of a financial instruments firm, etc. which is a foreign juridical person, filing of a petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of special liquidation proceedings in Japan or filing of the same type of petition under the laws or regulations of a jurisdiction, where the principal business office is located, in such jurisdiction);
 - (d) cessation of financial instruments business, etc. (in the case of a financial instruments firm, etc. which is a foreign juridical person, cessation of financial instruments business, etc. at all of the business offices or other type of offices in Japan; in (d), the same) or dissolution (in the case of a financial instruments firm, etc. which is a foreign juridical person, commencement of liquidation of any of the business offices or other type of offices in Japan; in (d), the same), or public notice of cessation of financial instruments business, etc. or dissolution pursuant to the provisions of Article 50-2.6 of the Act;
 - (e) issuance of an order under Article 52.1 of the Act to suspend the whole or part of business (limited to the case falling under (7) of said 52.1);
 - (f) filing of a petition by the Prime Minister to a court for commencement of bankruptcy proceedings pursuant to the provisions of Article 490.1 of the Law on Exceptions, etc. for Reorganization Proceedings of Financial Institution, etc.;
 - (g) receipt by the Prime Minister of a notice pursuant to the provisions of Article 379, 448 or 492 of the Law on Exceptions, etc. for Reorganization Proceedings of Financial Institution, etc. or other notice regarding special liquidation;
 - (5) trust properties of such separate customer money trust (excluding a money trust with a financial institution engaged in trust business which has a compensation contract of the principals) shall be invested by holding securities referred to in (a) (i) to (a) (vii) of Article 141-2.1 (5) and beneficial interest certificate of investment trust referred to in (a) to (c) of Article 65 (2) (limited to the extent equivalent to 1/ 3 of the required amount of separate customer money provided in (6)) and the methods referred to in (b) to (e) of Article 141-2.1 (5);
 - (6) if the valued amount of the principal of trust properties is less than the required amount of customer separate money (which means the total amount of the required amount of each customer separate money (which means the amount of money or other guarantee money provided in Article 43-3.1 of the Act for currency related derivatives transaction, etc. which shall be returned and computed for each customer, when the financial instruments firm, etc. ceased to be engaged in financial instruments business, etc. because of cessation thereof or for other reason; hereinafter in (14) and Article 143-3.1, the same); hereinafter in Articles 143-2.1 and 143-3.1, the same), the financial instruments firm, etc. shall add the amount equivalent to such shortage to trust properties within two business days since the day immediately following the day when such shortage has occurred;
 - (7) the financial instruments firm, etc. shall compute the valued amount of securities which are trust properties at the market price (excluding a money trust with a financial institution engaged in trust business which has a compensation contract of the principals);
 - (8) in the case where the customer separate money trust is a money trust with a financial institution engaged in trust business which has a compensation contract of the principals, the principal amount of such money trust shall be the valued amount of principals of trust properties;
 - (9) cancellation or partial cancellation of a contract of a separate customer money trust is allowed only in the following cases:

- (a) the case where, if the valued amount of the principal of trust properties exceeds the required amount of customer separate money, cancellation or partial cancellation of a contract of separate customer money trust within the amount equivalent to such excess amount is made;
 - (b) the case where cancellation or partial cancellation of a contract of separate customer money trust is made in order to replace it with an other contract of separate customer money trust;
- (10) trust properties subject to cancellation or partial cancellation of separate customer money trust made in the case referred to in (a) or (b) of (9) shall belong to a trusting person.
- (11) in the case where the financial instruments firm, etc. has fallen under any of (a) to (g) of (4), the financial instruments firm, etc. shall not direct a trustee regarding investment management, unless an agent of beneficiaries who is an attorney-at-law, etc. approves specifically;
- (12) an agent of beneficiaries who is an attorney-at-law, etc. shall exercise in a lump for all customers if such agent of beneficiaries has determined it necessary;
- (13) if the right of the beneficial interest of customers are exercised in a lump by an agent of beneficiaries who is an attorney-at-law, etc., the trust contract of may be terminated;
- (14) the amount to be paid to each customer as a result of the exercise of the right of the beneficial interest by the customer is an amount obtained from computation of multiplying the principal conversion value as of the date of the exercise by the ratio of each customer separate money for such customer to the required amount of customer separate money as of the date of the exercise (in the case where the second-mentioned amount exceeds the amount of each customer separate money, such amount of each customer separate money); and
- (15) if the principal conversion value in excess of the required amount of customer separate money as of the day on which the customer exercise the right of the beneficial interest shall belong to the trusting person.
- 143-2.2. The amount of money or other guarantee money under (6) of Article 143-2.1 shall include the amount of a customer's profit subsequent to the closing of currency related derivatives transactions, etc. under said (6), and may deduct the amount of a customer's loss subsequent to the closing of the currency related derivatives transactions, etc.
- 143-2.3. In computing the amount of individual separate customer money provided in (6) of Article 143-2.1, if a financial instruments firm, etc. conducts currency related derivatives transactions, etc. based on a master agreement between the financial instruments firm and the customer and there is a valuation amount which is a valuation loss for the customer (excluding a valuation loss related to such currency related derivatives transactions, etc.) in the event that such collective liquidation reason has occurred in respect of specific financial transactions conducted based on such master agreement in the event that a collective liquidation reason has occurred for such customer at the time of such computation, such financial instruments firm, etc. may deduct the amount of valuation losses to the extent that it is determined not to constitute a failure of the protection of customers even if such currency related derivatives transactions, etc. have been closed based on such master agreement.
- 143-2.4. "Principal conversion value" under (14) and (15) of Article 143-2.1 shall mean the amount obtained as a result of the conversion of trust properties which is the principal of a contract of separate customer money trust (if the separate customer money trust has a compensation contract of the principals, the amount of the principals).

Article 143-3. — Computation, etc of Amount of Each Customer Separate Money, etc.

143-3.1. A financial instruments firm, etc. which use the method of separate customer money trust shall compute the amount of each customer separate money and the amount required for each customer separate money each day.

143-3.2. A financial instruments firm, etc. which use any of the methods referred to in (c) and (d) of Article 143.1 (2) shall confirm the amount of guarantee money deposited with a specific firm, etc. periodically.

Article 144. — Segregation of Securities, etc.

144.1. In the case where a financial instruments firm, etc. manages guarantee money or securities under the provisions of Article 43-3.1 of the Act and such guarantee money or securities are securities, etc. (which mean securities or properties other than money; hereinafter in Articles 144 and 145, the same), the financial instruments firm, etc. shall keep such securities, etc. separate from its own properties in the manner provided in each of the following items according to the classification of securities, etc. referred to in such item:

- (1) securities, etc. which are kept in a custody of the financial instruments firm, etc. (excluding securities, etc. commingled with other assets; in (2), the same) — in the manner that securities,

etc. which are required to be segregated from own properties of the financial instruments firm, etc. pursuant to the provisions of Article 43-3.1 of the Act (hereinafter in Article 144, referred to as "customer securities, etc.") shall be kept at a place clearly separate from the place where the firm's own securities, etc. or other securities, etc. other than customer securities, etc. (hereinafter in Article 144.1 referred to as "the firm's own securities, etc.") are kept and in the condition that such customer's customer securities, etc. are readily identified as which customer's securities, etc.;

- (2) securities, etc. which are kept in a custody of a third party which is commissioned by the financial instruments firm, etc. — in the manner requiring such third party to keep such customer securities, etc. at a place clearly separate from the place where the firm's own securities, etc. are kept and in the condition that each customer's securities, etc. in respect of such customer's customer securities, etc. are readily identified;
- (3) securities, etc. which are kept in a custody of the financial instruments firm, etc. (limited to securities, etc. commingled with other assets; in (4), the same) — in the manner that such customer securities, etc. shall be kept at a place clearly separate from the place where the firm's own securities, etc. are kept and in the condition that each customer's share in such customer securities, etc. is readily identified by the firm's books and records;
- (4) securities, etc. which are kept in a custody of a third party which is commissioned by the financial instruments firm, etc. — in the condition that each owner's share in such customer securities, etc. is readily identified by means of requiring such third party to maintain its customers' account clearly separate from the financial instruments firm's house account or in other similar manners and that each customer's share in the customer securities, etc. is readily identified from the firm's books and records (in the case where a third party in a foreign jurisdiction is commissioned and it is impossible for such third party to keep a share in such customer securities, etc. separate from a share in the firm's own securities, etc. under the laws or regulations in the foreign jurisdiction or otherwise there are unavoidable reason for the third party to be unable to keep a share in customer securities, etc. in the condition that each separate customer's share in such customer securities, etc. is readily identified, the manner to keep such customer securities, etc. in the condition that each separate customer's share in such customer securities, etc. is readily identified from the firm's books and records); or
- (5) interests or other securities, etc. which are deemed securities pursuant to the provisions of Article 2.2 of the Act (excluding the securities, etc. referred to in the above items) — in the manner provided in (a) or (b) according to the classification of the case referred to in (a) or (b):
 - (a) the case where there are documents certifying such interests, or other documents, which are required at the time of exercising the interest related to such securities, etc. — the manner to deem such documents as securities, etc. and keep such documents according to the classification of the securities, etc. referred to in the above items;
 - (b) a case other than the case referred to in (a) — the manner to require a third party to keep clearly an interest in such securities, etc. as customer securities, etc. and keep in the condition to make readily identification of the state of keeping available by the firm's books and records.

144.2. Notwithstanding the provisions of Article 144.1, securities, etc. which are owned jointly by a financial instruments firm, etc. and a customer for which it is impossible to keep in the manner provided in Article 144.1 shall be kept in the condition that each customer's share in such customer securities, etc. is readily identified by the firm's books and records.

144.3. Securities, etc. under Articles 144.1 and 144.2 shall not include securities, etc. (limited to securities, etc. occupied by a financial instruments firm, etc. regarding over-the-counter derivatives transaction or securities, etc. deposited by a customer with a financial instruments firm, etc.) which may be consumed by a financial instruments firm, etc. under a contract.

Article 145. — Management of Properties Equivalent to Value of Money and Financial Instrument

1451. A financial instruments firm, etc. shall manage properties provided in Article 43-3.2 of the Act, except for properties provided in Articles 143 and 144, to keep the amount of such properties from exceeding the total amount of:

- (1) money and securities, etc. owned by a financial instruments firm, etc. (limited to those kept separate from others as being for derivatives transactions, etc. (excluding derivatives transactions, etc. to which securities related derivatives transaction, etc. is applicable; hereinafter in Article 145, the same));
- (2) securities, etc. deposited by customers (limited to securities, etc. kept separate from others as being for derivatives transactions and excluding securities, etc. kept pursuant to the provisions of Article 144);
- (3) money deposit or money saving with a bank, cooperative financial institution or Business Corporation Shoko Chukin Bank Limited (limited to those kept separate from others as being for

derivatives transactions, etc. and excluding those kept pursuant to the provisions of Article 143); and

(4) money trust with a financial institution engaged in trust business, which has a compensation contract of the principal and money trust with a trust company or a financial institution engaged in trust business which secures the customer assets under a trust contract (limited to money trust kept separate from others as being for derivatives transactions, etc. and excluding money trust kept pursuant to the provisions of Article 143).

145.2. Properties under Article 145.1 and properties referred to in the items of Article 145.1 shall not include money pledged by a customer provided in Article 142.3 and securities, etc. which may be consumed by a financial instruments firm, etc. under a contract provided in Article 144.3.

Article 146. — Written Consent in Case of Pledging, etc. of Customers' Securities

146.1. A financial instruments firm, etc. shall, in the case provided in Article 43-4.1 of the Act, obtain a written consent from the customer each time pursuant to the provisions of said Article 43-4.1.

146.2. Notwithstanding the provisions of Article 146.1, a financial instruments firm may, in the case provided in Article 140.1 and in the case where all of the requirements referred to in the items of Article 140.1 are met, obtain comprehensive consent (limited to comprehensive consent which meets all of the following requirements) in writing from a customer pursuant to the provisions of Article 43-4.1 of the Act in advance:

(1) the extent of securities to be pledged is fixed;

(2) such financial instruments firm shall confirm that a written consent has been given pursuant to the provisions of Article 146.2 from such customer during the period after the deposit of securities under (1) until pledging the securities;

(3) when the financial instruments firm wishes to pledge securities for which the confirmation has been made pursuant to the provisions of (2) based on a written consent pursuant to the provisions of Article 146.2, the financial instruments firm shall furnish such customer with a written statement containing the type, issue name and number of shares of stock or total amount of certificates of the securities to be pledged or matters required to be stated in such written statement by an electronic or magnetic method (excluding the method referred to in Article 56.1 (1) (d)); and

(4) such customer may cancel a written consent given pursuant to the provisions of Article 146.2 any time.

146.3. A written consent pursuant to the provisions of Article 43-4.1 of the Act shall be given by the written statement provided in each of the following items according to the classification of the case referred to in such item:

(1) the case where securities are pledged and comprehensive written consent is given pursuant to the provisions of Article 146.2 — comprehensive written consent to pledging containing the following matters:

(a) the statement that the consent is comprehensive consent pursuant to the provisions of Article 146.2 and the details thereof;

(b) whether the securities are pledged alone or as commingled with other assets;

(c) the name and address of the customer;

(d) the date of the consent;

(e) the extent of securities;

(2) in addition to the case referred to in (1), the case where securities are pledged — written consent to pledging containing the following matters:

(a) whether the securities are pledged alone or as commingled with other assets;

(b) the name and address of the customer;

(c) the date of the consent;

(d) the reason for occupation or acceptance of deposit;

(e) the type, issue name and number of shares of stock or total amount of certificates of securities;

(3) the case of lending securities to an other person — written consent to lending stating the matters referred to in (2) (b) to (2) (e).

Subsection 4. Measures to Prevent Negative Effect, etc.

Article 147. — Prohibited Acts In Carrying Out More than One Type of Business

Act prescribed by the Cabinet Office Ordinance as provided in Article 44 (3) of the Act shall be:

- (1) solicitation, for the purpose of closing or reversing purchase or sale or other type of transaction, etc. of a security conducted by a customer based on an advice in connection with investment advisory business or purchase or sale or other type of transactions, etc. of a security conducted as investment management of properties regarding investment management business, to a customer other than such customer or a customer other than an interest holder of such investment properties, without explanation of such fact, to conduct purchase or sale or other type of transaction, etc. of a security;
- (2) regarding investment advisory business or investment management business, giving an advice for the purpose of generating profit of a customer or carrying out investment management for the purpose of generating profit of an interest holder based on nonpublic information (limited to nonpublic information regarding an issuer of a security or a customer of business other than investment advisory business and investment management business) (excluding an advice or management after obtaining a consent from an issuer of a security or customer who is concerned with such nonpublic information; hereinafter referred to as "issuer, etc.");
- (3) in the case where a financial instruments firm, etc. is a lead manager of underwriters of a security (which means a person who, in entering into a primary underwriting agreement, holds discussion with an issuer of a security subject to such primary underwriting agreement to fix the details of such primary underwriting agreement (hereinafter in (3), such person is referred to as "underwriting manager") and underwrites, in the total amount of issue prices of such security, an amount (hereinafter in (3), referred to as "underwriting amount") equal to or more than the underwriting amount of any other underwriting manager or a person who is paid the amount of a fee, remuneration or other consideration equal to or more than the amount paid to any other underwriting manager; hereinafter in Subsection 4, the same), giving advise for the purpose of forming an artificial market price which does not reflect the real market price regarding its investment advisory business or carrying out investment management for the purpose of forming an artificial market price which does not reflect the real market price regarding its investment management business, in order to influence on conditions of public offer or public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors of such security;
- (4) in the case where a financial instruments firm, etc. conducts underwriting, etc. of a security and the amount of offering of acquisition or purchase of such security is expected to fail to reach the amount projected by the financial instruments firm, etc., giving an advice to acquire or purchase such security regarding its investment advisory business or carrying out investment management to acquire or purchase such security regarding its investment management business.

Article 148. — Exceptions for Prohibition of Acceptance, etc. of Order for Purchase or Sale of Security with Condition that Financial Instruments Firm Grant Credit

Act prescribed by the Cabinet Office Ordinance as provided in Article 44-2.1 (1) and Article 44-2.2 (1) of the Act shall be, among acts to conduct acceptance, etc. of orders for purchase or sale of a security on the condition of granting credit, an act meeting all of the following requirements:

- (1) an act to conduct acceptance, etc. of orders for purchase or sale of a security from an individual who has shown or given a notice of a voucher, etc. (which means a voucher or other instrument or number, mark or other code; in Article 9-2 (1) (a) and Article 274 (1), the same) for which the individual pays the amount equivalent to consideration for such security within the period less than two months in lump sum and such amount is paid to a financial instruments firm (limited to a person carrying out security, etc. custody business; in (3), the same);
- (2) the amount of credit granted to one person shall not exceed ¥100,000;
- (3) such purchase or sale of a security shall be conducted based on a contract of cumulative investment (which means a contract based on which a financial instruments firm accepts the deposit of money from a customer and sells a security continuously to such customer on a predetermined date for the consideration of such money and which meets all of the following requirements):
 - (a) the contract shall prescribe, as a method of purchase of a security, the type of the security and the method to use money on deposit for purchase;
 - (b) the contract shall prescribe that, as a method to manage money on deposit, money paid by a customer and money on deposit with the financial instruments firm arising from the receipt of income from and redemption money of such security deposited by the customer as cumulative investment money on deposit shall be accounted separate from other money on deposit;
 - (c) in the case of purchase jointly with other customers or other financial instruments firm, the contract shall prescribe that, when an issue number and certificate number of a security purchased by a customer is specified, such customer shall have the ownership of such security

- solely;
- (d) the contract shall prescribe, as a method to manage a security, that a security deposited (limited to a security jointly owned by the financial instruments firm and a customer) shall be segregated from other security; and
 - (e) the contract shall prescribe that, when a customer has offered cancellation, the contract shall be cancelled.

Article 149. — Prohibited Acts in Connection with Financial Instruments Firm's Other Business Engagement

Act prescribed by the Cabinet Office Ordinance as provided in Article 44-2.1 (3) of the Act shall be:

- (1) an act to enter into, or solicit to enter into, a financial instruments transaction contract (excluding an act which is performed by the act referred to in Article 117.1 (3) and an act which meets all of the requirements referred to in the items of Article 148) on the condition of acting as an agent or intermediary for entering into a contract to lend funds or discount bills or granting credit (excluding lending of money or securities incidental to margin transaction provided in Article 156-24.1 of the Act);
- (2) an act by an officer or employee engaged in financial instruments business to receive nonpublic loan, etc. information concerning a customer who is an issuer of a security from an officer or employee engaged in financial institution agent business or give such information to a officer or employee engaged in financial institution agent business (excluding acts in the following cases):
 - (a) with respect to giving nonpublic loan, etc. information, the case of giving it after obtaining a written prior consent from a customer;
 - (b) the case where it is determined necessary to receive nonpublic loan, etc. information from an officer or employee engaged in financial institution agent business for the purpose of complying the laws and regulations in connection with financial instruments business;
 - (c) the case of giving nonpublic loan, etc. information to an officer or employee who has overall responsibility for business of an organization carrying out financial instruments business.

Article 149-2. — Exceptions for Prohibition of Acceptance, etc. of Order for Purchase or Sale of Security with Condition that Registered Financial Institution Grant Credit

Act prescribed by the Cabinet Office Ordinance as provided in Article 44-2.2 (1) of the Act shall be, among acts to conduct acceptance, etc. of orders for purchase or sale of a security on the condition of granting credit, an act meeting all of the following requirements:

- (1) any of the following acts is applicable:
 - (a) act to conduct acceptance, etc. of orders for purchase or sale of a security from an individual who has shown or given a notice of a voucher, etc. for which the individual pays the amount equivalent to the consideration for such security within the period less than two months in lump and such amount is paid to a registered financial institution (limited to a person carrying out security, etc. custody business; hereinafter Article 149-2, the same);
 - (b) act to conduct acceptance, etc. of orders for purchase or sale of a security from an individual who enters into a contract of money-deposit with a registered financial institution for which the registered financial institution provides loan (limited to loan which must be repaid within one month) to such individual for the whole or part of the amount equivalent to the consideration for such security based on such contract of loan associated with such contract;
- (2) the amount of credit granted to one person shall not exceed ¥100,000;
- (3) such purchase or sale of a security shall be conducted based on a contract of cumulative investment (which means a contract based on which a registered financial institution accepts the deposit of money from a customer and sells a security continuously to such customer on a predetermined date for the consideration of such money and which meets all of the following requirements):
 - (a) the contract shall prescribe, as a method of purchase of a security, the type of the security and the method to use money on deposit for purchase;
 - (b) the contract shall prescribe that, as a method to manage money on deposit, money paid by a customer and money on deposit with the registered financial institution arising from the receipt of income from and redemption money of such security deposited by the customer shall be accounted, as cumulative investment money on deposit, separate from other money on deposit;
 - (c) in the case of purchase jointly with other customers or other registered financial institution, the contract shall prescribe that, when an issue number and certificate number of a security purchased by a customer is specified, it is determined that such customer shall have the ownership of such security solely;

- (d) the contract shall prescribe, as a method to manage a security, that a security deposited (limited to a security jointly owned by the registered financial institution and a customer) shall be segregated from other security; and
- (e) the contract shall prescribe that, when a customer has offered cancellation, the contract shall be cancelled.

Article 150. — Prohibited Acts in Connection with Registered Financial Institution's Other Business Engagement

Act prescribed by the Cabinet Office Ordinance as provided in Article 44-2.2 (3) of the Act shall be:

- (1) an act to enter into, or solicit to enter into, a financial instruments transaction contract (excluding an act which is performed by the act referred to in Article 117.1 (3) and an act which meets all of the requirements referred to in the items of Article 148) as the condition for acting as an agent or intermediary for entering into a contract to lend funds or discount bills or granting credit;
- (2) an act to enter into, or solicit to enter into, a financial instruments transaction contract on the condition of acting as an agent or intermediary for entering into a contract to lend funds or discount bills or granting credit (excluding an act which is performed by the act referred to in Article 117.1 (3) and an act which meets all of the requirements referred to in the items of Article 148);
- (3) in addition to the acts referred to in (1) and (2), an act to use its bargaining position improperly to enter into, or solicit to enter into, a financial instruments transaction contract;
- (4) in the following cases, acting as an intermediary for purchase or sale of a security (limited to acting as an intermediary for the sale of such security during the period from the day on which a commissioning financial instruments firm who has made underwriting of such security has become an underwriter until the day on which six months has passed therefrom) or handling of public offer, public sale, private placement or solicitation of sale, etc. to specific investors of a security without explaining to the customer of the fact:
 - (a) the case where a person having debts for borrowing to the financial instruments firm issues such security and the financial instruments firm knows that the proceeds from such security are used to repay such debts;
 - (b) the case where the financial instruments firm is a major borrower of a person from whom the financial instruments firm borrows money and such person issues such securities (limited to the case where the fact that the financial instruments firm is a borrower is stated in an issuance disclosure documents provided in Article 172.3 of the Act or specific security, etc. information given or published pursuant to the provisions of Article 27-31.2 or 27-31.4 of the Act);
- (5) an act by an officer (including a partner responsible for the duties in the case where an officer is a juridical person; hereinafter in (5), the same) or employee engaged in financial instruments business to receive nonpublic loan, etc. information concerning a customer who is an issuer of a security from an officer or employee engaged in loan business or financial institution agent business or give such information to a officer or employee engaged in loan business or financial institution agent business (excluding acts in the following cases):
 - (a) the case of furnishing nonpublic loan, etc. information after obtaining a written prior consent from a customer (including a customer's written consent under Article 123 (24));
 - (b) the case where it is determined necessary to receive nonpublic loan, etc. information from an officer or employee engaged in loan business or financial institution agent business for the purpose of complying the laws and regulations in connection with registered financial institution business;
 - (c) the case of giving nonpublic loan, etc. information to an officer or employee who is responsible for the overall control of business of an organization carrying out financial instruments intermediary business.

Article 151. Reserved.

Article 152. Reserved.

Article 153. — Restriction on Involvement by Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. of Financial Instruments Firm

153.1 Acts prescribed by the Cabinet Office Ordinance as provided in Article 44-3.1 (4) of the Act shall be:

- (1) conducting purchase or sale or other type of transaction of assets with a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm on the conditions significantly different from conditions for ordinary transactions;

- (2) entering into a financial instruments transaction contract with its customer despite knowing that a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm conducts purchase or sale or other type of transaction of assets with the customer on the conditions more favorable compared with ordinary transactions on the conditions that the customer enters into the financial instruments transaction contract with the financial instruments firm;
- (3) in the case of becoming an underwriter of a security (which means a security as defined in Article 117.1 (31); hereinafter in (3), the same) issued by a person having debts for borrowing money from a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm and knowing that the proceeds from such security will be used to repay such debt, the following acts:
 - (a) selling such security without explaining the customer of the fact;
 - (b) causing a registered financial institution which commissions financial instruments intermediary business or financial instruments intermediary firm to perform the following acts without explaining the registered financial institution or financial instruments intermediary firm of the fact (excluding the case where such financial instruments transactions firm agrees to buy back such security):
 - (i) acting as an intermediary for purchase or sale of such security (limited to acting as an intermediary for sale of such security during the period from the day on which such financial instruments firm has become an underwriter until the day on which six months has passed therefrom);
 - (ii) handling of public offer or public sale or handling of private placement or handling of solicitation of sale, etc. to specific investors of such security;
- (4) becoming a lead manager of underwriters of a security (excluding the following securities) issued by a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm:
 - (a) a share certificate listed on a financial instruments exchange continuously for six months or longer (including a share certificate issued by a business corporation, among business corporations incorporated as a result of incorporation-type merger or equity transfer (limited to the case where all of corporations extinguished as a result of such incorporation-type merger or corporations which has made such equity transfer are business corporations and share certificates issued by such corporations have been listed on a financial instruments exchange until delisting as a result of such incorporation-type merger or such equity transfer) which has been listed on a financial instruments exchange continuously since the new listing on the financial instruments exchange as a result of such incorporation-type merger or such equity transfer and has been listed for the period is less than six months and has six months or longer of the total period of the period of such listing and the shortest period among periods of listing continuously on a financial instruments exchange until delisting of share certificate delisted as a result of such incorporation-type merger or such equity transfer), which meets any of the following requirements (excluding a security to which the security referred to in (a) is applicable):
 - (i) in the case where the listing date (which means a day on which a share certificate listed on a financial instruments exchange has become applicable; in (b), the same) is the day three years and six months before the issuing date (which means a day on which a share certificate for underwriting of such security is issued; in (a) and (c) (iii), the same), in respect of issued share certificates of such parent juridical person, etc. or subsidiary juridical person, etc. the amount computed by dividing the total of the amount of purchase or sale (hereinafter in (a), referred to as "purchase or sale amount") on an on-exchange financial instruments market during three years on or before any date (in (a) and (c), referred to as "computation base date") for six months before the issuing date by three is equivalent to or more than ¥10 billion and the amount computed by dividing the total of market capitalization (which means market capitalization on an on-exchange financial instruments market; in (a), the same) as of the computation base date, the corresponding date in the year immediately preceding the year to which the computation base date belongs (hereinafter in (a), referred to as "computation base year") and the corresponding date in the year two years preceding the computation base year by three is equivalent to or more than ¥10 billion;
 - (ii) in the case where the listing date is a day after the day three years and six months before the issuing date and on or before the day two years and six months before the issuing date, in respect of issued share certificates of the parent juridical person, etc. or subsidiary juridical person, etc., the amount obtained from computation of dividing the total of purchase or sale amount during two years prior to the computation base date by two is equivalent to or more than ¥10 billion and the amount computed from dividing the total of the market capitalization

- as of the computation base date and the corresponding date in the year immediately preceding the computation base year by two is equivalent to or more than ¥10 billion;
- (iii) in the case where the listing date is the day after the day two years and six months before the issuing date, in respect of issued share certificates of the parent juridical person, etc. or subsidiary juridical person, etc., the purchase or sale amount during one year prior to the computation base date is equivalent to or more than ¥10 billion and the market capitalization as of the computation base date is equivalent to or more than ¥10 billion;
- (b) a share warrant certificate, if a share certificate acquired or underwritten as a result of the exercise of the share warrant falls under (a);
- (c) a corporate debt security with share warrant (limited to a corporate debt security with share warrant, if a share certificate acquired or underwritten as a result of the exercise of the share warrant falls under (a)) or a corporate debt security (excluding a corporate debt security with share warrant; in (c), the same), the issuer of which meets all of the following requirements:
- (i) in respect of a corporate debt security (limited to a corporate debt security which has been listed on a financial instruments exchange continuously for six months or the trade price or indication price of which has been published by an approved financial instruments firms association continuously for six months; in (ii) and (iii), the same) issued or delivered by the issuer by means of filing of a securities notification or shelf registration supplementary documents (which mean shelf registration supplementary documents as defined in Article 23-8.1 of the Act; in (c), the same) for the public offer or public sale in Japan, the total trading amount on an on-exchange financial instruments market for one year prior to the computation base date shall be equal to or more than 10 billion Yen or it shall be published by an approved financial instruments firms association that the total trading amount for one year prior to the computation base date is equal to or more than 10 billion Yen;
- (ii) the total amount of the face value as of the computation base date of a corporate debt security issued or delivered by the issuer by means of filing of a securities notification or shelf registration supplementary documents for the public offer or public sale in Japan or the total amount of book transfer corporate debt security (which means a book transfer corporate debt security as defined in Article 66 of the Law on Book Transfer of Corporate Debt Security, Share Certificate, etc.; in (iii), the same) shall be equal to or more than 25 billion Yen;
- (iii) the total amount of the face value of a corporate debt security issued or delivered by the issuer by means of filing of a securities notification or shelf registration supplementary documents for the public offer or public sale in Japan within five years prior to the issue date or the total amount of book transfer corporate debt security shall be equal to or more than 10 billion Yen;
- (d) in the case where a financial instruments firm which meets all of the following requirements is involved in the fixing of the issue price (including, in the case of a share warrant certificate, the amount of money to be paid at the time of exercise of the share warrant and the issue price of a share certificate at the time of issuance of the share certificate as a result of the exercise of a share warrant, in the case of a corporate debt security with share warrant, the interest rate, the issue price of the share warrant, the amount of money to be paid at the time of the exercise of the share warrant and the issue price of a share certificate at the time of the issuance of the share certificate as a result of the exercise of the share warrant, in the case of a corporate debt security (excluding a corporate debt security with share warrant), interest rate) of a share certificate, etc. (which means a share certificate, share warrant certificate or corporate debt security) as an underwriting manager (which means an underwriting manager as defined in Article 147 (3)) in the course of underwriting (excluding a share certificate, etc. falling under (a) to (c)), such share certificate, etc.:
- (i) the financial instruments firm is registered under Article 29 of the Act to carry out business of performing the act referred to in Article 28.1 (3) (a) of the Act;
- (ii) the financial instruments firm has sufficient experience regarding business of underwriting of a security;
- (iii) the financial instruments firm is not a parent juridical person, etc. or subsidiary juridical person, etc. of the lead manager of underwriters or the issuer of such share certificate, etc. (hereinafter in (d), referred to as "lead manager of underwriters, etc.");
- (iv) the financial instruments firm does not hold eligible voting rights (which means eligible voting rights as defined in Article 29-4.2 of the Act and including voting rights which is deemed to be held pursuant to the provisions of Article 29-4.4 of the Act; in (v), the same) of 5/100 or more of voting rights of the lead manager of underwriters, etc. or its parent juridical person, etc. or subsidiary juridical person, etc. held by all of its shareholders, etc.;
- (v) the lead manager of underwriters, etc. or its parent juridical person, etc. or subsidiary

- juridical person, etc. does not hold eligible voting rights of 5/ 100 or more of voting rights of the financial instruments firm held by all of its shareholders, etc.;
- (vi) the majority of directors and executive officers (including a director or auditor or a person equivalent thereto; in (d), the same) of, and directors and executive officers authorized to represent, the lead manager of underwriters, etc. is not the following persons:
 - (vi-i) its officer (including, in the case where the officer is a juridical person, a partner responsible for the duties; in (vi), the same) and major shareholder;
 - (vi-ii) a relative of the person referred to in (vi-i) (limited to a spouse and blood-relative or relative-in-law within the second degree of relationship);
 - (vi-iii) in the case where the financial instruments firm and the persons referred to in (i) and (ii) hold voting rights of more than 50/ 100 of voting rights on an other corporation, etc. (which means a corporation, etc. provided in Article 15-16.3 of the Order) held by all of its shareholders, such other corporation, etc. and its officer;
 - (vi-iv) a person who was its officer (limited to a person who has ceased to be an officer if two years have not passed yet since the day of ceasing to be an officer);
 - (vii) the persons referred to in (iv) (vi-i) to (vi) (vi-iv) in respect of the lead manager of underwriters, etc. are not the majority of directors and executive officers of, and directors and executive officers authorized to represent, the lead manager of underwriters, etc.;
- (5) the financial instruments firm sells a security to its customer during the period from the day of becoming an underwriter of such security until the day on which six months has passed therefrom despite knowing that a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm provides loan or otherwise grants credit to the customer for the consideration of purchase of such security;
- (6) during the period from the day of becoming an underwriter of a security (excluding national government bonds, municipal bonds and a corporate debt security or other type of security the redemption of the principal and payment of interests of which is guaranteed by the national government) until the day on which six months have passed therefrom, selling such security to a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm (excluding acts performed in the following cases):
- (a) the case of causing a trust company or a financial institution engaged in trust business which is a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm to acquire such security in exchange for trust properties of money trust (excluding the case where a trusting person of such money trust is a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm) the investment method of which is specified;
 - (b) the case where a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm accepts an order for purchase or sale of the security from a customer (excluding the case where the customer is the parent juridical person, etc. or subsidiary juridical person, etc.) for financial instruments business or registered financial institution business and the parent juridical person, etc. or subsidiary juridical person, etc. becomes a counterparty to cause the customer to acquire the security in order to conclude such purchase or sale;
 - (c) in the case of conducting research regarding the state of demands by investors for such security which is conducted at the time of public offer or public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors of the security in the manner provided by the rules of a financial instruments exchange or approved financial instruments firms association at the time of public offer of public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors of a security, the case where sufficient demands by investors for such security is known appropriately by such research and reasonable and fair issuing condition has been determined;
- (7) the case where a financial instruments firm (limited to a person carrying out the first-type financial instruments business) carrying out security related business receives nonpublic information regarding an issuer, etc. from a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm or furnishing such parent juridical person, etc. or subsidiary juridical person, etc. with a nonpublic information regarding an issuer, etc. (excluding acts performed in the following cases):
- (a) the case where the issuer, etc. has given a written consent in advance for furnishing of nonpublic information by the financial instruments firm or its parent juridical person, etc. or subsidiary juridical person, etc.;
 - (b) the case of commissioning a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm to carry out financial instruments intermediary business and receiving information referred to in (a) to (c) of Article 281 (12) or furnishing information referred to in (a) or (b) of Article 123.1 (18);

- (c) the case of commissioning a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm to carry out financial instruments intermediary business and receiving information referred to in (a) or (b) of Article 123.1 (24) or furnishing information referred to in (a) to (c) of Article 123.1 (18);
- (d) the case of, on commission by a belonging financial institution (which means a belonging bank as defined in Article 2.16 of the Banking Law, belonging long-term credit bank as defined in Article 16-5.3 of the Long-Term Credit Bank Law, belonging shinkin bank as defined in Article 85-2.3 of the Shinkin Bank Law, belonging credit cooperative association as defined in Article 6-3.3 of the Law on Financial Business by Cooperative Association, belonging labor bank as defined in Article 89-3.3 of the Labor Bank Law, belonging association as defined in Article 92-2.3 of the Agriculture Cooperative Association Law, belonging association as defined in Article 121-2.3 of the Fisheries Cooperative Association Law and Norinchukin Bank; hereinafter the same) which is a parent bank, etc. or subsidiary bank, etc. of the financial instruments firm, carrying out financial institution agent business and receiving the information referred to in the following (i) or (ii) or furnishing information referred to in (iii) or (iv):
 - (i) information concerning financial institution agent business carried out by the financial instruments firm on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.;
 - (ii) information if it is determined that it is necessary to receive such information in order to comply with the laws and regulations for financial institution agent business carried out by the financial instruments firm on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.;
 - (iii) information if it is determined that it is necessary to furnish a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc. with such information necessary for the financial instruments firm to carry out financial institution agent business on commission of the belonging financial institution;
 - (iv) information obtained in the course of financial institution agent business carried out by the financial instruments firm on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc. if it is determined that it is necessary for the financial instruments firm to furnish the belonging financial institution with such information in order to comply with the laws and regulations;
- (e) the case where the financial instruments firm furnishes its parent bank, etc. or subsidiary bank, etc. with the amount of credit, etc. granted to a customer in order to compute the following amounts:
 - (i) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in Article 13.2 of the Banking Law (including the *mutatis mutandis* application under Article 17 of the Long-Term Credit Bank Law, Article 89.1 of the Shinkin Bank Law, Article 94.1 of the Labor Bank Law and Article 6.1 the Law on Financial Business by Cooperative Association);
 - (ii) the amount under investment management provided in Article 97-2.3 of the Insurance Business Law and the amount computed in the manner prescribed by the Cabinet Office Ordinance after adding up as provided in said Article 97-2.3;
 - (iii) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in Article 58.2 of the Norinchikin Bank Law;
 - (iv) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in Article 11-4.2 of the Agriculture Cooperative Association Law;
 - (v) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in Article 11-11.2 of the Fisheries Cooperative Association Law;
- (f) the case where the financial instruments firm receives or furnishes information necessary to prepare an acknowledgment provided in Article 24-4-2.1 of the Act or an internal control report provided in Article 24-4-4.1 of the Act (limited to the case where the financial instruments firm and a parent juridical person, etc. or subsidiary juridical person, etc. which receives such information from or furnishes such information to the financial instruments firm have taken measures to prevent leakage of nonpublic information from a division responsible for preparation of such acknowledgment and internal control report);
- (g) the case where the financial instruments firm receives or furnishes information necessary to maintain and control an electronic data processing and network system (limited to the case where the financial instruments firm and a parent juridical person, etc. or subsidiary juridical person, etc. which receives such information from or furnishes such information to the financial instruments firm have taken measures to prevent leakage of nonpublic information from a division responsible for maintenance and control of electronic data processing network system);
- (h) the case where the financial instruments firm receives or furnishes nonpublic information in accordance with the laws and regulations, etc.;

- (i) the case where the financial instruments firm receives, or furnishes the specific person concerned with, information necessary to carry out the whole or part of operations of internal control (limited to the case where the financial instruments firm and specific person concerned furnishing the financial instruments firm with, or receiving from the financial instruments firm, such information take accurate measures to prevent nonpublic information from leaking from the division responsible for operations of internal control);
 - (8) a financial instruments firm (limited to a person carrying out the first-type financial instruments business) carrying out securities related business uses nonpublic information in respect of its customer obtained from its parent juridical person, etc. or subsidiary juridical person, etc. (limited to nonpublic information furnished by such parent juridical person, etc. or subsidiary juridical person, etc. without obtaining a written consent from the customer) and solicits to enter into a financial instruments transactions contract;
 - (9) a financial instruments firm (limited to a person carrying out the first-type financial instruments business) carrying out securities related business uses nonpublic information in respect of the issuer, etc. obtained from its parent juridical person, etc. or subsidiary juridical person, etc. (limited to nonpublic information obtained in the case of (g) and (i) of (7)) for the purposes other than carrying out operations of maintenance or control of an electronic data processing and network system or internal control;
 - (10) a financial instruments firm (limited to a person carrying out the first-type financial instruments business) carrying out securities related business uses its bargaining position in business of its parent bank, etc. or subsidiary bank, etc. improperly to enter into, or solicit to enter into, a financial instruments transaction contract;
 - (11) an act to fail to disclose that a financial instruments firm is a different juridical person from its parent bank, etc. or subsidiary bank, etc. and to give a customer false impression that the financial instruments firm and its parent bank, etc. or subsidiary bank, etc. were the same juridical person when the financial instruments firm visits a customer together with its parent bank, etc. or subsidiary bank, etc.;
 - (12) in the case where a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm is a lead manager of underwriters of a security, giving advise for the purpose of forming an artificial market price which does not reflect the real market price regarding its investment advisory business or carrying out investment management to conduct transactions for the purpose of forming an artificial market price which does not reflect the real market price regarding its investment management business, in order to influence on conditions of public offer or public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors of such security;
 - (13) in the case where a parent juridical person, etc. or subsidiary juridical person, etc. of the financial instruments firm conducts underwriting, etc. of a security and the amount of offering of acquisition or purchase of such security to such parent juridical person, etc. or subsidiary juridical person, etc. is expected to fail to reach the amount projected by the parent juridical person, etc. or subsidiary juridical person, etc., giving an advice to acquire or purchase such security regarding its investment advisory business or carrying out investment management to acquire or purchase such security regarding its investment management business in response to request from the parent juridical person, etc. or subsidiary juridical person, etc.; and
 - (14) regardless of reasons or excuses, avoiding prohibition provided in Article 44-3.1 of the Act.
- 153.2. If a financial instruments firm or its parent juridical person, etc. or subsidiary financial juridical person, etc. under (7) and (8) of Article 153.1 gives the issuer, etc. (limited to a juridical person; hereinafter in Article 153.2, the same) an opportunity properly to request to stop furnishing such parent juridical person, etc. or subsidiary juridical person, etc. or the financial instruments firm with the nonpublic information in respect of the issuer, etc. (hereinafter in Article 153.2, referred to as "furnishing of nonpublic information"), such issuer, etc. shall be deemed to have given a written consent to furnishing such nonpublic information until such issuer, etc. requests such stop:
- 153.3. "Operations regarding internal control" provided in (7) (i) and (9) of Article 153.1 shall mean:
- (1) operations of compliance with laws and regulations, etc. (which means judgment whether the business operations comply with the laws and regulations, etc. (which mean the laws and regulations (including laws and regulations in a foreign jurisdiction), administrative disposition under the laws and regulations (including similar disposition under laws and regulations in a foreign jurisdiction) or the articles of incorporation or other rules of a financial instruments firms association, a financial instruments exchange or a commodity exchange (which means a commodity exchange as defined in Article 2.4 of the Commodity Futures Trading Law) (including the articles of incorporation or other rules in a foreign jurisdiction analogous thereto);

hereinafter in (1), the same) and ensuring officers and employees to comply with such laws and regulations, etc.);

- (2) operations to control risk of loss;
- (3) operations regarding internal audit and internal investigation;
- (4) operations regarding finance;
- (5) operations regarding accounting; and
- (6) operations regarding tax.

153.4. "Specific person concerned" under Article 153.1 (7) (i) shall be the following persons:

- (1) the holding company which as such financial instruments firm as a subsidiary (which means a subsidiary as defined in Article 29-4.3 of the Act; hereinafter in Article 153.4, the same);
- (2) the parent juridical person, etc. of such financial instruments firm which is not a holding company and engaged in business management or operations incidental thereto of such financial instruments firm (excluding the persons referred to in (3) to (5));
- (3) a parent bank, etc. or subsidiary bank, etc. of such financial instruments firm;
- (4) the holding company (excluding the person referred to in (1)) which has a parent bank, etc. or subsidiary bank, etc. of such financial instruments firm as a subsidiary; or
- (5) any of the following persons which is a parent juridical person, etc. or subsidiary juridical person, etc. of such financial instruments firm;
 - (a) a financial instruments firm;
 - (b) a trust company;
 - (c) money lender as defined in Article 2.2 of the Loan Business Law (Law No. 32 of 1983);
- (6) other person designated by the Commissioner of the Financial Services Agency.

Article 154. — Restriction on Involvement by Parent Juridical Person, etc. or Subsidiary Juridical Person, etc. of Registered Financial Institution

Acts prescribed by the Cabinet Office Ordinance as provided in Article 44-3.2 (4) of the Act shall be:

- (1) carrying out financial instruments intermediary business with its customer despite the fact that the registered financial institution conducts purchase or sale or other type of transaction of assets on the conditions more favorable compared with ordinary transactions with the customer on the conditions that the customer enters into a financial instruments transaction contract with the parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution;
- (2) entering into a financial instruments transaction contract with its customer despite knowing that a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution grants the customer credit or conducts purchase or sale or other type of transaction of assets on the conditions more favorable compared with ordinary transactions with the customer on the conditions that the customer enters into a financial instruments transaction contract with the registered financial institution;
- (3) the registered financial institution agrees to provide loan or otherwise grants credit to a customer for the consideration of purchase of a security and conducts financial instruments intermediary business with the customer for the security during the period from the day on which a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution has become an underwriter of the security until the day on which six months has passed therefrom;
- (4) an officer (including a partner responsible for the duty in the case where an officer is a juridical person; hereinafter in (4) and (5), the same) or employee engaged in financial instruments intermediary business of the registered financial institution furnishes a parent juridical person, etc. (excluding a bank holding corporation as defined in Article 2.13 of the Banking Law, the corporation referred to in (10) of Article 52-23.1 of said Law (limited to a corporation engaged in the business referred to in (10) (a) of said Article 52-23.1), a long-term credit bank holding corporation as defined in Article 16-4.1 of the Long-Term Credit Bank Law, the corporation referred to in (10) of said Article 16-4.1 (limited to a corporation engaged in the business referred to in (10) (a) of said Article 16-4.1), an insurance holding corporation as defined in Article 2.16 of the Insurance Business Law and the corporation referred to in (12) of Article 271-22.1 of said Law (limited to a corporation engaged in the business referred to in (12) (a) of said Article 271-22.1); hereinafter in (4), the same) of the registered financial institution or a subsidiary juridical person, etc. (excluding the corporation referred to in Article 16-2.1 (11) of the Banking Law (limited to a corporation engaged in the belonging business provided in Article 16-2.2 (1) of said Law), the corporation referred to in Article 13-2.1 (11) of the Long-Term Credit Bank Law (limited to a corporation engaged in the belonging business provided in Article 13-2.4 (1) of said Law), the corporation referred to in Article 54-23.1 (10) of the Shinkin Bank Law (limited to a corporation engaged in the belonging business provided in Article 54-23.2 (1) of

said Law), the corporation referred to in Article 58-5.1 (6) of the Labor Bank Law (limited to a corporation engaged in the belonging business provided in Article 58-5.2 (1) of said Law), the corporation referred to in Article 4-4.1 (6) of the Law on Financial Business by Cooperative Association (limited to a corporation engaged in the belonging business provided in Article 4-4.2 (1) of said Law), the corporation referred to in Article 106.1 (12) of the Insurance Business Law (limited to a corporation engaged in the belonging business provided in Article 106.2 (1)), the corporation referred to in Article 72.1 (8) of the Norinchukin Bank Law (limited to a corporation engaged in the belonging business provided in Article 72.2 (1) of said Law), the corporation referred to in Article 11-47.1 (5) of the Agriculture Cooperative Association Law (limited to a corporation engaged in the belonging business provided in Article 11-47.2 (1) of said Law) and the corporation referred to in Article 87-3.1 (5) of the Fisheries Cooperative Association Law (limited to a corporation engaged in the belonging business provided in Article 87-3.2 (1) of said Law); hereinafter in (4), the same) of the registered financial institution with nonpublic information of an issuer, etc. (limited to information of customers' behavior regarding orders for purchase or sale or other type of transaction, etc. of a security placed by a customer or other special information), or receives from its parent juridical person, etc. or subsidiary juridical person, etc. nonpublic loan, etc. information of a customer which is an issuer of a security (excluding the security referred to in Article 33.2 (1) of the Act and the security referred to in Article 2.1 (17) of the Act with the nature under Article (1) or (2) of Article 2.1 of said Law) (excluding an act performed in the following cases):

- (a) the case where the issuer, etc. has given a written consent in advance for furnishing nonpublic information by the registered financial institution or a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution;
- (b) the case of commissioning a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution to carry out financial instruments intermediary business and receiving information referred to in (a) to (c) of Article 281 (12) or furnishing information referred to in (a) or (b) of Article 123.1 (18);
- (c) the case where a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution is a commissioning financial instruments firm and receives information referred to in (a) or (b) of Article 123.1 (18) or furnishing information referred to in (a) or (b) of Article 123.1 (24);
- (d) the case of carrying out financial institution agent business on commission by a belonging financial institution which is a parent bank, etc. or subsidiary bank, etc. of the registered financial institution and receiving the information referred to in the following (i) or (ii) or furnishing information referred to in (iii) or (iv):
 - (i) information concerning financial institution agent business carried out by the registered financial institution on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.;
 - (ii) information if it is determined that it is necessary to receive such information in order to comply with the laws and regulations for financial institution agent business carried out by the registered financial institution on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.;
 - (iii) information if it is determined necessary to furnish a belonging financial institution with such information in order for the registered financial institution to carry out financial institution agent business on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.;
 - (iv) information obtained in the course of financial institution agent business carried out by the registered financial institution on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc. if it is determined that it is necessary to furnish a belonging financial institution with such information in order for the registered financial institution to comply with the laws and regulations;
- (e) the case where the registered financial institution receives from its parent bank, etc. or subsidiary bank, etc. information of the amount of credit, etc. granted to its customer in order to compute the following amounts:
 - (i) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in Article 13.2 of the Banking Law (including the *mutatis mutandis* application under Article 17 of the Long-Term Credit Bank Law, Article 89.1 of the Shinkin Bank Law, Article 94.1 of the Labor Bank Law and Article 6.1 the Law on Financial Business by Cooperative Association);
 - (ii) the amount under investment management provided in Article 97-2.3 of the Insurance Business Law and the amount computed in the manner provided by the Cabinet Office Ordinance after adding up as provided in said Article 97-2.3;
 - (iii) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in

- Article 58.2 of the Norinchikin Bank Law;
- (iv) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in Article 11-4.2 of the Agriculture Cooperative Association Law;
 - (v) the amount of credit, etc. granted and the limit of total credit, etc. granted as provided in Article 11-11.2 of the Fisheries Cooperative Association Law;
 - (f) the case where the registered financial institution furnishes information necessary to prepare an acknowledgment provided in Article 24-4-2.1 of the Act or an internal control report provided in Article 24-4-4.1 of the Act (limited to the case where a parent juridical person, etc. or subsidiary juridical person, etc. which receives such information from such officer or employee have taken measures to prevent leakage of nonpublic information from a division responsible for preparation of such acknowledgment and internal control report);
 - (g) the case where the registered financial institution furnishes information necessary to maintain and control an electronic data processing and network system (limited to the case where a parent juridical person, etc. or subsidiary juridical person, etc. which receives such information from such officer or employee have taken measures to prevent leakage of nonpublic information from a division responsible for maintenance and control of such electronic data processing and network system);
 - (h) the case where the registered financial institution receives or furnishes nonpublic information in accordance with the laws and regulations, etc.;
 - (i) the case where the registered financial institution furnishes the specific person concerned (which means, in the case where the registered financial institution is a parent juridical person, etc. or subsidiary juridical person, etc. of a financial instruments firm (limited to a person carrying out the first-type financial instruments business) carrying out securities related business or the case where such financial instruments firm is a parent juridical person, etc. or subsidiary juridical person, etc. of such registered financial institution, such financial instruments firm and any of the persons referred to in the items of Article 153.4 in respect of such financial instruments firm which is a parent juridical person, etc. or subsidiary juridical person, etc. of such registered financial institution; hereinafter in (i), the same) with information necessary to carry out the whole or part of operations of internal control (which means operations of internal control provided in Article 153.3; hereinafter in (i), the same) (limited to the case where the specific person concerned receiving such information from such officer or employee takes accurate measures to prevent nonpublic information from leaking from the division responsible for operations of internal control);
 - (j) the case where the registered financial institution or a parent bank, etc. or subsidiary bank, etc. of the registered financial institution furnishes such parent bank, etc. or subsidiary bank, etc. with information necessary to comply with the provisions concerned (which means provisions as defined in Article 123.1 (18) (d); in (j), the same) (limited to the case where parent bank, etc. or subsidiary bank, etc. receiving such information from such officer or employee takes accurate measures to prevent nonpublic information from leaking from the division responsible for operations of compliance with such provisions concerned);
- (5) using nonpublic information concerning a customer that an officer or employee engaged in financial instruments intermediary business of such registered financial institution has acquired from a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution (limited to nonpublic information furnished by such parent juridical person, etc. or subsidiary juridical person, etc. without written consent from such customer) to solicit to enter into a financial instruments transaction contract;
- (6) in the case where a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution is a lead manager of underwriters of a security, giving advice for the purpose of forming an artificial market price which does not reflect the real market price regarding its investment advisory business or carrying out investment management to conduct transactions for the purpose of forming an artificial market price which does not reflect the real market price regarding its investment management business, in order to influence on conditions of public offer or public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors of such security;
- (7) in the case where a parent juridical person, etc. or subsidiary juridical person, etc. of the registered financial institution conducts underwriting, etc. of a security and the amount of offering of acquisition or purchase of such security to such parent juridical person, etc. or subsidiary juridical person, etc. is expected to fail to reach the amount projected by the parent juridical person, etc. or subsidiary juridical person, etc., giving an advice to acquire or purchase such security regarding its investment advisory business or carrying out investment management to acquire or purchase such security regarding its investment management business in response to the request of such parent juridical person, etc. or subsidiary juridical person, etc.; and

- (8) regardless of reasons or excuses, avoiding prohibition provided in Article 44-3.2 of the Act.

Article 155. — Method to Use Information Technology

155.1. A financial instruments firm, etc. may obtain a consent from an issuer, etc. by, in lieu of a written consent from an issuer, etc pursuant to the provisions of Article 153 (7) (a) and Article 154 (4) (a), an electronic or magnetic method in the manner provided in Article 155.2 with an agreement from the issuer, etc.; for this purpose, such financial instruments firm, etc. shall be deemed to have obtained such written consent from the issuer, etc.

155.2. Before a financial instruments firm, etc. obtains a consent from such issuer, etc. pursuant to the provisions of Article 155.1, the financial instruments firm, etc. shall show the following type and details of an electronic or magnetic method to and obtain an agreement in writing or by an electronic or magnetic method from the issuer, etc.:

- (1) among methods referred to in the items of Article 56.1, the method used by a financial instruments firm, etc.; and
- (2) the method to record in a file.

155.3. When a financial instruments firm, etc. which has obtained an agreement pursuant to the provisions of Article 155.2 has received an offer not to give consent by an electronic or magnetic method from an issuer, etc. in writing or by an electronic or magnetic method, the financial instruments firm, etc. shall not obtain such consent from the issuer, etc. by an electronic or magnetic method: *Provided*, That this shall not apply in the case where such issuer, etc. has given an agreement pursuant to the provisions of Article 155.2 again.

Subsection 5. Miscellaneous Provisions

Article 156.

Case prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 45 of the Act shall be the case provided in each of the following items for the application of the provisions referred to in such item:

- (1) Article 37-4 of the Act — the case of failure to maintain a system to respond to an enquiry from the customer regarding individual transactions in a timely manner;
- (2) Article 37-5 of the Act — the case of failure to maintain a system to respond to an enquiry from the customer regarding receipt of individual guarantee money in a timely manner;
- (3) Articles 41-4 and 42-5 — the case of failure to maintain a system to segregate money and securities on deposit from the firm's own property and other customers' properties (which means a system to keep such money and securities clearly separate from the firm's own properties or other customers' properties by means to keep in a separate place or other means and to keep in the condition that a customer who has deposited such money and securities is identified);
- (4) Article 42-7 — the case of failure to maintain a system to respond to an enquiry regarding matters required to be stated in an investment management report under Article 42-7.1 from a customer in a timely manner.

Section 3. Account

Subsection 1. Financial Instruments Firm Which Carries Out First-Type Financial Instruments Business

Article 157. — Books and Records regarding Business

157.1. Books and records that a financial instruments firm (limited to a person who carries out the first-type financial instruments business; hereinafter in Subsection 1, the same) shall prepare pursuant to the provisions of Article 46-2 of the Act shall be:

- (1) copies of the following written statements:
 - (a) a written statement provided in the following provisions:
 - (i) Article 34-2.3 of the Act;
 - (ii) Article 34-4.2 of the Act;
 - (iii) Article 37-3.1 of the Act;
 - (iv) Article 37-4.1 of the Act;
 - (v) Article 40-2.5 of the Act; and
 - (vi) Article 40-5.2 of the Act;
 - (b) listed securities, etc. written statement;
 - (c) prospectus provided in Article 80.1 (3) (in the case where there is a written statement

- furnished together with such prospectus as a unit pursuant to the provisions of Article 80.1 (3), such prospectus and such written statement); and
- (d) a contract change written statement;
 - (2) written statements provided in the following provisions:
 - (a) Article 34-3.2 of the Act (including the *mutatis mutandis* application under Article 34-4.6 of the Act);
 - (b) Article 43-4.1 of the Act; and
 - (c) Article 153 (7) (a) of the Act;
 - (3) order ticket;
 - (3-2) record of confirming settlement measures;
 - (3-3) record of confirming transactions to which settlement measures are not applicable;
 - (3-4) record of confirming under Article 117.1 (24);
 - (4) daily trading book;
 - (5) trading record for intermediary and agent;
 - (6) trading record for security, etc. clearing broking;
 - (7) trading record for public offer, public sale, private placement or solicitation of sale, etc. to specific investors;
 - (8) trading record for handling of public offer or public sale or handling of private placement;
 - (9) customer account ledger;
 - (10) delivery securities number book;
 - (11) safe keeping securities detail book;
 - (12) record for the result of segregation audit;
 - (13) trading instruments account ledger;
 - (14) transaction under repurchase agreement account ledger;
 - (15) in the case of a person carrying out proprietary trading system business, trading record for proprietary trading system business;
 - (16) in the case of a person carrying out investment advisory and agent business, the following written statements:
 - (a) a written statement containing the details of an investment advisory contract entered into by the person;
 - (b) a written statement containing the details of advice based on investment advisory contract;
 - (c) in the case where a financial instruments transaction contract has been canceled pursuant to the provisions of Article 37-6.1 of the Act, a written statement to cancel the financial instruments transaction contract;
 - (d) trading record for an agent or intermediary to enter into an investment advisory contract or contract of discretionary investment;
 - (17) in the case of a person carrying out investment management business, the following written statements:
 - (a) a written statement containing the details of the contracts referred to in the items of Article 42-3.1 of the Act and other juristic act (including, in the case of commissioning pursuant to the provisions of said Article 42-3.1, a contract for such commissioning);
 - (b) a copy of an investment management report under Article 42-7.1 of the Act (including an investment management report under Article 14.1 of the Law on Investment Trust and Investment Corporation (including the *mutatis mutandis* application of Article 59 of said Law) in the case of an investment trust management company (which means an investment trust management company as defined in Article 2.11 of said Law, and including the issuer of a beneficial interest certificate of a foreign investment trust provided in Article 2.22 of said Law similar to an investment trust managed based on a trusting person's instruction provided in Article 2.1 of said Law; in (e), the same));
 - (c) the details of investment management;
 - (d) a ticket of order placement;
 - (e) in the case of an investment trust management company, the following matters:
 - (i) receivable manager remuneration detail book;
 - (ii) payable profit distribution money detail book;
 - (iii) payable redemption money detail book;
 - (iv) payable fee detail book;
- 157.2. The books and records referred to in (1), (2) and (16) (c) of Article 157.1, the books and records referred to in (3) to (3-4) and (17) (d) of Article 157.1 and the books and records referred to in (4) to (15), (16) (excluding (16) (c)) and (17) (excluding (17) (d)) of Article 157.1 shall be kept for five years, seven years and ten years respectively after the date of preparation (in the case of books and records referred to in (2) of Article 157.1, the day of ceasing to be effective and in the case of books and records referred to in (16) (a) and (17) (a) of Article 157.1, the day on which

operations for the contract or other juristic act has been completed).

Article 158. — Order Ticket

158.1. An order ticket under Article 157.1 (3) shall contain the following matters regarding the acts referred to in (1) to (4) of Article 2.8 of the Act (excluding an act as an intermediary or agent or the act referred to in (8) of said Article 2.8 (limited to an act for a specified period of offering to buy or selling of securities related to such act)):

- (1) whether for house account or for customer account (in the case of placing an order for house account, house account);
- (2) in the case of an order from a customer, the name of such customer;
- (3) the type of transaction (in the case of any of the transactions referred to in the following (a) to (h), including the matters provided in (a) to (h), respectively; hereinafter in Section 3, the same):
 - (a) margin transaction or when-issued transaction — such fact and, in the case of margin transaction, the deadline for repayment;
 - (b) transaction under repurchase agreement — the following matters:
 - (i) such fact;
 - (ii) whether the transaction is for start (which means a transaction that a seller sells to a purchaser a security which is the object of the transaction under repurchase agreement; hereinafter the same) or for end (which means a transaction that a purchaser sells back the same type and same amount of security as a security which has been the object of the transaction under repurchase agreement; hereinafter the same);
 - (iii) whether the transaction under repurchase agreement is for a customer account or for a house account;
 - (iv) yield for the period;
 - (c) short-selling of a security — such fact;
 - (d) transactions referred to in (1) and (2) of Article 2.21 of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in (1) and (2) of Article 2.22 of the Act — the following matters:
 - (i) the contract month or delivery date;
 - (ii) whether the transaction is for establishing new position, closing or cancellation;
 - (e) transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transaction similar thereto), transaction referred to in (3) or (4) of Article 2.22 of the Act and purchase or sale of a debt security with option — the following matters:
 - (i) the exercise period and the exercise price;
 - (ii) whether the transaction is put or call;
 - (iii) whether the transaction is for establishing new position, exercise, resale, repurchase or offsetting;
 - (iv) the contract month;
 - (v) in the case of the transactions referred to in (3) and (4) of Article 2.22 of the Act, the details of a transaction concluded as a result of exercise of an option;
 - (f) transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (5) of the Act — the transaction period and delivery date;
 - (g) transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (6) of the Act — the following matters:
 - (i) the exercise period;
 - (ii) whether the transaction is for establishing new position, exercise, resale or repurchase;
 - (iii) in the case of the transaction referred to in Article 2.22 (6) of the Act, the event agreed in advance by the parties (which means any of the events referred to in said Article 2.22 (6); in Article 159.1 (13) (d), the same), the amount of money, or computation method, to be paid when the event has occurred and a financial instrument, an interest in the financial instrument or money claims (excluding a financial instrument and an interest in a financial instrument) to be transferred according to agreement by the parties;
 - (f) strategy transaction provided by the rules of a financial instruments exchange (which means market derivatives transaction which is conducted on a financial instruments market operated by such financial instruments exchange and conclude multiple transactions simultaneously; in Article 283.1 (3) (f), the same) — the type;
- (4) the issue name (including a financial instrument or financial index which is the object of the transaction or the contract number stated in the contract containing conditions of the transaction

- and other matters to specify the object of the transaction; hereinafter in Section 3, the same);
- (5) whether for purchase or sale (in the case of the transactions referred to in the following (a) to (d), purchase or sale provided in such (a) to (d) respectively; hereinafter, excluding Articles 170 and 171, in Section 3, the same):
 - (a) transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (2) of the Act — purchase or sale which causes a customer (in the case of placing an order for the house account, the financial instruments firm; hereinafter in (5), the same) to become a party to pay money or a party to receive money in the case where the actual value exceeded the trade value;
 - (b) transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in (3) and (4) of Article 2.22 of the Act — purchase or sale which causes a customer to become a party to grant an option or a party to acquire an option;
 - (c) transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (5) of the Act — purchase or sale which causes a customer to become a party to pay money or a party to receive money in the case where the interest, etc. of a financial instrument or a financial index agreed between the parties has risen during the agreed period;
 - (d) transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (6) of the Act — purchase or sale which causes a customer to become a party to pay money or a party to receive money in the case where an event (which means any of the events referred to in Article 2.21 (5) or Article 2.22 (6) of the Act; in (11) (d), the same) agreed in advance between the parties has occurred;
 - (6) the order volume (if such volume does not exist, matters equivalent to the number or volume; in Article 158.3 (3), the same);
 - (7) the trade volume (if such volume does not exist, matters equivalent to the number or volume; in Article 158.3 (3), the same);
 - (8) whether limit price order or market order (in the case of a limit price order, including the price and life of the order (excluding a life of order which ends during the same day));
 - (9) the date and time of order acceptance;
 - (10) the date and time of order filling;
 - (11) the trade price (in the case of the transactions referred to in the following (a) to (d), matters provided in (a) to (d), respectively; hereinafter in Section 3, the same):
 - (a) transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (2) of the Act — trade value;
 - (b) transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transaction similar thereto), transactions referred to in (3) and (4) of Article 2.22 of the Act and purchase or sale of a debt security with option — the amount of consideration for an option or option premium;
 - (c) transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (5) of the Act — interest rate, etc. of a financial instrument or financial index traded;
 - (d) transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (6) of the Act — the amount of consideration for the right to receive money in the case where an event agreed in advance between the parties has occurred;
- 158.2. An order ticket under Article 158.1 shall be prepared in the following manner:
- (1) an order ticket shall be prepared in a timely manner, in the case of an order from a customer, at the time of accepting an order and, in the case of an order for house account, at the time of order placement; *provided*, that this shall not apply in the case where it is difficult to prepare in a timely manner at the time of accepting an order such as the case where orders have been received for multiple and different issue names of securities simultaneously;
 - (2) in the case where an order has not been filled, such fact shall be stated;
 - (3) in the case where an order ticket is prepared by an electronic or magnetic record, in addition to the matters referred to in the items of Article 158.1, the order ticket shall be prepared in the following manners:
 - (a) the matters referred to in the items of Article 158.1 (excluding (7), (10) and (11)) shall be input in a computer at the time of the order receipt (in the case of an order placement for house account, no later than the order placement);
 - (b) the date and time when the details of an order for a customer account or for a house account input in a computer shall be recorded automatically;

- (4) order tickets shall be kept in the following manners:
 - (a) order tickets for a customer account shall be kept separate from an order ticket for the house account and order tickets shall be filed by date;
 - (b) order tickets for transactions under repurchase agreement shall be filed separately; *provided*, that this shall not apply to a business office or other type of office which has small trading volume;
 - (c) order tickets for proprietary trading system management business shall be kept in a manner that such order tickets can be identified;
- (5) in the case of an order for a transaction subject to give-up, such fact shall be stated;
- (6) in the case of a transaction subject to give-up, an order executing member, etc. is not required to state whether the transaction is for establishing a new position or to settle a position, whether the transactions is for exercise, resale or repurchase;
- (7) in the case where a transaction subject to give-up, a clearing executing member, etc. is not required to prepare order tickets;
- (8) a member, etc. which quotes bid or offer constantly for a specific issue name of a security or a financial instrument or financial index for market derivatives transactions on an on-exchange financial instruments market operated by a financial instruments exchange pursuant to the rules of the financial instruments exchange is not required to prepare order tickets for order placement for the purpose of such quoting;
- (9) a member of an approved financial instruments firms association which quotes bid or offer constantly for a specific issue name of a security on an over-the-counter traded security market operated by the approved financial instruments firms association pursuant to the rules of the approved financial instruments firms association is not required to prepare order tickets for order placement for the purpose of such quoting.

158.3. Notwithstanding the provisions of Articles 158.1 and 158.2, the matter referred to in each of the following items may be made in accordance with such item:

- (1) the matters referred to in (4) and (11) of Article 158.1 concerning when-issued transaction of national government bonds — the fact that the transactions is for when-issued transaction of national government bonds, the projected date of redemption and trade yield may be stated in lieu of the matters referred to in (4) and (11) of Article 158.1;
- (2) the matters referred to in the items of Article 158.1 for transactions under repurchase agreement — a transaction for start and a transaction for end for the same customer may be stated in one order ticket;
- (3) the matters referred to in the items of Article 158.1 for a beneficial interest certificate of an investment trust, etc. (which means a beneficial certificate of an instrument trust or foreign investment trust, investment certificate or foreign investment certificate similar to investment certificate; hereinafter, excluding Article 281 (6), the same) in which prices do not move during the same day — the name of a customer, issue name, whether for purchase or sale, order volume, trade volume, date of order receipt and trade date may be stated in lieu of the matters referred to in such items;
- (4) the matters referred to in Article 158.1 (2) — in the case of a customer to whom furnishing of a written statement concerning concluded transaction is not required pursuant to the provisions of (5) and (6) of Article 110 and the investment management of whose assets is directed by a person other than the customer, the customer referred to in Article 158.1 (2) may be such person for purchase or sale transaction for which such person has place an order; in this case, such fact shall be stated in an order ticket;
- (5) the matters referred to in (d) (ii), (e) (iii) and (g) (ii) of Article 158.1 (3) — the entry of matters for which a customer is not required to direct to a member, etc. at the time of order placement pursuant to the rules of a financial instruments exchange may be omitted; and
- (6) matters prepared by an electronic or magnetic record pursuant to the provisions of Article 158.1 (3) — in the case where such matters prepared by an electronic or magnetic record are displayed on a screen of a computer or output to a written statement, such matters may be displayed or output as a list.

Article 158-2. — Record of Confirming Settlement Measures

A record of confirming of settlement measures under Article 157.1 (3-2) shall contain the following matters regarding the details confirmed pursuant to the provisions of Article 26-2-2.1 or 26-2-2.2 of the Order (including the *mutatis mutandis* application of these provisions under Article 26-2-2.6 of the Order):

- (1) the name of the customer;
- (2) the date of confirmation;
- (3) the supplier of the securities subject to settlement measures;
- (4) the detail confirmed pursuant to the provisions of Article 26-2-2.1 or 26-2-2.2 of the Order

(including the *mutatis mutandis* application of these provisions under Article 26-2-2.6 of the Order);

Article 158-3. — Record of Confirming Transaction to Which Settlement Measures are Not Applicable

A record of confirming of transactions to which settlement measures are not applicable under Article 157.1 (3-3) shall, in the case of confirming that short selling of a security (limited to a security designated by the Commissioner of the Financial Services Agency provided in Article 26-2-2.1 (including the *mutatis mutandis* application under Article 26-2-2.6 of the Order) of the Order) for which an order has been accepted is conducted as any of the transactions referred to in (20) to (36) of Article 9-3 or (15) to (19) of Article 9-4 of the Trading, etc. Regulations Cabinet Office Ordinance, contain the following matters regarding the details of such short selling:

- (1) the name of the customer;
- (2) the date of confirmation; and
- (3) the concrete details of the transactions.

Article 158-4. — Record of Confirming under Article 117.1 (24-5)

A record of confirming under (24-5) of Article 117.1 under (2-4) of Article 157.1 shall contain the following matters regarding the details confirmed pursuant to the provisions of said (24-5):

- (1) the name of the customer;
- (2) the date of confirmation; and
- (3) the method to keep securities in custody.

Article 159. — Trading Daily Book

159.1. A daily trading book under Article 157.1 (4) shall contain the following matters regarding the acts referred to in (1) to (5) (excluding an act to which the act referred to in Article 2.27 (2) of the Act is applicable) and (8) and (9) of Article 2.8 of the Act (excluding an act as an intermediary or agent):

- (1) the trade date;
- (2) the name of a customer;
- (3) whether purchase or sale or whether for handling of public offer or public sale or handling of private placement or solicitation of sale, etc. to specific investors or cancellation or refund;
- (4) the issue name;
- (5) volume (in the case where volume does not exist, matters equivalent to number or volume);
- (6) the trade price or the unit price and the amount of money;
- (7) delivery date;
- (8) the name of the counterparty (limited to the case where purchase or sale or other type of transaction, etc. of a security is conducted at a place other than an on-exchange financial instruments market or over-the-counter traded security market);
- (9) in the case of a transaction under repurchase agreement, the following matters:
 - (a) the statement that it is a transaction under repurchase agreement;
 - (b) whether the transaction is for start or for end;
 - (c) whether the transaction under repurchase agreement is for a customer account or for a house account;
- (10) in the case of the transactions referred to in (1) and (2) of Article 2.21 of the Act and (1) and (2) of Article 2.22 of the Act, the following matters:
 - (a) whether the transaction is for a customer account or for a house account (in the case of the transactions referred to in (1) and (2) of Article 2.21 of the Act, whether it is futures for a customer account or for futures for a house account);
 - (b) the contract month or delivery date;
 - (c) whether the transaction is for establishing new position, closing or cancellation;
 - (d) in the case of the transactions referred to in (1) and (2) of Article 2.21 of the Act for a security other than a security for sale, such fact;
- (11) in the case of the transaction referred to in Article 2.21 (3) of the Act or (3) or (4) of Article 2.22 of the Act and purchase or sale of corporate debt security with option, the following matters:
 - (a) whether the transaction is for a customer account or for a house account;
 - (b) the exercise period and the exercise price;
 - (c) whether the transaction is put or call;
 - (d) whether the transaction is for establishing new position, exercise, resale, repurchase or offsetting;
 - (e) the contract month;

- (f) in the case of any of the transactions referred to in (3) and (4) of Article 2.22 of the Act, the details of a transaction to be concluded as a result of the exercise of an option;
 - (12) in the case of the transactions referred to in Article 2.21 (4) of the Act and Article 2.22 (5) of the Act, the following matters:
 - (a) whether the transaction is for a customer account or for a house account;
 - (b) the trading period and the date of delivery;
 - (13) in the case of the transactions referred to in Article 2.21 (5) of the Act and Article 2.22 (6) of the Act, the following matters:
 - (a) whether the transaction is for a customer account or for a house account;
 - (b) the exercise period;
 - (c) whether the transaction is for establishing new position, exercise, resale or repurchase;
 - (d) in the case of transaction referred to in Article 2.22 (6) of the Act, the following matters:
 - (i) the event agreed by parties in advance;
 - (ii) the amount of money, or computation method therefor, to be paid when the event agreed between the parties has occurred;
 - (iii) a financial instrument, an interest in the financial instrument or money claims (excluding a financial instrument and an interest in a financial instrument) to be transferred as agreed by the parties.
- 159.2. A trading daily book under Article 159.1 shall be prepared in the following manner:
- (1) Entries shall be made separately for handling of public offer or public sale or handling of private placement or solicitation of sale, etc. to specific investors or cancellation or refund (in (2), referred to as "public offer, etc.");
 - (2) in the case of transaction other than public offer, etc., purchase or sale for house account shall be stated separately from purchase or sale for a customer account, and purchase and sale of on-market transaction (which means a transaction conducted on an on-exchange financial instruments market or over-the-counter traded security market; hereinafter in (2) and (3), the same) shall be stated separately from purchase and sale of transaction other than on-market transaction;
 - (3) on-market transaction shall be stated for each market;
 - (4) with respect to the date of delivery, the date on which delivery has been made effectively shall be stated; *provided*, that this shall not apply to transactions on an on-exchange financial instruments market, which are ordinary transaction prescribed by the rules of a financial instrument exchange;
 - (5) in the case of cross transaction (which means purchase or sale which is conducted on an on-exchange financial instruments market (limited to sale or purchase conducted in the manner prescribed by a financial instruments exchange which operates such on-exchange financial instruments market) and by which the same member, etc. concludes sale or purchase opposite thereto simultaneously), such fact shall be stated;
 - (6) in the case where when-issued transaction of national government bonds for which issue name, unit price, amount of money and delivery date (hereinafter in (6), referred to as "issue name, etc.") cannot be stated at the time of conclusion of such when-issued transaction, the fact of when-issued transaction of national government bonds, projected date of redemption and trade yield shall be stated and, when such issue name, etc. is known, such entries shall be made. The date of entries of and back ground for such matters shall be kept identifiable;
 - (7) a trading daily book for proprietary trading system management business shall be prepared in a separate file or a trading daily book shall be identified as for proprietary trading system management business;
 - (8) in the case of a transaction subject to give-up, an order executing member, etc. is not required to state the distinction whether the transaction is for establishing new position or settlement and whether for establishing new position, exercise, resale or repurchase.
- 159.3. Notwithstanding the provisions of Articles 159.1 and 159.2, the matter referred to in each of the following items may be made in accordance with such item:
- (1) the matters referred to in the items of Article 159.1 for security, etc. clearing broking — sheets and data furnished by a financial instruments clearing organization (including, if such financial instruments clearing organization carries out link financial instruments liability assumption business, link clearing organization, etc.) or foreign financial instruments clearing organization or a customer (limited to sheets and data containing the name of the customer, issue name, volume, amount of money and the trade date) may be kept as trading daily book;
 - (2) the matters referred to in (2) and (8) of Article 159.1 — in the case of a customer or counterparty to whom furnishing of a written statement concerning concluded transaction is not required pursuant to the provisions of (5) and (6) of Article 110.1 and the case where the investment management of whose assets are directed by a person other than the customer or

counterparty, the customer referred to in Article 159.1 (2) or the counterparty referred to in Article 159.1 (8) may be such person for purchase or sale transaction the order of which has been placed by such person and has been executed; in this case, such fact shall be stated in the trading daily book.

Article 160. — Trading Record of Acting as Intermediary or Agent

A trading record of acting as an intermediary or agent under Article 157.1 (5) shall contain the following matters regarding the acts referred to in (2) to (4) of Article 2.8 of the Act (limited to acts as an intermediary and agent):

- (1) the date of acting as an intermediary agent;
- (2) the name of the customer;
- (3) the distinction of intermediary or agent;
- (4) the details of acting as intermediary and agent; and
- (5) the amount of fee, remuneration or other amount of consideration received regarding acting as intermediary and agent.

Article 161. — Trading Record for Security, etc. Clearing Broking

A trading record for security, etc. clearing broking under Article 157.1 (6) shall contain the following matters regarding security, etc. clearing broking (excluding security, etc. clearing broking provided in Article 2.27 (2) of the Act):

- (1) the name of the customer;
- (2) the issue name;
- (3) the volume (if such volume does not exist, matters equivalent to the volume);
- (4) the delivery amount;
- (5) the delivery date; and
- (6) the counterparty of delivery.

Article 162. — Trading Record of Public Offer, Public Sale or Private Placement or Solicitation of Sale, etc. to Specific Investors

162.1. A trading record for public offer, public sale or private placement or solicitation of sale, etc. to specific investors under Article 157.1 (7) shall contain the following matters regarding the act referred to in (7) of Article 2.8 of the Act and the act referred to in (8) of said Article 2.8 (limited to an act for a specified period of offering to buy or selling of securities related to such act) and acts provided in Article 1-12 of the Order:

- (1) the name of the customer;
- (2) the issue name;
- (3) the distinction of public offer, public sale, private placement or solicitation of sale, etc. to specific investors or buy-back, cancellation or refund (in Article 162.2, referred to as "public offer, etc.");
- (4) the volume of order receipt (if such volume does not exist, matters equivalent to the number or volume; in Article 162.3 (1), the same), unit price of order and amount of money of order;
- (5) the trade volume (if such volume does not exist, matters equivalent to the number or volume; in Article 162.3 (1), the same), trade unit price and trade amount of money;
- (6) the date of order; and
- (7) the date of trade.

162.2. A trading record for public offer or private placement solicitation of sale, etc. to specific investors under Article 162.1 shall be prepared in the following manners:

- (1) in principle, a trading record shall be prepared in a timely manner at the time of accepting subscription to public offer, etc.;
- (2) in the case where an order has not been filled, such fact shall be stated;
- (3) in the case where a trade record for public offer or private placement or solicitation of sale, etc. to specific investors is prepared by an electronic or magnetic record, the trade record shall be prepared, in addition to the manners referred to in (1) and (2), in the following manners:
 - (a) the matters referred to in the items of Article 162.1 (excluding (5) and (7)) shall be input in a computer at the time of accepting subscription to public offer, etc.;
 - (b) the date and time when the subscription to public offer, etc. has been input in a computer is recorded automatically.

162.3. Notwithstanding the provisions of Articles 162.1 and 162.2, the matter referred to in each of the following items may be made in the manner provided in such item:

- (1) the matters referred to in (4) to (7) of Article 162.1 for investment trust beneficial interest certificate, etc. the price of which does not move during the same day — volume of order, volume of trade, date of order placement and trade date shall be stated in lieu of the matters

referred to in such items; and

- (2) matters prepared by an electronic or magnetic record pursuant to the provisions of Article 162.2 (3) — in the case where representing on a screen of a computer, or outputting on a written statement, such matters prepared by an electronic or magnetic record, such matters may be represented or output by a list.

Article 163. — Trading Record of Handling of Public Offer or Public Sale or Handling of Private Placement or Solicitation of Sale, etc. to Specific Investors

163.1. A trading record for handling of public offer or public sale or handling of private placement or solicitation of sale, etc. to specific investors under Article 157.1 (8) shall contain the following matters regarding the acts referred to in Article 2.8 (9) of the Act:

- (1) the name of the customer;
- (2) the issue name;
- (3) whether the transaction is for handling of public offer or public sale, handling of private placement or solicitation of sale, etc. to specific investors or cancellation or refund (in Article 163.2, referred to as "public offer, etc.");
- (4) the volume of order (if such volume does not exist, matters equivalent to the number or volume; in Article 163.3 (1), the same), unit price of order and amount of money of order;
- (5) the trade volume (if such volume does not exist, matters equivalent to the number or volume; in Article 163.3 (1), the same), trade unit price and trade amount of money;
- (6) the date of order; and
- (7) the date of trade.

163.2. A trading record for handling of public offer or public sale or handling of private placement or solicitation of sale, etc. to specific investors under Article 163.1 shall be prepared in the following manner:

- (1) in principle, a trading record shall be prepared in a timely manner at the time of accepting subscription to public offer, etc.;
- (2) in the case where an order has not been filled, such fact shall be stated;
- (3) in the case where a trade record of handling of public offer or public sale or handling of private placement or solicitation of sale, etc. to specific investors is prepared by an electronic or magnetic record, the trade record shall be prepared, in addition to the matters referred to in (1) and (2), in the following manners:
 - (a) the matters referred to in the items of Article 163.1 (excluding (5) and (7)) shall be input in a computer at the time of accepting subscription to public offer, etc.;
 - (b) the date and time when the subscription to public offer, etc. has been input in a computer is recorded automatically.

163.3. Notwithstanding the provisions of Articles 163.1 and 163.2, the matter referred to in each of the following items may be made in the manner provided in such item:

- (1) the matters referred to in (4) to (7) of Article 163.1 for investment trust beneficial interest certificate, etc. the price of which does not move during the same day — volume of order, volume of trade, date of order placement and trade date shall be stated in lieu of the matters referred to in such items; and
- (2) matters prepared by an electronic or magnetic record pursuant to the provisions of Article 163.2 (3) — in the case where representing on a screen of a computer, or outputting on a written statement, such matters prepared by an electronic or magnetic record, such matters may be represented or output by a list.

Article 164. — Customer Account Ledger

164.1. A customer account ledger under Article 157.1 (9) shall contain the matter provided in each of the following items according to the classification of the transaction referred to in such item regarding transactions conducted by a customer (excluding transactions conducted as an intermediary or agent and security, etc. clearing broking):

- (1) margin transaction, when-issued transaction (excluding when-issued transaction of national government bonds), purchase or sale of a debt security with option, market derivatives transaction and over-the-counter derivatives transaction (in Article 164.2 (2), referred to as "margin transaction, etc.") — the following matters:
 - (a) the name of the customer;
 - (b) the agreement number;
 - (c) the issue name;
 - (d) the type of transaction (excluding (b), (c), (d) (ii) and (d) (iii), (e) (iii) and (g) (ii) of Article 158.1 (3));
 - (e) whether purchase or sale;

- (f) the trade date;
 - (g) volume (if such volume does not exist, matters equivalent to the number or volume);
 - (h) the trade price or the unit price and the amount of money;
 - (i) the customer fees;
 - (j) margin transaction payment interest, margin transaction receipt interest, security borrowing fee or security lending fee;
 - (k) debit or credit of money and the balance; and
 - (l) guarantee money on deposit, customer margin, trade margin or other matters regarding collateral property (the distinction of cash or security, etc. deposited as margin, date of receipt or date of return, issue name, volume or amount of money);
- (2) transaction other than the transaction referred to in (1) — the following matters:
- (a) the name of the customer;
 - (b) the trade date;
 - (c) the issue name;
 - (d) the volume (if such volume does not exist, matters equivalent to the number or volume), the unit price and the amount of money;
 - (e) the delivery date;
 - (f) debit or credit of money and the balance;
 - (g) the distinction of transaction for start or transaction for end; and
 - (h) in the case of transaction under repurchase agreement, such fact.
- 164.2. A customer account ledger under Article 164.1 shall be prepared in the following manner:
- (1) each of the transactions referred to in the items of Article 164.1 is stated in a separate book (in the case of market derivatives transaction and over-the-counter derivatives transaction, each of the transactions referred to in the items of Article 2.21 of the Act and the items of Article 2.22 of the Act), and trading process shall be stated for each customer;
 - (2) profit or loss money and dividend receipt equivalent amount arising from margin transaction, etc. shall be transferred to a customer account ledger for other transaction;
 - (3) in the case where the number of agreement can be searched for each customer separately, the entry of the number of agreement may be omitted;
 - (4) with respect to customer fees for a transaction subject to give-up, customer fees received by a clearing execution member, etc. directly from a customer shall be stated; and
 - (5) with respect to a transaction subject to give-up, an order executing member, etc. is not required to prepare a customer account ledger; *provided*, that, in the case where an order executing member, etc. has received customer fees directly from a customer, the name of the customer, the number of agreement, customer fees and debit and credit of money and the balance shall be stated.
- 164.3. Notwithstanding the provisions of Articles 164.1 and 164.2, the matter referred to in each of the following items may be made in the manner provided in such item:
- (1) the matters referred to in the items of Article 164.1 for accident processing — trading process may be stated for each accident processing for the matters referred to in such items; in this case, a customer account ledger for accident processing may be prepared and kept independently;
 - (2) the trade price or the unit price referred to in (1) (g) and the unit price referred to in (2) (d) of Article 164.1 — in the case where a customer for whom furnishing of a written statement concerning concluded transaction is not required pursuant to the provisions of (5) and (6) of Article 110.1 has given a consent in advance for lumping together orders for the same issue name during the same day, the average amount of trade prices or unit prices of transactions of the same issue during the same day may be stated; in this case, such fact shall be stated in the customer account ledger.

Article 165. — Delivery Security Number Book

165.1. A delivery security number book under Article 157.1 (10) shall contain the following matters for all delivery securities (which mean the securities or certificates referred to in the items of Article 2.1 of the Act, which have been delivered, and exclude delivery securities contained in a detail book of securities in custody under Article 157.1 (11), foreign securities, registered national government bonds, corporate debt securities, etc. as defined in Article 2.1 of the Law on Book Transfer of Corporate Debt Security, etc. which were dealt by the transfer agency provided in Article 2.2 of said Law:

- (1) the date of receipt;
- (2) the name of a person from whom delivery has been made;
- (3) the issue name, volume, face value, issue number, certificate number and other matters necessary to identify the security or certificate;

- (4) in the case of the delivery security stating the holder's name, the name of the nominal holder;
- (5) the date of making delivery; and
- (6) the name of a person to whom delivery is made.

165.2. A delivery security number book under Article 165.1 may be prepared in the following manners:

- (1) a micro film may be used for the matters referred to in the items of Article 165.1 in lieu of written form; and
- (2) in the case where the matters referred to in the items of Article 165.1 are stated in tickets and such tickets are filed by date, such file of tickets may be used as a delivery security number book.

Article 166. — Detail Book of Securities in Custody

166.1. A detail book of securities in custody under Article 157.1 (11) shall contain the following matters for the securities or certificates referred to in the items of Article 2.1 of the Act which have been deposited by a customer as the act referred to in Article 2.8 (16) of the Act:

- (1) the date of receipt of deposit;
- (2) the name of a person with whom the securities or certificates have been deposited;
- (3) the issue name, volume, face value, issue number, certificate number and other matters necessary to identify the security or certificate;
- (4) in the case of securities or certificates stating the holder's name, the name of the nominal holder;
- (5) the method to keep securities or certificates;
- (6) the date of withdrawal;
- (7) the reason for withdrawal.

166.2. A detail book of securities in custody under Article 166.1 shall be prepared in the following manners:

- (1) a detail book of securities in custody shall be prepared for each customer;
- (2) with respect to the reason for withdrawal, request for return by a customer, request for sale and instruction to transfer to security used as guarantee money or other reason for withdrawal shall be stated in the manner that such reason can be identified concretely; and
- (3) with respect to purchase or sale of a security kept as commingled in custody, the face value, issue number, certificate number and matters other than the nominee shall be stated and the fact of keeping as commingled in custody shall be shown clearly.

Article 167. — Trading Instruments Account Ledger

167.1. A trading instruments account ledger under Article 157.1 (13) shall contain the following matters:

- (1) with respect to securities, etc. for sale (which means securities for sale, etc. item in a balance sheet; in (1) and (3) of Article 167.2, the same), the following matters:
 - (a) the issue name;
 - (b) the trade date;
 - (c) the date of delivery;
 - (d) the name of the counterparty (limited to the case where purchase or sale or other type of transaction of a security is conducted at a place other than an on-exchange financial instruments market or over-the-counter traded security market);
 - (e) whether the securities for sale, etc. is classified as debit or as credit;
 - (f) the volume (if such volume does not exist, matters equivalent to the number or volume), the unit price and the amount of money; and
 - (g) the balance volume of and balance of amount;
- (2) with respect to an option transaction (which means purchase or sale of a debt security with an option, transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transaction similar thereto) and transactions referred to in (3) and (4) of Article 2.22 of the Act; in Article 167.2 (1), the same), the following matters:
 - (a) the issue name;
 - (b) the exercise period and the exercise price;
 - (c) whether the transaction is put or call;
 - (d) the details of a transaction concluded as a result of the exercise of an option;
 - (e) the trade date;
 - (f) the date of delivery;
 - (g) the name of the counterparty (limited to the case of purchase or sale of a debt security with option and the transactions referred to in (3) and (4) of Article 2.22 of the Act);
 - (h) whether the transaction is for establishing new position, exercise, resale, repurchase or offsetting;

- (i) whether the transaction is classified as debit or as credit;
 - (j) the volume (if such volume does not exist, matters equivalent to the number or volume), the unit price and the amount of consideration or option premium; and
 - (k) the balance volume and balance amount;
- (3) with respect to a futures transaction (which means transaction referred to in (1) and (2) of Article 2.21 of the Act (including foreign market derivatives transaction similar thereto); hereinafter in Article 167, the same) and forward transaction (which means transaction referred to in (1) and (2) of Article 2.22 of the Act; hereinafter in Article 167, the same), the following matters:
- (a) the issue name;
 - (b) the contract month;
 - (c) the trade date;
 - (d) the date of delivery;
 - (e) the name of the counterparty (limited to the case of forward transaction);
 - (f) whether the transaction is for establishing new position, resale, repurchase or settlement (in the case of futures transaction, whether the transaction is for establishing new position, closing or cancellation);
 - (g) whether for purchase or sale;
 - (h) the volume (if such volume does not exist, matters equivalent to the number or volume), trade amount of money, trade unit price and amount of money of settlement; and
 - (i) the balance volume, unsettled trade amount, market value, market unit price and amount equivalent to deemed profit or loss;
- (4) with respect to the transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transaction similar thereto) and transaction referred to in Article 2.22 (5) of the Act, the following matters:
- (a) the issue name;
 - (b) interest rate, etc. or financial index of the traded financial instrument;
 - (c) the trade date;
 - (d) the trade period;
 - (e) the name of the counterparty (limited to the case of the transaction referred to in Article 2.22 (5) of the Act);
 - (f) the amount of money fixed as the principal;
 - (g) whether the transaction is for establishing new position, resale, repurchase or settlement;
 - (h) the amount equivalent to deemed profit or loss; and
 - (i) discount rate;
- (5) with respect to the transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transaction similar thereto) and the transaction referred to in Article 2.22 (6) of the Act, the following matters:
- (a) the issue name;
 - (b) the trade date;
 - (c) the name of the counterparty (limited to the case of the transactions referred to in Article 2.22 (6) of the Act);
 - (d) the exercise period;
 - (e) the event determined by the parties in advance (which means any of the events referred to in Article 2.21 (5) and Article 2.22 (6) of the Act; in (f), the same);
 - (f) the amount of money to be paid when an event determined by the parties in advance has occurred or the computation method thereof;
 - (g) a financial instrument, interest in a financial instrument or money claim (excluding a financial instrument or interest in a financial instrument) agreed to be transferred between the parties;
 - (h) whether the transaction is for establishing new position, exercise, resale or repurchase;
 - (i) the amount of consideration;
- (6) with respect to the transaction similar to the transactions referred to in (2) to (5), the following matters:
- (a) the issue name;
 - (b) the trade date;
 - (c) the date of delivery;
 - (c) the name of the counterparty;
 - (d) matters equivalent to the matters referred to in (2) to (5).
- 167.2. A trading instruments account ledger under Article 167.1 shall be prepared in the following manner:
- (1) with respect to securities for sale, etc., option transaction, futures transaction and forward transaction, trading process for each issue name shall be stated individually (excluding the case

where transactions in connection with underwriting of a security are stated in a lump separately based on a detail sheet containing matters required to be stated);

- (2) the transaction referred to in Article 167.1 (6) shall be classified according to the type of transaction, index for transaction, period, etc. in an appropriate manner;
- (3) with respect to securities for sale, etc., transaction under repurchase agreement shall not be stated but contained in a transaction under repurchase agreement account ledger under Article 157.1 (14).

167.3. Notwithstanding the provisions of Articles 167.1 and 167.2, the matter referred to in each of the following items may be made in the manner provided in such item:

- (1) whether for establishing new positions, cancellation or resale and the amount of settlement among the matters referred to in the items of Article 167.1 — the entry may be omitted if the amount of settlement is accounted separately;
- (2) the matter referred to in Article 167.1 (1) (a) for when-issued transaction of national government bonds — the fact of when-issued transaction of national government bonds and projected redemption date may be stated in lieu of the matters referred to in Article 167.1 (1) (a);
- (3) the matters referred to in (1) (d), (2) (g), (3) (e), 4 (e), (5) (c) and (6) (d) of Article 167.1 — in the case of the counterparty to whom furnishing of a written statement concerning concluded transaction is not required pursuant to the provisions of (5) and (6) of Article 110.1 and the counterparty is different person from an investment director for assets of such counterparty, such investment director may be the counterparty under the items of Article 167.1 for purchase or sale transactions the order of which has been received from the investment director and which has been executed; In this case, such fact shall be stated in a trading instrument account ledger;
- (4) the matter referred to in Article 167.1 (3) — in the case where, in preparing a trading daily book under Article 157.1 (4), house transactions under Article 167.1 (3) are separated, the matter referred to in Article 167.1 (3) shall be stated in such trading daily book;
- (5) the matters referred to in Article 167.1 (3) (i), the matters referred to in (4) (h) and (4) (i) of Article 167.1, matters equivalent to Article 167.1 (3) (i) referred to in Article 167.1 (6) (e) and matters equivalent to (h) and (i) of Article 167.1 (4) referred to in Article 167.1 (6) (e) — the entry of such matters may be omitted except for a month end and term end.

Article 168. — Transaction under Repurchase Agreement Account Ledger

168.1. A transaction under repurchase agreement account ledger under Article 157.1 (14) shall contain the following matters in respect of securities for sale subject to transactions under repurchase agreement:

- (1) the date of delivery;
- (2) the trade date;
- (3) the issue name;
- (4) the name of the counterparty;
- (5) whether for start or end;
- (6) whether for debit or credit;
- (7) the volume, unit price, accrued interest, amount of money and yield;
- (8) the balance of volume in debt and the balance of amount of money; and
- (9) the balance of volume in credit and the balance of amount of money.

168.2. In preparing a transaction under repurchase agreement account ledger under Article 168.1, the process of the transaction with repurchase agreement shall be stated individually.

168.3. Notwithstanding the provisions of Articles 168.1 and 168.2, the entry of the matters referred to in (8) and (9) of Article 168.1 may be omitted except for a month end and term end.

Article 169. — Trading Record in Connection with Acting as Agent or Intermediary to Enter into Investment Advisory Contract or Contract of Discretionary Investment

Trading record in connection with acting as an agent or intermediary to enter into an investment advisory contract or contract of discretionary investment provided in Article 157.1 (16)

(d) shall contain the following matters regarding the act referred to in Article 2.8 (13) of the Act:

- (1) the date of acting as an agent or intermediary;
- (2) the name of a customer;
- (3) whether agent or intermediary;
- (4) the details of the duties of agent or intermediary; and
- (5) the amount of fees, remuneration or other consideration received for acting as an agent or intermediary.

Article 170. — Investment Management Detail Sheet

170.1. An investment management detail sheet under Article 157.1 (17) (c) shall contain the

following matters regarding investment management (including investment management by a person commissioned for the whole or part of authorities for investment management) of properties under investment management (excluding investment trust properties as defined in Article 3 (2) of the Law on Investment Trust and Investment Corporation):

- (1) the date of transaction;
- (2) the type of transaction;
- (3) the issue name;
- (4) whether purchase or sale (in the case of the transactions referred to in the following (a) to (d), matters provided in such (a) to (d); in Article 171, the same):
 - (a) the transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transaction similar thereto) and the transaction referred to in Article 2.22 (2) of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the actual value exceeds the trade value;
 - (b) the transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in (3) and (4) of Article 2.22 of the Act — transactions in which a customer becomes a party to grant an option or becomes a party to acquire an option;
 - (c) the transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in (5) of Article 2.22 of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if the interest rate, etc. or financial index of a financial instrument agreed with the counterparty has risen during the agreed period; or
 - (d) the transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transactions similar thereto) and transactions referred to in Article 2.22 (6) of the Act — transactions in which a customer becomes a party to pay money or becomes a party to receive money if an event (which means any of the events referred to in Article 2.21 (5) of the Act or Article 2.22 (6) of the Act) agreed in advance between the parties has occurred;
- (5) volume (in the case where volume does not exist, matters equivalent to number or volume);
- (6) the trade price;
- (7) the name of a counterparty; and
- (8) in the case where an other person keeps properties under investment management, the name or trade name of such person and the date on which communication has been made to such person for the details of investment management.

170.2. An investment management detail sheet under Article 170.1 shall be prepared for each of properties under investment management.

Article 171. — Order Placement Ticket

171.1. An order placement ticket under Article 157.1 (17) (d) shall contain the following matters regarding transactions conducted as investment management of properties and the act referred to in Article 16.1 (2) of the Cabinet Office Ordinance on the Definitions Provided in Article 2 of the Financial Instruments and Exchange Act:

- (1) the name of properties under investment management or properties under investment management provided in Article 16.1 (2) of the Cabinet Office Ordinance on the Definitions Provided in Article 2 of the Financial Instruments and Exchange Act (hereinafter referred to as "properties under foreign investment management") or other matters required to identify properties under investment management or properties under foreign investment management;
- (2) the type of transaction;
- (3) the issue name;
- (4) whether for purchase or sale;
- (5) the order placement volume (if such volume does not exist, matters equivalent to the number or volume);
- (6) the trade volume (if such volume does not exist, matters equivalent to the number or volume);
- (7) whether limit price order or market order (in the case of a limit price order, including the price and life of the order (excluding the case where such life of order ends on the same day));
- (8) the date and time of order placement (in the case of performing the act referred to in Article 16.1 (2) of the Cabinet Office Ordinance on the Definitions Provided in Article 2 of the Financial Instruments and Exchange Act, the date and time of order placement and the date and time of order receipt);
- (9) the date and time of order filling;
- (10) the trade price; and
- (11) in the case where an other person keeps properties under investment management in custody,

the name or trade name of such person.

171.2. An order placement ticket under Article 171.1 shall be prepared in the following manner:

- (1) an order placement ticket shall be prepared when an order is placed;
- (2) order placement tickets shall be filed by date;
- (3) in the case where investment of multiple properties (excluding properties under investment management in connection with the business to perform the act referred to in Article 2.8 (14) of the Act) are managed jointly, trade volume shall be stated for each of properties under investment management and the allocation criteria shall be stated;
- (4) in the case where orders for the same issue name are placed with a financial instruments firm in a lump in connection with multiple properties under investment management and properties under investment management (in Article 171.3, referred to as "lump order"), order placement tickets shall be filed by date;
- (5) in the case where an order placement ticket is prepared by an electronic or magnetic record, the order placement ticket shall be prepared in the following manners, in addition to the manners referred to in the items of (1) to (4):
 - (a) the matters referred to in the items of Article 171.1 (excluding (6) and (8) to (10)) shall be input in a computer no later than order placement and the matters referred to in Article 171.2 (8) shall be input in a computer at the time of order placement;
 - (b) the date and time when the details of an order has been input in a computer is recorded automatically.

171.3. Notwithstanding the provisions of Articles 171.1 and 171.2, the matter referred to in each of the following items may be made in accordance with such item:

- (1) the name of properties under investment management or properties under foreign investment management for a lump order and other matters required to identify properties under investment management or properties under foreign investment management or the name or trade name of a person who keeps the properties under investment management or properties under foreign investment management — the entry of such matters may be omitted; *provided*, that, in this case, a written statement clarifying the details of statements in an order placement ticket for each of properties under investment management or properties under foreign investment management shall be attached;
- (2) the trade price — in the case where there is a prior agreement with a financial instruments firm with which the order has been placed for assuming the average price of unit prices of such transaction to be the trade price for transactions of the same issue name during the same day, such average price may be stated;
- (3) the trade time — in the case where the trade price has been stated in accordance with (2), the entry of trade time may be omitted;
- (4) the matters referred to in the items of Article 171.1 for investment trust beneficial interest certificate, etc. the price of which does not move during the same day — the issue name, the distinction of public offer or partial cancellation or the distinction of purchase or sale, volume of order, date of order placement and trade date may be stated in lieu of the matters referred to in such items;
- (5) matters prepared by an electronic or magnetic record pursuant to the provisions of Article 171.2 (5) — in the case where representing on a screen of a computer, or inputting on a written statement, such matters prepared by an electronic or magnetic record, such matters may be represented or input by a list.

171.4. Notwithstanding the provisions of Articles 171.1 to 171.3, a contract of trading for transactions conducted as management of properties under investment management (limited to a contract of trading stating matters required to identify properties under investment management such as the name of properties under investment management, the date of contract or other matters which allow to identify the details of investment management) may be used as an order placement ticket under Article 171.1.

Article 172. — Business Report

172.1. A business report submitted by a financial instruments firm pursuant to the provisions of Article 46-3.1 of the Act shall be made on Form 12.

172.2. In preparing a business report under Article 172.1, the financial instruments firm shall comply with the standards for corporate accounting which is generally recognized as fair and reasonable.

Article 173. — Report of Business and Properties

A financial instruments firm shall submit the report referred to in each of the following items (in the case where the financial instruments firm is a foreign juridical person, excluding the report

referred to in (2)) to the competent Commissioner of the Financial Services Agency, etc. no later than the deadline provided in such item pursuant to the provisions of Article 46-3.2 of the Act:

- (1) a report of a connected corporation made on Form 13 — within four months after each business year has passed (in the case where such financial instruments firm is a foreign juridical person, the period from April 1 to March 31 of the following year; in (2) and Article 174, the same); and
- (2) a report of international business made on Form 14 — within four months after each business year has passed.

Article 174. — Entries in Explanatory Documents

Matters prescribed by the Cabinet Office Order as provided in Article 46-4 of the Act shall be:

- (1) regarding the outline and organization of the financial instruments firm:
 - (a) the trade name, the date of registration and the registration number;
 - (b) the history and management organization;
 - (c) the name of each of 10 largest shareholders, the number of shares of stock held by such shareholder and the ratio of the number of voting rights attached to the shares of stock relative to voting rights held by all of its shareholders;
 - (d) the matters referred to in (3) to (8) of Article 29-2.1 of the Act;
 - (e) the details of grievances settlement measures and dispute resolution measures regarding operations provided in (1) (b), (2) (b), (3) (b) or (4) (b) of Article 37-7.1 of the Act;
- (2) regarding the business of the financial instruments firm:
 - (a) the outline of the business during the latest business year;
 - (b) as the indicators of the business conditions during the latest three business years:
 - (i) operating income and net operating income;
 - (ii) recurring profit or recurring loss;
 - (iii) net profit or net loss;
 - (iv) the amount of capital and the total number of issued shares of stock (in the case of a foreign juridical person, the amount of capital and the amount to capital brought into Japan);
 - (v) the breakdown of fee income;
 - (vi) the breakdown of trading profit and loss (which means trading profit and loss in the items of profit and loss statements) or other profit and loss for the house account;
 - (vii) the turnover volume of share certificates (including volume of orders (excluding volume of orders for acting as a broker for security, etc. clearing broking) for security, etc. clearing broking) and volume of orders (excluding volume of accepting orders for security, etc. clearing broking and including volume of acting as a broker for orders for security, etc. clearing broking);
 - (viii) the volume of underwriting, volume of sale, and volume of handling of public offer, public sale or private placement or solicitation of sale, etc. to specific investors of national government bonds, corporate debt securities, share certificates and investment trust beneficial interest certificates;
 - (ix) the state of other business engagement (which means the business engagements referred to in the items of Article 35.2 of the Act or a business engagement for which an approval under said Article 35.4 has been granted; hereinafter the same);
 - (x) the capital requirement ratio as of the end of each business year; and
 - (xi) the total number of employees and sales representatives as of the end of each business year;
- (3) regarding financial conditions of the financial instruments firm during the latest two business years:
 - (a) the balance sheet (including related notes), profit and loss statement (including related notes), and shareholders' equity, etc. change statement (including related notes);
 - (b) the following matters as of the end of each business year:
 - (i) major lenders and the borrowing amount;
 - (ii) the acquisition value, market price and valuation profit or loss of securities held by the financial instruments firm (excluding securities accounted as trading instruments (which means trading instruments in an item of the balance sheet; in (iii), the same));
 - (iii) the value of contract, market price and valuation profit or loss of derivatives transactions (excluding securities accounted as trading instruments);
 - (c) if an accounting auditor audits the documents referred to in (a) under the provisions of Article 436.2 of the Corporation Law, the fact; and
 - (d) if a certified public accountant or audit corporation has certified the documents referred to in (a) under the provisions of Article 193-2 of the Act, the fact;
- (4) regarding the management conditions of the financial instruments firm:
 - (a) the outline of internal management; and

- (b) the amount or volume, separately for each type, of money or securities kept pursuant to the provisions of Article 43-2 or 43-3 of the Act, and management conditions;
- (5) regarding the state of a subsidiary corporation as defined in Article 2 (3) of the Regulations for Terms, Forms and Preparation Method of Consolidated Balance Sheet and an affiliate corporation as defined in Article 2 (7) of said Regulations (hereinafter in (5), referred to as "subsidiary corporation, etc.") of the financial instruments firm (excluding a special financial instruments firm which prepares explanatory documents under Article 57-4 of the Act for such business year pursuant to the provisions of said Article 57-4):
 - (a) the structure of the group of the financial instruments firm and its subsidiaries, etc.; and
 - (b) with respect to a subsidiary corporation, etc., the name or trade name, the location of the principal business office or other type of office, the amount of capital, the total amount of basic funds or the total amount of capital contributions, the business and the total number of voting rights held by the financial instruments firm and other subsidiaries, etc. and the ratio of voting rights attached to such shares of stock or capital contributions so held relative to the voting rights on the subsidiary corporation, etc.. held by all of its shareholders.

Article 175. — Financial Instruments Transactions Liabilities Reserve

175.1 A financial instruments firm shall set aside each business year as financial instruments transactions liabilities reserve pursuant to the provisions of Article 46-5.1 of the Act the smaller of the two amounts referred to in the following items:

- (1) the total amount of (a) to (h):
 - (a) an amount equivalent to 0.2/10,000 of the total trading value of shares of stock for purchase or sale, etc. (which means purchase or sale of securities (excluding purchase or sale conducted on an on-exchange financial instruments market), acting as a broker for purchase or sale of securities (excluding security, etc. clearing broking) or acting as a broker for orders for purchase or sale of securities on an on-exchange financial instruments market; in (2) (a), the same) during the business year involved;
 - (b) an amount equivalent to 0.006/10,000 of the total trading value of contracts of the transactions referred to in Article 2.21 (2) of the Act (including foreign market derivatives transactions similar thereto; hereinafter in Article 175, the same) for shares of stock for which the financial instruments firm has conducted acceptance, etc. of orders (excluding acceptance of orders for security, etc. clearing broking and acceptance, etc. of orders as a clearing executing member, etc. and including acceptance of orders for acting as a broker for orders for security, etc. clearing broking; hereinafter in Article 175.1 and Article 189.1, the same) during the business year involved;
 - (c) an amount equivalent to 0.3/10,000 of the total amount of amounts of considerations for the transaction referred to in Article 2.21 (3) of the Act for shares of stock for which the financial instruments firm has conducted acceptance, etc. of orders (including foreign market derivatives transactions similar thereto; hereinafter in Article 175, the same) during the business year involved;
 - (d) an amount equivalent to 0.0016/10,000 of the total trading value of contracts for the transaction referred to in Article 2.21 (1) of the Act and the transaction referred to in Article 2.21 (2) of the Act for debt securities for which the financial instruments firm has conducted acceptance, etc. of orders (including foreign market derivatives transactions similar thereto; hereinafter in Article 175, the same) during the business year involved;
 - (e) an amount equivalent to 0.3/10,000 of the total amount of amounts of considerations for the transaction referred to in Article 2.21 (3) of the Act for debt securities for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved;
 - (f) an amount equivalent to 0.0096/10,000 of a figure calculated by multiplying an amount prescribed as a trading unit by an exchange (which means a person who operates a financial instruments market or foreign financial instruments market; hereinafter in Article 175, the same; and such amount means, in the case of the transaction referred to in Article 2.21 (1) of the Act for the transaction referred to in Article 2.21 (3) of the Act, an amount prescribed by the exchange as a trading unit of transactions which will be concluded as a result of the exercise of the right granted to one of the parties; in (2) (f), the same) by the volume of transactions referred to in Article 2.21 (1) of the Act (including transactions referred to in said Article 2.21 (1) concluded as a result of the exercise of rights granted to one of the parties as a result of the transaction referred to in Article 2.21 (3) of the Act; in (2) (f), the same) involving currencies for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved;
 - (g) an amount equivalent to 0.0012/10,000 of a figure calculated by multiplying an amount prescribed as a trading unit by an exchange (such amount means, in the case of transactions referred to in Article 2.21 (2) of the Act for transactions referred to in Article 2.21 (3) of the Act,

an amount prescribed by the exchange as a trading unit of transactions which will be concluded as a result of the exercise of the right granted to one of the parties; in (h) and (2) (g) and (h), the same) by the volume of transactions referred to in article 2.21 (2) of the Act involving financial indices calculated on the basis of interest rates of rights under money-deposit contracts (including transactions referred to in Article 2.21 (2) of the Act which will be concluded as a result of the exercise of the right granted to one of the parties as a result of the transaction referred to in Article 2.21 (3) of the Act; in (h) and (2) (g) and (2) (h), the same) for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved; and

- (h) an amount equivalent to 0.0024/10,000 of a figure calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of the transactions referred to in Article 2.21 (2) of the Act involving financial indices calculated on the basis of discount rates on bills for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved.
- (2) the total amount of (a) to (h) less the amount referred to in (i):
 - (a) an amount equivalent to 0.8/10,000 of the total trading value of a business year with the greatest figure among figures of the total trading value of shares of stock for purchase or sale, etc. during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (b) an amount equivalent to 0.024/10,000 of the total trading value of contracts of a business year with the greatest figure among figures of the total trading value of contracts of the transactions referred to in Article 2.21 (2) of the Act for shares of stock for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (c) an amount equivalent to 1.2/10,000 of the total amount of amounts of considerations of a business year with the greatest figure among figures of the total amount of amounts of considerations for the transaction referred to in Article 2.21 (3) of the Act for shares of stock for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (d) an amount equivalent to 0.0064/10,000 of the total trading value of contracts of a business year with the greatest figure among figures of the total trading value of contracts for the transactions referred to in (1) and (2) of Article 2.21 of the Act for debt securities for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (e) an amount equivalent to 1.2/10,000 of the total amount of amounts of considerations of a business year with the greatest figure among figures of the total amount of amounts of considerations for the transaction referred to in Article 2.21 (3) of the Act for debt securities for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (f) an amount equivalent to 0.0384/10,000 of the figure of the business year with the greatest figure among figures calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of transactions referred to in Article 2.21 (1) of the Act involving currencies for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (g) an amount equivalent to 0.0048/10,000 of the figure of the business year with the greatest figure among figures calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of the transaction referred to in article 2.21 (2) of the Act involving financial indices calculated on the basis of interest rates of claims under money-deposit contracts for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (h) an amount equivalent to 0.0096/10,000 of the figure of the business year with the greatest figure among figures calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of the transaction referred to in Article 2.21 (2) of the Act involving financial indices calculated on the basis of discount rates on bills for which the financial instruments firm has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;

- (i) an amount of financial instruments transactions liabilities reserve which has been already set aside. (If part of the amount has been used pursuant to the provisions of Article 46-5.2 of the Act, the amount after the deduction of such amount.)
- 175.2. Case where a financial instruments transactions liabilities reserve under Article 46-5.2 of the Act may be used shall be the case where a financial instruments firm uses an excess amount of an amount set aside as financial instruments liability reserve set aside as of the last day of a business year over the total amount of the amounts referred to in (a) to (h) of Article 175.1 (2) or other case where the competent Commissioner of the Financial Services Agency, etc. has granted an approval.

Article 176. — Capital

176.1. Paid-in capital, reserve and other capital prescribed by the Cabinet Office Order as defined in Article 46-6.1 of the Act shall be:

- (1) paid-in capital;
- (2) subscription guarantee money for new shares of stock;
- (3) capital surplus;
- (4) profit surplus (excluding estimated amounts of cash outflow (which means estimated amounts of dividends and bonus to officers));
- (5) other securities valuation variances (which means, in the case where valuation variances of other securities (which means other securities as defined in Article 8.22 of the Financial Statements, etc. Regulations; in (7) (a) and Article 177.1 (1), the same) accounted for as net assets in a balance sheet is a negative figure, such valuation variances);
- (6) treasury stock;
- (7) the following items, if the total amount of such amounts (with respect to (d), the maximum is an amount equivalent to 50% of the amount of core capital (in (e), referred to as "maximum inclusion amount") and with respect to (e), the maximum amount is an amount equivalent to 200% of the net figure of the amount of core capital less the amount of assets required to be deducted) is less than the amount of core capital:
 - (a) other securities valuation variances (which means, if valuation variances of other securities accounted for as net assets in a balance sheet is a positive figure, such valuation variances) or those accounted for as net assets in a balance sheet other than those referred to in (1) to (6);
 - (b) items referred to in the items of Article 14.1;
 - (c) general allowances for bad loan (limited to those related to assets belonging to liquid assets);
 - (d) long-term subordinated debt (in the case of those with the residual life of five years or shorter, limited to those after cumulative depreciation, each year, of an amount equivalent to 20% of the amount as of the time that the residual life has become five years); and
 - (e) short-term subordinated debt (including, among long-term subordinated debts (limited to those having all of the natures referred to in the items of Article 176.3), the amount exceeding the maximum inclusion amount and those equivalent to the total amount of accumulated amounts of those after depreciation provided in (d)).

176.2. "Long-term subordinated debt" under (d) and (e) of Article 176.1 (7) shall mean borrowing money with special provisions of subordination (which means borrowing money by lending or borrowing for consumption of money with special provisions of subordination for the payment of the principal and interests; hereinafter the same) or corporate debt security with special provisions of subordination (which means a corporate debt security with special provisions of subordination for the payment of the principal and interests; hereinafter the same) which has all of the following natures:

- (1) non-collateral;
- (2) it has more than five years of the borrowing period or the period to the maturity as of the time of entering into the contract or the time of the issuance;
- (3) in the case where there are special provisions of advanced repayment or advanced redemption (hereinafter in Article 176, referred to as "advanced repayment, etc."), the financial instruments firm may make such advanced repayment, etc. only if the financial instruments firm who is the debtor may call such advanced repayment, etc. at the firm's discretion and the financial instruments firm is approved by the competent Commissioner of the Financial Services Agency, etc. for such advanced repayment, etc.; and
- (4) there are special provisions that, if payment of interests by a financial instruments firm results in the violation of the provisions of Article 46-6.2 of the Act, such payment of interests shall not be made.

176.3. "Short-term subordinated debt" under Article 176.1 (7) (e) shall mean borrowing money with special provisions of subordination or corporate debt security with special provisions of subordination which has all of the following natures:

- (1) non-collateral;
- (2) it has at least two years of the borrowing period or the period to the maturity as of the time of entering into the contract or the time of the issuance;
- (3) in the case where there are special provisions of advanced repayment, etc., the financial instruments firm may make such advanced repayment, etc. only if the financial instruments firm who is the debtor may call such advanced repayment, etc. at the firm's discretion and the financial instruments firm is approved by the competent Commissioner of the Financial Services Agency, etc. for such advanced payment, etc.; and
- (4) there are special provisions that, if payment of the principal or interests by the financial instruments firm results in the violation of the provisions of Article 46-6.2 of the Act, such payment of the principal or interests shall not be made.

176.4. With respect to long-term subordinated debt (which means long-term subordinated debt as defined in Article 176.2; hereinafter in Article 176, the same) or short-term subordinated debt (short-term subordinated debt as defined in Article 176.3; hereinafter in Article 176, the same), the amount provided in each of the following items in the case referred to in such item shall be deducted from the amount of such long-term subordinated debt or the amount of such short-term subordinated debt:

- (1) the case where the lender of borrowing money with special provisions of subordination is a subsidiary corporation, etc.. — the amount of such borrowing money with special provisions of subordination;
- (2) the case where the holder of corporate debt security with special provisions of subordination (including a person holding the corporate debt security through trust property; in (3), the same) is the financial instruments firm itself or its subsidiary corporation, etc.. — the amount of such corporate debt security with special provisions of subordination; and
- (3) the case where funds are intentionally provided to the lender of borrowing money with special provisions of subordination or the holder of corporate debt security with special provisions of subordination — the amount of such fund (in the case where the amount of such fund exceeds the total amount of the amount of borrowing money with special provisions of subordination and the amount of corporate debt security with special provisions, such total amount).

176.5. A financial instruments firm wishing to obtain an approval under Article 176.2 (3) or 176.3 (3) shall file with the competent Commissioner of the Financial Services Agency, etc. an application for approval stating the following matters together with a copy of the contract or documents equivalent thereto:

- (1) the trade name;
- (2) the date and number of registration;
- (3) the amount of advanced repayment, etc. (if it is denominated in a foreign currency, the amount of advanced repayment, etc. and its equivalent Yen amount);
- (4) the amount of long-term subordinated debt or short-term subordinated debt (if it is denominated in a foreign currency, the amount of long-term subordinated debt or short-term subordinated debt and its equivalent Yen amount) before and after the advanced repayment, etc.;
- (5) reasons for the advanced repayment, etc.;
- (6) the projected date of the advanced repayment, etc.;
- (7) financing or other concrete measures in order to maintain sufficient capital requirement ratio; and
- (8) estimated capital requirement ratio after the advanced repayment, etc.

176.6. In approving under Article 176.2 (3) or 176.3 (3), the competent Commissioner of the Financial Services Agency, etc., the competent Commissioner of the Financial Services Agency, etc. shall confirm that such long-term subordinated debt or such short-term-subordinated debt did not cause temporary or intentional improvement of the capital requirement ratio and examine whether the application meets the following criteria:

- (1) the financial instruments firm is expected to have ability to maintain sufficient capital requirement ratio after the advanced repayment, etc.; or
- (2) the financial instruments firm finances at least the amount of such advanced repayment, etc.

176.7. "Subsidiary corporation, etc." under (1) and (2) of Article 176.4 shall mean:

- (1) a subsidiary of a financial instruments firm (which means a person who is categorized as a subsidiary of the financial futures firm pursuant to the provisions of Articles 8.3 and 8.7 of the Financial Statement, etc. Regulations; in Article 177.6 (3), the same); and
- (2) an affiliate corporation of a financial instruments firm (which means a person who is categorized as a subsidiary of the financial instruments firm pursuant to the provisions of Article 8.5 of the Financial Statement, etc. Regulations; in Article 177.6 (3), the same).

176.8. In addition to the matters provided in Articles 176.1 to 176.7, the Commissioner of the Financial Services Agency shall prescribe matters required to compute the amount of core capital

and the amount of supplementary capital.

Article 177. — Fixed Assets, etc. Required to be Deducted

177.1. Fixed assets or other assets prescribed by the Cabinet Office Order as provided in Article 46-6.1 of the Act shall be items in a balance sheet or other assets which are:

- (1) fixed assets (excluding, among other securities, the followings);
 - (a) securities listed on a financial instruments exchange (including those similar thereto located in a foreign jurisdiction);
 - (b) securities registered in the over-the-counter traded securities registry book under Article 67-11.1 of the Act (including those similar thereto kept in a foreign jurisdiction); and
 - (c) national government bonds;
- (2) deferred assets;
- (3) liquid assets which are:
 - (a) money deposit (excluding segregated customer money trust, separate customer money trust, money deposit related to money deposit referred to in Article 176.1 (7) (b) and money deposit under Article 98.1 (2) of the Commodity Futures Trading Law Enforcement Regulations (Ministry of Agriculture, Forestry and Fishery and Ministry of Economy, Trade and Industry Ordinance No. 3 of 2005));
 - (b) money advanced to customers (excluding those with residual life of less than two weeks);
 - (c) short-term loan to connected corporations (excluding consolidated companies) (excluding lending of call loan to financial institutions (which mean banks, cooperative financial institutions or financial institutions referred to in the items of Article 1-9 of the Order; in (c), the same), trust companies or financial instruments firm and such loan related to the purchase of exchange bills drawn by domestic financial institutions or financial instruments firm);
 - (d) advance payment; and
 - (e) prepaid expense;
- (4) securities which are held by the financial instruments firm (including securities held through trust properties) which is (excluding those referred to in (1)):
 - (a) securities issued by a connected corporation (excluding such securities related to short-term corporate debt security as defined in Article 66 (1) of the Law on Book Transfer of Corporate Debt Security, Shares of Stock, etc., short-term corporate debt security as defined in Article 61-10.1 of the Insurance Business Law and special short-term corporate debt security as defined in Article 2.8 of the Law on Liquidation of Assets and commercial paper (which means securities referred to in (15) of Article 2.1 of the Act and securities referred to in (17) of said Article 2.1 which have the nature of securities referred to in (15) of said Article 2.1; hereinafter in (b), the same) issued by an consolidated company, such securities which have been acquired as a result of underwriting activities and have been held for less than six months and such securities which is clear not being held for the purpose of intentionally providing funds to the connected corporation regardless of conditions of sale or purchase);
 - (b) commercial paper or corporate debt security issued by an other corporation or a third party (limited to the case where such other company provides finance to the financial instruments firm and such financial instruments firm holds them intentionally); and
 - (c) securities referred to in (6) to (9) of Article 2.1 of the Act, corporate debt security carrying share warrants and securities referred to in (17) of said Article 2.1 with the nature of such securities (excluding securities referred to in (1) (a) or (1) (b) and securities which are acquired as a result of underwriting activities and are held for six months or shorter); and
- (5) assets pledged as collateral for a third party (excluding assets referred to in (1) to (4)).

177.2. With respect to fixed assets under Article 177.1 (1) which has been pledged as collateral for the financial instruments firm's debt and are referred to in each of the following items, such amount provided in such item may be deducted from the amount of such fixed assets:

- (1) buildings — the smaller of the amount of borrowing money for which such buildings are pledged as collateral or current value of such buildings; or
- (2) land — the smaller of the amount of borrowing money for which such land is pledged as collateral or the current value of such land.

177.3. If borrowing money under the items of Article 177.2 is borrowing money for which more than one assets are pledged as collateral, a financial instruments firm shall compute an amount of proportionate borrowing money for which only fixed assets under Article 177.1 (1) is pledged as collateral by dividing such borrowing money proportionally according to valuation amounts of all assets so pledged as collateral.

177.4. With respect to prepaid money referred to in Article 177.1 (3) (d) which are prepaid money for consumption tax imposed on the purchase for stock and the amount of which is less than the amount of consumption tax imposed on the sales accounted for as other money on deposit, such amount may be deducted from the amount of such prepaid money.

177.5. The amount provided in each of the following items may be deducted from the amount of assets referred to in such item:

- (1) short-term loan referred to in Article 177.1 (3) (c) — the valuation amount of collateral money or other assets deposited by the borrower of such short-term loan;
- (2) securities issued by a connected corporation referred to in Article 177.1 (4) (a) — the valuation amount of such collateral money or other assets attached to such securities as collateral; or
- (3) assets pledged as collateral on behalf of a third party referred to in Article 177.1 (5) — the valuation amount of such collateral money or other assets deposited by such third party.

177.6. "Connected corporation" under (3) (c) and (4) (a) of Article 177.1 shall mean the following persons:

- (1) the parent corporation of a financial instruments firm (which means a person who is categorized as the parent corporation of the financial instruments firm pursuant to the provisions of Article 8.3 of the Financial Statement, etc. Regulations; (4) and (5), the same);
- (2) a subsidiary of a financial instruments firm;
- (3) an affiliate corporation of a financial instruments firm;
- (4) a subsidiary of the parent corporation of a financial instruments firm (which means a person who is categorized as a subsidiary of the parent corporation pursuant to the provisions of Articles 8.3 and 8.7 of the Financial Statement, etc. Regulations (excluding the financial instruments firm and the persons referred to in (2) and (3))); or
- (5) an affiliate corporation of the parent corporation of a financial futures firm (which means a person who is categorized as an affiliate corporation of the parent corporation pursuant to the provisions of Article 8.5 of the Financial Statement, etc. Regulations (excluding a person referred to in (3))).

177.7. "Consolidated company" under (3) (c) and (4) (a) of Article 177.1 shall mean the following persons:

- (1) a consolidated subsidiary (which means a consolidated subsidiary as defined in Article 2 (4) of the Regulations for Terms, Forms and Preparation Method of Consolidated Financial Statements or a person equivalent thereto in a foreign jurisdiction; in (2), the same) of a financial futures firm (limited to a consolidated financial statement submission company (which means a consolidated financial statement submission company as defined in Article 2 (1) of said Regulations or a person equivalent thereto in a foreign jurisdiction; in (2), the same));
- (2) a consolidated financial statement submission company having a financial futures firm as a consolidated subsidiary and its consolidated subsidiary (excluding such financial futures firm and a person referred to in (1)).

177.8. In addition to the matters provided in Articles 177.1 to 177.7, the Commissioner of the Financial Services Agency shall prescribe matters required for the computation of valuation amount in the items of Article 177.2, Article 177.3 and the items of Article 177.5 and computation of other assets to be deducted.

Article 178. — Risk Equivalent Amounts

178.1. Amounts prescribed by the Cabinet Office Order as amounts corresponding to risks associated with fluctuation of prices of holding securities or for other reasons as provided in Article 46-6.1 of the Act shall be:

- (1) market risk equivalent amounts (which mean amounts computed in the manner prescribed by the Commissioner of the Financial Services Agency as amounts equivalent to risks associated with the fluctuation of prices of securities, etc. (which means securities and other assets and transactions) holding or for other reasons; hereinafter the same);
- (2) counterparty risk equivalent amounts (which mean amounts computed in the manner prescribed by the Commissioner of the Financial Services Agency as amounts equivalent to risks associated with the default of a counterparty or for other reasons; hereinafter the same); and
- (3) operational risk equivalent amounts (which mean amounts computed in the manner prescribed by the Commissioner of the Financial Services Agency as amounts equivalent to risks associated with the daily business operation such as error of operational processes; hereinafter the same).

178.2. A financial instruments firm shall recognize market risk equivalent amounts and counterparty risk equivalent amounts by reasonable means according to the types of business each business day.

Article 179. — Notification of Capital Requirement Ratio*

179.1. Case prescribed by the Cabinet Office Order as provided in Article 46-6.1 of the Act shall be:

- (1) the case where the capital requirement ratio has dropped below 140%; or

- (2) the case where the capital requirement ratio has recovered to 140%.
- 179.2. A financial instruments firm shall file with the competent Commissioner of the Financial Services Agency, etc. a notification regarding capital requirement ratio as of the end of each month no later than the 20th day of the following month under the provisions of Article 46-6.1 of the Act.
- 179.3. A financial instruments firm who has fallen under Article 179.1 (1) shall immediately notify the Commissioner of the Financial Services Agency of the fact under the provisions of Article 46-6.1 of the Act and prepare a notification regarding capital requirement ratio made on Form 15 each business day and file it with the competent Commissioner of the Financial Services Agency, etc. without delay.
- 179.4. A notification provided in Article 179.3 shall be accompanied by documents provided in each of the following items according to the classification referred to in such item:
- (1) the case where the capital requirement ratio has dropped below 140% (excluding the case referred to in (2)) — a written plan to take concrete measures to be taken by the financial instruments firm in order to maintain the state of capital requirement ratio; or
 - (2) the case where the capital requirement ratio drops below 120% — a written plan for concrete measures to be taken by the financial instruments firm in order to recover the state of capital requirement ratio.
- 179.5. A financial instruments firm who has fallen under Article 179.1 (2) shall notify the competent Commissioner of the Financial Services Agency, etc. of the fact under the provisions of Article 46-6.1 of the Act without delay.
- 179.6. A financial instruments firm shall recognize its capital requirement ratio properly each business day.

* *Capital-to-risk ratio or capital adequacy ratio (capital to risk assets ratio).*

Article 180. — Public Disclosure of Capital Requirement Ratio

- 180.1. In preparing a written statement pursuant to the provisions of Article 46-6.3 of the Act, the financial instruments firm shall state:
- (1) the amount of unlocked capital;
 - (2) market risk equivalent amounts, counterparty risk equivalent amounts and operational risk equivalent amounts and the total of such amounts; and
 - (3) capital requirement ratio.
- 180.2. If an amount of subordinated debt (which means subordinated debt referred to in (d) and (e) of Article 176.1 (7); hereinafter in Article 180.2, the same) is included in an amount of supplementary capital, the following matters shall be stated as a note in a written statement under Article 180.1.
- (1) the amount of such subordinated debt;
 - (2) the contract date or issue date of such subordinated debt; and
 - (3) the repayment date or maturity date of such subordinated debt.

Subsection 2. Financial Instruments Firm Which Does Not Carry Out First-Type Financial Instruments Business

Article 181. — Books and Records regarding Business Operations

- 181.1. Pursuant to the provisions of Article 47 of the Act, a financial instruments firm (excluding a person carrying out the first-type financial instruments business; hereinafter in Subsection 2, the same) shall prepare the following books and records:
- (1) books and records referred to in (1) and (2) (excluding (2) (c)) of Article 157.1;
 - (2) the following books and records in the case of a person carrying out the second-type financial instruments business:
 - (a) books and records referred to in (3) to (9) of Article 157.1;
 - (b) records of the state of segregation in connection with specific security, etc. custody acts;
 - (3) books and records referred to in Article 157.1 (16) in the case of a person carrying out investment advisory and agent business;
 - (4) books and records referred to in Article 157.1 (17) in the case of a person carrying out investment management business.
- 181.2. Notwithstanding the provisions of (2) of Article 181.1, a person carrying out the second-type financial instruments business without a business office or other type of office to carry out financial instruments business in Japan (limited to a juridical person established under laws or regulations in a foreign jurisdiction or an individual residing in a foreign jurisdiction who performs only on-exchange trading business (which means an on-exchange trading business as defined in Article 60.1 of the Act; hereinafter in Article 181.2, the same) among financial

instruments businesses) may replace the books and records referred to in (a) of said (2) (limited to the books and records for on-exchange trading business) with documents prepared under laws or regulations in the foreign jurisdiction and similar to the books and records referred to in (a) of said (2) (limited to books and records for on-exchange trading business) (hereinafter in Article 181.2, referred to as "foreign books and records" and if such foreign books and records are prepared in a foreign language, the following documents (in Article 181.3, referred to as "foreign books and records, etc.")) for on-exchange trading business:

- (1) foreign books and records; and
- (2) translation of the form of the foreign books and records.

181.3. A financial instruments firm shall keep books and records referred to in (1) and (3) of Article 181.1 (limited to books and records referred to in Article 157.1 (16) (c)) for at least five years after the day of preparation (in the case of the books and records referred to in Article 181.1 (1) (limited to books and records referred to in Article 181.1 (2)), the day of losing its effect), books and records referred to in Article 181.1 (2) (limited to books and records referred to in (3) to (3-4) of Article 157.1) and foreign books and records, etc. similar thereto and the books and records referred to in Article 181.1 (4) (limited to books and records referred to in Article 157.1 (17) (d)) for at least seven years after the day of preparation, books and records referred to in Article 181.1 (2) (excluding books and records referred to in (3) to (3-4) of Article 157.1) and foreign books and records, etc. similar thereto and the books and records referred to in Article 181.1 (3) (excluding books and records referred to in Article 157.1 (16) (c)) and Article 181.1 (4) (excluding books and records referred to in Article 157.1 (17) (d)) for at least ten years after the day of preparation (in the case of books and records referred to in (16) (a) and (17) (a) of Article 157.1, the last day of business in connection with the contractor other juristic act thereof) .

Article 182. — Business Report

182.1. A business report submitted by a financial instruments firm pursuant to the provisions of Article 47-2 of the Act shall be prepared in accordance with Form 12.

182.2. In preparing a business report under 182.1, the financial instruments firm (limited to a corporation) shall comply with the generally accepted corporate accounting principles.

182.2. In preparing a business report under 182.1, the financial instruments firm (excluding a corporation) shall comply with the generally accepted accounting principles.

Article 183. — Public Disclosure of Explanatory Documents

183.1. A financial instruments firm shall make explanatory documents under Article 47-3 of the Act available for public inspection by means of keeping copies of a business report under Article 182.1 at all business offices or other types of offices of the financial instruments firm or by other means pursuant to the provisions of Article 47-3 of the Act.

183.2. Matters prescribed by the Cabinet Office Ordinance as provided in Article 47-3 of the Act shall be matters stated in a business report under Article 182.1.

Subsection 3. Registered Financial Institutions

Article 184. — Books and Records regarding Business Operations

184.1. A registered financial institution shall, pursuant to the provisions of Article 48 of the Act, prepare the following books and records:

- (1) books and records referred to in (1) and (2) of Article 157.1 (excluding (2) (c) of Article 157.1);
- (2) with respect to registered financial institution business, other than financial instruments intermediary business, investment advisory and agent business and investment management business, books and records referred to in (3) to (11), (13) and (14) of Article 157.1;
- (3) with respect to financial instruments intermediary business:
 - (a) a financial instruments intermediary auxiliary book;
 - (b) a financial instruments intermediary deposit detail book;
- (4) books and records referred to in Article 157.1 (16) in the case of a person carrying out investment advisory and agent business;
- (5) books and records referred to in Article 157.1 (17) in the case of a person carrying out investment management business.

184.2. A financial instruments firm shall keep books and records referred to in (1) and (4) of Article 184.1 (limited to books and records referred to in Article 157.1 (16) (c)) for at least five years after the day of preparation (in the case of books and records referred to in Article 184.1 (1) (limited to books and records referred to in Article 184.1 (2)), the day of losing its effect), books and records referred to in Article 184.1 (2) (limited to books and records referred to in (3) to (3-4)

of Article 157.1), Article 184.1 (3) (a) and Article 184.1 (5) (limited to books and records referred to in Article 157.1 (17) (d)) for at least seven years after the day of preparation, books and records referred to in Article 184.1 (2) (excluding books and records referred to in (3) to (3-4) of Article 157.1), Article 184.1 (3) (b), Article 184.1 (4) (excluding books and records referred to in Article 157.1 (16) (c)) and Article 184.1 (5) (excluding books and records referred to in Article 157.1 (17) (d)) for at least ten years after the day of preparation (in the case of books and records referred to in (16) (a) and (17) (a) of Article 157.1, the last day of business in connection with the contract or other juristic act thereof).

Article 185. — Financial Instruments Intermediary Supplementary Book

185.1. A financial instruments intermediary supplementary book under Article 184.1 (3) (a) shall contain the following matters:

- (1) whether for house account or customer account of a commissioning financial instruments firm;
- (2) the name of a customer;
- (3) the type of transaction;
- (4) the issue name;
- (5) whether purchase or sale;
- (6) the order volume (if such volume does not exist, matters equivalent to the number or volume; in Article 185.3 (1), the same);
- (7) trade volume (if such volume does not exist, matters equivalent to the number or volume; in Article 185.3 (1), the same);
- (8) whether limit price order or market order; (in the case of a limit price order, including the price and life of the order (excluding the case where such life of order ends on the same day));
- (9) the date and time of order acceptance;
- (10) the date and time of order filling; and
- (11) the trade price.

185.2. A financial instruments intermediary supplementary book under Article 185.1 shall be prepared in the following manner:

- (1) in principle, a financial instruments intermediary supplementary book shall be prepared when an order from a customer has been accepted;
- (2) if there is more than one commissioning financial instruments firms, a financial instruments intermediary supplementary book shall be prepared for each of the commissioning financial instruments firms;
- (3) a financial instruments intermediary supplementary book shall be filed by date;
- (4) a stated portion in an unfilled order shall be retained;
- (5) with respect to the detail of transaction, matters that a registered financial institution has known shall be stated;
- (6) a financial instruments intermediary supplementary book prepared by an electronic or magnetic record shall be prepared, in addition to the manners referred to in the above items, in the following manners:
 - (a) the matters referred to in the items of Article 185.1 (excluding (7), (10) and (11)) shall be input in a computer at the time of the order receipt;
 - (b) the date and time when the details of the order has been input in a computer shall be recorded automatically;
- (7) in the case of an order for a transaction subject to give-up, such fact shall be stated;
- (8) in the case of a transaction subject to give-up, a registered financial institution which is commissioned by an order executing member, etc. as a commissioning financial instruments firm is not required to state whether the transaction is for establishing a new position or to close a position and whether the transactions is for establishing a new position or close a position, exercise, resale or repurchase;
- (9) in the case of a transaction subject to give-up, a registered financial institution which is commissioned by an clearing executing member, etc. as a commissioning financial instruments firm is not required to prepare financial instruments intermediary supplementary book.

185.3. Notwithstanding the provisions of Articles 185.1 and 185.2, the matter referred to in each of the following items may be stated in the manner provided in such item:

- (1) the matters referred to in the items of Article 185.1 for an investment trust beneficial interest certificate in which prices do not move during the same day — the name of a customer, issue name, whether for purchase or sale, order volume, trade volume and trade date may be stated in lieu of the matters referred to in such items;
- (2) matters referred to in Article 185.1 (3) (limited to the matters referred to in (d) (ii), (e) (iii) and (g) (ii) if Article 158.1 (3)) — stating matters which are not required to be instructed at the time of placing orders pursuant to the rules of a financial instruments exchange may be omitted;

and

- (3) matters prepared by an electronic or magnetic record pursuant to the provisions of Article 185.1 (6) — in the case where such matters prepared by an electronic or magnetic record are displayed on a screen of a computer or output on a written statement, such matters may be displayed or output as a list.

Article 186. — Financial Instruments Intermediary Deposit Detail Book

186.1. A financial instruments intermediary deposit detail book under Article 184.1 (3) (b) shall, in respect of money and securities deposited by customers in the course of financial instruments intermediary business, contain the following matters:

- (1) the name of a customer;
- (2) the date of deposit and withdrawal of money and receipt and making of delivery;
- (3) the amount of money;
- (4) the issue name;
- (5) the volume;
- (6) the name of a party with whom deposit and withdrawal of money has been made and a party with whom receipt and making of delivery has been made;
- (7) the balance;
- (8) the issue number and certificate number of a security; and
- (9) the name of a nominee.

186.2. A financial instruments intermediary deposit detail book under Article 186.1 shall be prepared in the following manner:

- (1) a financial instruments intermediary deposit detail book shall be prepared for each customer;
- (2) in the case of a transaction subject to give-up, the amount of money received directly from a customer by a registered financial institution, the commissioning financial instruments firm of which is a clearing executing member, etc. shall be stated;
- (3) in the case of a transaction subject to give-up, a registered financial institution, the commissioning financial instruments firm of which is an order executing member, etc. is not required to prepare financial instruments intermediary deposit detail book; *provided* that, in the case where money has been received directly from a customer, the name of the customer, the date of deposit or withdrawal of money, the amount of money, the name of a party with whom deposit and withdrawal of money has been made and a party with whom receipt and making of delivery has been made and the balance of money shall be stated.

186.3. Notwithstanding the provisions of Articles 186.1 and 186.2, a financial instruments intermediary deposit detail book may be prepared in the following manner:

- (1) if there is no balance of securities deposited on the day, the entry of issue number, certificate number and the name of a nominee may be omitted;
- (2) if a registered financial institution which is able to accept money deposit or money saving as business maintain the record of acceptance or withdrawal of money deposit or money saving, the entry of the date of deposit and withdrawal of money, the amount of money, the name of a party with whom deposit and withdrawal of money has been made and the balance may be omitted;
- (3) if the record of deposit or withdrawal of securities is maintained by books and records for other business, the entry of the date of deposit and withdrawal of money, issue name, volume, the name of a party with whom deposit and withdrawal of money has been made and a party with whom receipt and making of delivery has been made, the balance, issue number and the name of nominee may be omitted;

Article 187. — Business Report

A business report submitted by a registered financial institution pursuant to the provisions of Article 48-2.1 of the Act shall be prepared in accordance with Form 16.

Article 188. — Report of Business and Financial Conditions

A registered financial institution shall submit the report referred to in each of the following items to the competent Commissioner of the Financial Services Agency, etc. no later than the deadline provided in such item pursuant to the provisions of Article 48-2.2 of the Act:

- (1) a report of an affiliate corporation made on Form 13 — within four months after each business year has passed;
- (2) a report of business or financial conditions made on Form 17 — no later than 20th day of the month the immediately following the month for which the report covers.

Article 189. — Financial Instruments Liabilities Reserve

189.1 A registered financial institution shall set aside the smaller of the two amounts referred to in

the following items each business year as financial instruments transactions liabilities reserve pursuant to the provisions of Article 48-3.1 of the Act:

- (1) the total amount of (a) to (e):
 - (a) an amount equivalent to 0.0016/10,000 of the total trading value of contracts for the transaction referred to in (1) of Article 2.21 of the Act for debt securities for which the registered financial institution has conducted acceptance, etc. of orders (including foreign market derivatives transactions similar thereto; hereinafter in Article 189, the same) and the transaction referred to in (2) of said Article 2.21 (including foreign market derivatives transactions similar thereto; hereinafter in Article 189, the same) during the business year involved;
 - (b) an amount equivalent to 0.3/10,000 of the total amount of amounts of considerations for the transaction referred to in Article 2.21 (3) of the Act for debt securities for which the financial institution has conducted acceptance, etc. of orders (including foreign market derivatives transactions similar thereto; hereinafter in Article 189, the same) during the business year involved;
 - (c) an amount equivalent to 0.0096/10,000 of the figure calculated by multiplying an amount prescribed as a trading unit by an exchange (which means a person who operates a financial instruments market or overseas financial instruments market; hereinafter in Article 189, the same; and such amount means, in the case of the transaction, etc. referred to in (1) of Article 2.21 of the Act for the transaction referred to in (3) of said Article 2.21, an amount prescribed by the exchange as a trading unit of transactions which will be concluded as a result of the exercise of the right granted to one of the parties; in (2) (c), the same) by the volume of transactions referred to in (1) of said Article 2.21 involving currencies for which the registered financial institution has conducted acceptance, etc. of orders (including the transaction referred to in (1) of said Article 2.21 concluded as a result of the exercise of rights granted to one of the parties as a result of the transaction referred to in (3) of said Article 2.21; in (2) (c), the same) during the business year involved;
 - (d) an amount equivalent to 0.0012/10,000 of the figure calculated by multiplying an amount prescribed as a trading unit by an exchange (such amount means, in the case of transactions, etc. referred to in (2) of Article 2.21 of the Act for transactions referred to in (3) of said Article 2.21, an amount prescribed by the exchange as a trading unit of transactions which will be concluded as a result of the exercise of the right granted to one of the parties; in (e) and (2) (d) and (2) (e), the same) by the volume of transactions, etc. referred to in (2) of said Article 2.21 involving financial indices calculated on the basis of interest rates of claims under money-deposit contracts (including transactions referred to in (2) of said Article 2.21 which will be concluded as a result of the exercise of the right granted to one of the parties as a result of the transaction referred to in (3) of said Article 2.21; in (e) and (2) (d) and (2) (e), the same) for which the registered financial institution has conducted acceptance, etc. of orders during the business year involved; and
 - (e) an amount equivalent to 0.0024/10,000 of the figure calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of transactions referred to in Article 2.21 (2) of the Act involving financial indices calculated on the basis of discount rates on bills for which the financial institution has conducted acceptance, etc. of orders during the business year involved;
- (2) the total amount of (a) to (e) less the amount referred to in (f):
 - (a) an amount equivalent to 0.0064/10,000 of the figure of the business year with the greatest figure among figures of the total trading value of contracts for transactions referred to in (1) and (2) of Article 2.21 of the Act for debt securities for which the registered financial institution has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (b) an amount equivalent to 1.2/10,000 of the figure of the business year with the greatest figure among figures of the total amount of amounts of considerations for the transaction referred to in Article 2.21 (3) of the Act for debt securities for which the registered financial institution has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (c) an amount equivalent to 0.0384/10,000 of the figure of the business year with the greatest figure among figures calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of transactions referred to in Article 2.21 (1) of the Act involving currencies for which the registered financial institution has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;
 - (d) an amount equivalent to 0.0048/10,000 of the figure of the business year with the greatest

figure among figures calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of transactions referred to in article 2.21 (2) of the Act involving financial indices calculated on the basis of interest rates of claims under money-deposit contracts for which the registered financial institution has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;

(e) an amount equivalent to 0.0096/10,000 of the figure of the business year with the greatest figure among figures calculated by multiplying an amount prescribed as a trading unit by an exchange by the volume of transactions referred to in Article 2.21 (2) of the Act involving financial indices calculated on the basis of discount rates on bills for which the registered financial institution has conducted acceptance, etc. of orders during the business year involved or any of business years which commenced within two years preceding the first day of the business year involved;

(f) an amount of financial instruments transactions liabilities reserve which has been already set aside. (If a part of the amount has been used pursuant to the provisions of Article 48-3.2 of the Act, the amount after the deduction of such amount.)

189.2. Case where a financial instruments liability reserve may be used as provided under Article 48-3.2 of the Act shall be the case where a registered financial institution uses an excess amount of an amount set aside as financial instruments liability reserve as of the last day of a business year over the total amount of the amounts referred to in (a) to (e) of Article 189.1 (2) or other case where the competent Commissioner of the Financial Services Agency, etc. has granted an approval.

Subsection 4. Special Provisions for Foreign Juridical Person, etc.

Article 190. — Procedures, etc. for Approval of Period to Making Explanatory Documents Available for Public Inspection

190.1. A financial instruments firm which is a foreign juridical person or an individual residing in a foreign jurisdiction (hereinafter in Article 190, referred to as "financial instruments firm which is foreign juridical person, etc.") shall, when it wishes to obtain an approval pursuant to the proviso to Article 16-17 of the Order, file with the competent Commissioner of the Financial Services Agency, etc. an application for approval containing:

- (1) the name or trade name;
- (2) the registration date and registration number;
- (3) the period for which the financial instruments firm wishes to obtain such approval regarding making explanatory documents available for public inspection;
- (4) the day on which the business year for such explanatory documents ends (which means business year as defined in the proviso to Article 16-17 of the Order; hereinafter in Article 190, the same); and
- (5) reasons why such approval is required regarding making such explanatory documents available for public inspection.

190.2. The following documents shall be attached to an application for approval under Article 190.1:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) the written proof that the representative of the financial instruments firm which is a foreign juridical person, etc. stated in such application for approval has the due authority regarding the filing of such application for approval; and
- (3) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

190.3. The competent Commissioner of the Financial Services Agency, etc. shall, if there has been an application for approval under Article 190.1 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in its home country, for such financial instruments firm which is a foreign juridical person, etc. to keep explanatory documents and make it available for public disclosure by the date on which four months have passed since the end of the business year, grant an approval to such firm for the explanatory documents for business years as from the business year in which the date of application fell (the immediately preceding business year if that date is within four months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding making the explanatory documents available for public inspection for the immediately preceding

business year)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 190.1 (5) for such application.

190.4. An approval under Article 190.3 shall be granted on the condition that the financial instruments firm which is a foreign juridical person, etc. under Article 190.3 provides documents containing the following matters to the competent Commissioner of the Financial Services Agency, etc. within four months after the end of each business year; *provided*, that the entry of the matter referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations as referred to in such written legal opinions.

Article 191. — Procedures, etc. for Approval of Deadlines for Submission of Business Reports

191.1. A financial instruments firm which is a foreign juridical person or an individual residing in a foreign jurisdiction or a registered financial institution which is a foreign juridical person (hereinafter in Article 191, referred to as "financial instruments firm, etc. which is a foreign juridical person, etc.") shall, when it wishes to obtain an approval pursuant to the proviso to Article 16-18 of the Order, file with the competent Commissioner of the Financial Services Agency, etc. an application for approval containing:

- (1) the name or trade name;
- (2) the registration date and registration number;
- (3) the period for which the financial instruments firm wishes to obtain such approval regarding the submission of such business report;
- (4) the day on which the business year for the business report (which means business year as defined in the proviso to Article 16-18 of the Order; hereinafter in Article 191, the same) ends; and
- (5) reasons why such approval is required regarding the submission of such business report.

191.2. The following documents shall be attached to an application for approval under Article 191.1:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) the written proof that the representative of a financial instruments firm, etc. which is a foreign juridical person, etc. stated in such application has the due authority regarding the filing of such application for approval; and
- (3) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

191.3. The competent Commissioner of the Financial Services Agency, etc. shall, if there has been an application for approval under Article 191.1 and he finds that it is practically impossible, in view of the laws or regulations or practices prevailing in its home country, for such financial instruments firm, etc. which is a foreign juridical person, etc. to submit the business report within three months after the end of the business year, grant an approval to such firm for the submission of business reports for business years as from the business year in which the date of application fell (the immediately preceding business year if that date is within three months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding the submission of a business report for the immediately preceding business year)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 191.1 (5) for such application.

191.4. An approval under Article 191.3 shall be granted on the condition that a financial instruments firm, etc. which is a foreign juridical person, etc. under Article 191.3 provides documents containing the following matters to the competent Commissioner of the Financial Services Agency, etc. within three months after the end of each business year; *provided*, that the entry of the matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations as referred to in such written legal opinions.

Article 192. — Procedures, etc. for Approval of Deadlines for Submission of Other Documents, etc.

192.1. A financial instruments firm (limited to a foreign juridical person carrying out the first-type financial instruments business; hereinafter in Subsection 4, the same) shall, when it wishes to obtain an approval pursuant to the proviso to Article 16-19 of the Order, file with the competent Commissioner of the Financial Services Agency, etc. an application for approval containing:

- (1) the trade name;
- (2) the registration date and registration number;
- (3) period for which the financial instruments firm wishes to obtain an approval regarding the submission of other documents, etc. (which means documents and written statements under Article 49-3.1 of the Act or a report provided in Article 195; hereinafter in Article 192, the same);
- (4) the day on which the business year for other documents, etc. ends; and
- (5) reasons why such approval is required regarding the submission of other documents, etc.

192.2. The following documents shall be attached to an application for approval under Article 192.1:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) the written proof that the representative of a financial instruments firm stated in such application has the due authority regarding the filing of such application for approval; and
- (3) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

192.3. The competent Commissioner of the Financial Services Agency, etc. shall, if there has been an application for approval under Article 192.1 and he finds that it is practically impossible, in view of the laws or regulations or practices prevailing in its home country, for such financial instruments firm to submit other documents, etc. within three months after the end of the business year, grant an approval to such firm for the submission of other documents, etc. for business years as from the business year in which the date of application fell (the immediately preceding business year if that date is within three months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding the submission of other documents, etc. for the immediately preceding business year)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 192.1 (5) for such application.

192.4. An approval under Article 192.3 shall be granted on the condition that a financial instruments firm under Article 192.3 provides documents containing the following matters to the competent Commissioner of the Financial Services Agency, etc. within three months after the end of each business year; *provided*, that the entry of matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

Article 193. — Special Provisions for Capital Requirements Ratio

In applying the provisions of Article 176.1 and 177.1 in the case of application, after amended readings, of the provisions of Article 46-6.1 of the Act under Article 49-2.3 of the Act, "paid-in-capital and reserve" in Article 176.1 shall be read as "brought-in-capital, reserve set aside in a business office or other type of office in Japan"; "paid-in-capital" in Article 176.1 (1) shall be read as "brought-in-capital"; "capital surplus" in Article 176.1 (3) shall be read as "reserve set aside in a business office or other type of office in Japan"; "balance sheet" in (5) and (7) (a) of Article 176.1 and Article 177.1 shall be read as "balance sheet of a business office or other type of office in Japan"; and "fixed assets or other assets" in Article 177.1 shall be read as ""fixed assets or other assets in a business office or other type of office in Japan".

Article 194. — Submission of Other Documents, etc.

194.1 Documents regarding the financial account as provided in Article 49-3.1 of the Act shall be documents containing matters regarding appropriation of profit and disposition of loss.

194.2. A written statement containing the summary of business provided in Article 49-3.1 of the Act shall be prepared in a manner equivalent to a manner to prepare a business report under Article 46-3.1 of the Act which is applied after amended readings under Article 49-2.1 of the Act:

Provided, That, in the case where there is a written statement prepared to make the summary of business available for inspection of shareholders or other person under the laws or regulations or practices of the home country of a financial instruments firm, the first-mentioned written statement may be replaced with the second-mentioned written statement.

Article 195.

A financial instruments firm shall, each business year, submit to the competent Commissioner of the Financial Services Agency, etc. a report of a connected corporation made on Form 13 within the period prescribed in Article 16-19 of the Order after the business year has passed pursuant to the provisions of Article 49-3.2 of the Act.

Article 196. — Loss Reserve

196.1. A financial instruments firm shall set aside loss reserve under Article 49-4.1 of the Act for each of the periods from Article 1 to March 31 of the immediately following year each year pursuant to the provisions of said Article 49-4.1.

196.2. Ratio prescribed by the Cabinet Office Ordinance as provided in Article 49-4.1 of the Act shall be 1/10.

Article 197. — Maintenance of Assets in Japan

Assets that a financial instruments firm shall maintain in Japan pursuant to the provisions of Article 49-5 of the Act shall be the following assets:

- (1) cash and money deposit with a financial institutions in Japan;
- (2) the following securities (with respect to securities referred to in (c) to (e), limited to securities for which public offer or public sale or solicitation of subscription to specific investors or solicitation of sale, etc. to specific investors of a security has been made in Japan):
 - (a) securities referred to in (1) to (3) of Article 2.1 of the Act;
 - (b) securities referred to in Article 2.1 (9) of the Act (limited to securities listed on a financial instruments exchange in Japan or registered in an over-the-counter traded securities registry book as defined in Article 67-11.1 of the Act);
 - (c) securities referred to in (5) or (15) of Article 2.1 of the Act (limited to securities issued by a business corporation which issues the security referred to in (b));
 - (d) securities referred to in (6), (7) or (10) to (12) of Article 2.1 of the Act; or
 - (e) securities referred to in Article 2.1 (17) of the Act, which has the nature of securities referred to in (1) or (2) of said Article 2.1;
- (3) money loan, advanced money or other claims to a person in Japan, which is secured by certain collateral in Japan;
- (4) tangible fixed assets;
- (5) money deposited with a financial instruments exchange or financial instruments firms association;
- (6) guarantee money deposited with a person in Japan;
- (7) other assets that the Commissioner of the Financial Services Agency has determined to be appropriate.

Section 4. Supervision

Article 198. — Juridical Person Required to Notify Regarding Acquisition, etc. of Majority of Voting Rights

198.1. Juridical person prescribed by the Cabinet Office Ordinance as provided in Article 50.1 (4) of the Act shall be:

- (1) a holding company in a foreign jurisdiction (which means a juridical person holding a majority of voting rights of a bank, cooperative financial institution, financial institution referred to in the items of Article 1-9 of the Order or financial instruments firm (limited to a person carrying out security related business) or a juridical person carrying out the same type of business as a bank, cooperative financial institution, financial institution or financial instruments firm carries out in a foreign jurisdiction; in Article 198.2, the same); or
- (2) a juridical person who carries out business exclusively for the financial instruments firm.

198.2. For the purpose of Article 198.1 (1), a juridical person holding a majority of voting rights of a holding company in a foreign jurisdiction shall be deemed to be a holding company in a foreign jurisdiction.

Article 199. — Case where Financial Instruments Firm File Notification of Cessation of Business, etc.

With respect to a financial instruments firm, case prescribed by the Cabinet Office Ordinance as provided in Article 50.1 (8) of the Act shall be:

- (1) the case of falling under (1) (a) (limited to the portion related to provisions of laws and regulations in a foreign jurisdiction analogous to the Act), (1) (b), (3) (excluding the portion related to an important employee) or (4) of Article 29-4.1 of the Act;
- (2) the case of knowing the fact that an officer or important employee has fallen under any of (a) to (g) of Article 29-4.1 (2) of the Act;
- (3) the case where any other juridical person or other type of organization has become, or has become not to be, a parent juridical person, etc. or subsidiary juridical person, etc.;
- (4) the case where any other juridical person or other type of organization has become, or has become not to be, a holding company;
- (5) the case of knowing the fact that a petition has been filed for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings (in the case of a foreign juridical person, including the case of knowing the fact that similar type of petition has been filed in a jurisdiction where the principal business office is located under the laws or regulations in the foreign jurisdiction);
- (6) the case of making a change in the articles of incorporation;
- (7) the case of knowing that any of officers or employees (in the case where an officer or employee is a juridical person, including a partner responsible for the duty; hereinafter the same) has committed an act in violation of the laws, regulations, etc. (in the case of a business other than financial instruments business or business incidental thereto, limited to an act which will likely have importance influence on business management or financial conditions of such financial instruments firm; hereinafter in (7), (8), (11) (e) and (11) (f), referred to as "accident, etc.") (excluding the case where such accident, etc. is any of the acts referred to in (1) (a) to (1) (d) of Article 118 or acts referred to in (2) (a) or (2) (b) of Article 181 or the act referred to in (2) (c) of Article 118 (excluding acts in violation of the laws or regulations), which is caused by negligence; in (8), the same);
- (8) the case where the details of accidents, etc. under (7) have become clear (in the case of a business other than financial instruments business or business incidental thereto, limited to the case where the act will likely have importance influence on business management or financial conditions of such financial instruments firm);
- (9) the case of becoming a counterparty of a lawsuit or arbitration or the case of completion of such lawsuit or arbitration (in the case of a business other than financial instruments business or business incidental thereto, limited to the case where the act will likely have importance influence on business management or financial conditions of such financial instruments firm);
- (10) in the case of a foreign juridical person or an individual residing in a foreign jurisdiction, the case of becoming subject to penalties by an administrative office under the laws or regulations in a foreign jurisdiction analogous to the Act (excluding the case of falling under Article 29-4.1 (1) (a) of the Act);
- (11) with respect to a person carrying out the first-type financial instruments business or investment management business, the following cases:
 - (a) the case of falling under (a) or (b) of Article 29-4.1 (5) of the Act;
 - (b) the case where the amount of net assets drops below the amount of capital (excluding the case of falling under (a));
 - (c) the case of knowing the fact that a major shareholder has fallen under any of (d) (i), (d) (ii) or (e) (i) to (e) (iii) of Article 29-4.1 (5) of the Act (in the case of a foreign juridical person, the case of knowing the fact that a person for whom confirmation under (f) of said Article 29-4.1 (5) have not been made is applicable to a person equivalent to a major shareholder);
 - (d) the case of knowing that a financial instruments intermediary firm the belonging financial instruments firm, etc. of which is the financial instruments firm has become a counterparty of a lawsuit or arbitration (limited to those related to financial instruments intermediary business) or the case of knowing that such lawsuit or arbitration has been completed;
 - (e) the case of knowing that any of a financial instruments intermediary firm the belonging financial instruments firm, etc. of which is the financial instruments firm or its officers or employees has committed an accident, etc. (excluding the case where such accident, etc. is any of the acts referred to in (1) (a) to (1) (d) or (2) (a) to (2) (b) of Article 118 or the act referred to in (2) (c) of Article 118 (excluding acts in violation of the laws or regulations), which is caused by negligence; in (f), the same);
 - (f) the case where the details of accidents, etc. under (e) has become clear;
 - (g) the case of having commissioned a financial instruments intermediary firm to carry out business for the acts referred to in the items of Article 2.11 of the Act or having ceased such

- commissioning;
- (h) the case of having established or having closed a representative office in a foreign jurisdiction;
- (12) with respect to a person carrying out the first-type financial instruments business, the following cases:
- (a) the case of having borrowed loan with special provisions of subordination or having issued a corporate debt security with special provisions of subordination; or
- (b) the case of advanced repayment for loan with special provisions of subordination or the case of advanced redemption for corporate debt security with special provisions of subordination (including the case of repayment or redemption for such loan or corporate debt security without maturity).
- (13) with respect to a special financial instruments firm, the following cases (in the case referred to in (a) or (b), excluding the case of falling under (7) or (8)):
- (a) the case of knowing that an officer or employee of a special financial instruments firm or its subsidiary juridical person, etc. (which means a subsidiary juridical person, etc. provided in Article 57-2.9 of the Act; hereinafter in (13), Article 201 (24), Article 202 (18) and Section 4-2, the same) has violated laws or regulations, etc. (including laws or regulations, etc. in a foreign jurisdiction) (in the case of violation related to business other than financial instruments business or business incidental thereto, limited to violation which will likely influence grossly on business management of such special financial instruments firm or financial conditions of such special financial instruments firm and its subsidiary juridical person, etc.; hereinafter in (13), referred to as "accident, etc.") (excluding the case where the accident, etc. is an act referred to in (1) (a) to (1) (d) or (2) (a) or (2) (b) of Article 118 or an act referred to in (2) (c) of Article 118 (excluding an act violating laws or regulations) caused by negligence and the case where a subsidiary juridical person, etc. is required to file a notification with the Commissioner of the Financial Services Agency, etc. or take other procedures pursuant to the provisions of laws or regulations for such accident, etc.; in (b), the same); or
- (b) the case where the details of the accident, etc. under (a) have become clear;
- (c) the case of knowing that a subsidiary juridical person, etc. has borrowed a loan fund with special provisions of subordination or knowing that a subsidiary juridical person, etc. has issued a corporate debt security with special provisions of subordination (excluding the case where a subsidiary juridical person, etc. is required to file a notification with the Commissioner of the Financial Services Agency, etc. or take other procedures pursuant to the provisions of laws or regulations for loan with special provisions of subordination or a corporate debt security with special provisions of subordination; in (d), the same);
- (d) the case of knowing that a subsidiary juridical person, etc. has made advance repayment for a loan with special provisions of subordination or knowing that a subsidiary juridical person, etc. has made advance redemption for a corporate debt security with special provisions of subordination (including the case of knowing repayment or redemption for those without maturity dates.

Article 200. — Case where Registered Financial Institution File Notification of Cessation of Business, etc.

With respect to a registered financial institution, case prescribed by the Cabinet Office Ordinance as provided in Article 50.1 (8) of the Act shall be:

- (1) the case of falling under (1) (limited to the portion related to provisions of laws and regulations in a foreign jurisdiction analogous to the Act) or (2) of Article 33-5.1 of the Act;
- (2) the case of knowing the fact that a petition has been filed for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings (in the case of a foreign juridical person, including the case of knowing the fact that similar type of petition has been filed in a jurisdiction where the principal business office is located under the laws or regulations in the foreign jurisdiction);
- (3) the case of making a change in the articles of incorporation;
- (4) the case where any other juridical person or other type of organization has become, or has become not to be, a parent juridical person, etc. or subsidiary juridical person, etc.;
- (5) the case where any other juridical person or other type of organization has become, or has become not to be, a holding company;
- (6) the case of knowing that any of officers or employees or a financial instruments intermediary firm the belonging financial instruments firm, etc. of which is the financial instruments firm or its officers or employees has committed an act in violation of the laws or regulations, etc. regarding registered financial institution business (hereinafter in Article 200, referred to as "accident, etc.") (excluding the case where such accident, etc. is any of the acts referred to in (1) (a) to (1) (d) or (2) (a) to (2) (b) of Article 118 or the act referred to in (2) (c) of Article 118 (excluding acts in

- violation of the laws or regulations), which is caused by negligence; in (7), the same);
- (7) the case where the details of accidents, etc. under (6) have become clear;
- (8) the case of becoming a counterparty of a lawsuit or arbitration or the case of the completions of such lawsuit or arbitration regarding registered financial institution business;
- (9) the case of knowing that a financial instruments intermediary firm the belonging financial instruments firm, etc. of which is the financial instruments firm has become a counterparty of a lawsuit or arbitration (limited to those related to financial instruments intermediary business) or the case of knowing that such lawsuit or arbitration has been completed; or
- (10) the case of having commissioned a financial instruments intermediary firm to carry out business for the acts referred to in the items of Article 2.11 of the Act or the case of having ceased such commissioning.

Article 201. — Matters Required to be Stated in Notification

201.1. In notifying pursuant to the provisions of Article 50.1 (1) of the Act, the financial instruments firm, etc. shall file with the competent Commissioner of the Financial Services Agency, etc. a notification containing the matter provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case of falling under Article 50.1 (1) of the Act — the following matters:
 - (a) the name of the business office or other type of office which has suspended or resumed business;
 - (b) the period of suspension or the date of resumption and the reason for the suspension or resumption;
- (2) the case of falling under Article 50.1 (2) of the Act — the following matters:
 - (a) the type of business which has been ceased;
 - (b) the date of, and reasons for, cessation of business;
- (3) the case of falling under Article 50.1 (3) of the Act — matters referred to in the following (a) to (c) according to the classification of the cases referred to in such (a) to (c):
 - (a) in the case of merger with any other juridical person, the following matters:
 - (i) the name or trade name of the counterparty of the merger;
 - (ii) the date of, and reasons for, the merger;
 - (iii) the method of the merger;
 - (b) in the case of the succession to the whole or part of business of an other juridical person as a result of demerger, the following matters:
 - (i) the name or trade name of the counterparty of the demerger;
 - (ii) the date of, and reasons for, the demerger;
 - (iii) the details of business succeeded;
 - (c) in the case of acquisition by assignment of the whole or part of business from any other juridical person, the following matters:
 - (i) the name or trade name of the counterparty of the acquisition by assignment;
 - (ii) the date of, and reasons for, the acquisition by assignment;
 - (iii) the details of the business acquired by assignment;
- (4) the case of falling under Article 50.1 (4) of the Act — the following matters:
 - (a) the name or trade name of the counterparty from which the financial instruments firm, etc. has acquired or held the majority of voting rights held by all of the shareholders, etc.;
 - (b) the date of, and reasons for, the acquisition or holding of the majority of voting rights held by all of the shareholders, etc.;
- (5) the case of falling under Article 50.1 (5) of the Act — matters referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
 - (a) in the case where the financial instruments firm, etc. has ceased to hold the majority of voting rights of a bank, etc. (which means a bank, etc. as defined in Article 50.1 (4) of the Act; in (b) and Article 209 (4), the same) which holds the majority of voting rights held by all of its shareholders, etc., the following matters:
 - (i) the name or trade name of the counterparty with which the financial instruments firm, etc. has ceased to hold the majority of voting rights held by all of its shareholders;
 - (ii) the date of, and reasons for, the cessation of holding of the majority of voting rights held by all shareholders;
 - (b) in the case where the bank, etc. holds the majority of voting rights of a bank, etc. held by all of its shareholders, etc. and such bank, etc. has merged, dissolved or ceased the whole business, the following matters:
 - (i) the details of the resolution of merger, dissolution or cessation;
 - (ii) the date of, and reasons for, the merger, dissolution or cessation;
 - (iii) in the case of merger, the counterparty and the method of the merger;

- (6) the case of falling under Article 50.1 (6) of the Act — the following matters:
 - (a) the name or trade name of one other juridical person or other type of organization;
 - (b) the number of voting rights held and the ratio of such number of voting rights held to voting rights held by all shareholders, etc.;
 - (c) the date of becoming held;
- (7) the case of falling under Article 50.1 (7) of the Act — the date of, and reasons for, filing petitions of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (8) the case of falling under Article 199 (1) or Article 200 (1) — matters referred to in the following (a) to (d) according to the classification of the cases referred to in such (a) to (d):
 - (a) in the case where a financial instruments firm has fallen under Article 29-4.1 (1) (a) of the Act (limited to the portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act) or the case where a registered financial institution has fallen under Article 33-5.1 (1) of the Act (limited to the portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act), the following matters:
 - (i) the details of the same type of registration or license that the financial instruments firm, etc. is granted in a foreign jurisdiction pursuant to the provisions of laws or regulations in the foreign jurisdiction analogous to the Act (including an approval or other administrative dispositions similar to such registration or license; hereinafter, except for Article 221 (2), referred to as "registration, etc.");
 - (ii) the date of such registration, etc.;
 - (iii) the date of or reasons for the revocation of such registration, etc.;
 - (iv) the details of business for which registration, etc. has been revoked;
 - (b) in the case where a financial instruments firm has fallen under Article 29-4.1 (1) (b) of the Act or the case where a registered financial institution has fallen under Article 33-5.1 (2) of the Act, the following matters:
 - (i) the provisions of the laws or regulations violated;
 - (ii) the date of finalization of the penalty and the amount of fine;
 - (c) in the case where a financial instruments firm has fallen under Article 29-4.1 (3) of the Act (excluding the portion related to an important employee), the following matters:
 - (i) the name of a person who has so fallen under;
 - (ii) in the case where such person has fallen under Article 29-4.1 (2) (a) of the Act, the date of judgment of commencement of guardianship or judgment of commencement of assistance;
 - (iii) in the case where such person has fallen under Article 29-4.1 (2) (b) of the Act, the date of the ruling of the commencement of bankruptcy proceedings;
 - (iv) in the case where such person has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, the date of finalization of the penalty and the type of the penalty;
 - (v) in the case where such person has fallen under (d) or (e) of Article 29-4.1 (2) of the Act, the date of, and reasons for, the revocation;
 - (vi) in the case where such person has fallen under Article 29-4.1 (2) (f) of the Act, the date on which, and reasons why, the removal has been ordered;
 - (d) in the case where a financial instruments firm has fallen under Article 29-4.1 (4) of the Act, the date on which, and reasons why, the amount of capital or total amount of capital contributions have dropped below the amount provided in Article 15-7.1 of the Order;
- (9) the case of falling under Article 199 (2) — the following matters:
 - (a) the name of an officer or important employee who has fallen under any of (a) to (g) of Article 29-4.1 (2) of the Act;
 - (b) in the case where such officer or important employee has fallen under Article 29-4.1 (2) (a) of the Act, the date of judgment of commencement of guardianship or judgment of commencement of assistance;
 - (c) in the case where such officer or important employee has fallen under Article 29-4.1 (2) (b) of the Act, the date of the ruling of the commencement of bankruptcy proceedings;
 - (d) in the case where such officer or important employee has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, the date of finalization of the penalty or the type of the penalty;
 - (e) in the case where such officer or important employee has fallen under (d) or (e) of Article 29-4.1 (2) of the Act, the date of, and reasons for, the revocation;
 - (f) in the case where such officer or important employee has fallen under Article 29-4.1 (2) (f) of the Act, the date on which and reasons why the removal has been ordered;
- (10) the case of falling under Article 199 (3) or Article 200 (4) — the following matters:
 - (a) the name or trade name of a parent juridical person, etc. or subsidiary juridical person, etc. which has fallen under or has ceased to fall under;
 - (b) the date on which a parent juridical person, etc. or subsidiary juridical person, etc. has become applicable or has ceased to be applicable;

- (11) the case of falling under Article 199 (4) or Article 200 (5) — the following matters:
 - (a) the trade name of the holding company which has fallen under or has ceased to fall under;
 - (b) the date on which a holding company has become applicable or has ceased to be applicable;
- (12) the case of falling under Article 199 (5) or Article 200 (2) — the following matters:
 - (a) the date of, and reasons for, filing petition of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
 - (b) the name or trade name of a person who has filed petition of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (13) the case of falling under Article 199 (6) or Article 200 (3) — the following matters:
 - (a) the details of, or reasons for, the change;
 - (b) the date of the change;
- (14) the case of falling under (7), (11) (e) or (13) (a) of Article 199 or Article 200 (6) — the following matters:
 - (a) the name of a business office or other type of office where an accident, etc. (which means an accident, etc. as defined in (7) or (13) (a) of Article 199 or (6) of Article 200; hereinafter in (14) and (15), the same) has occurred (in the case where an accident has occurred with a financial instruments intermediary firm, the name or trade name of such financial instruments intermediary firm and the name of a business office or other type of office where the accident, etc. has occurred);
 - (b) the name and title of an officer or employee or a financial instruments intermediary firm or its officer or employee who has initiated an accident, etc.;
 - (c) the outline of an accident, etc.;
- (15) the case of falling under (8), (11) (f) or (13) (b) of Article 199 or Article 200 (7) — the following matters:
 - (a) the name of a business office or other type of office where an accident, etc. has occurred (in the case where an accident has occurred with a financial instruments intermediary firm, the name or trade name of such financial instruments intermediary firm and the name of a business office or other type of office where the accident, etc. has occurred);
 - (b) the name and title of an officer or employee or a financial instruments intermediary firm or its officer or employee who has initiated an accident, etc.;
 - (c) the details of an accident, etc.;
 - (d) in the case where internal disposition has been made, the detail thereof;
- (16) the case of falling under Article 199 (9) or Article 200 (8) — matters referred to in the following (a) or (b) according to the classification of the case referred to in such (a) or (b):
 - (a) in the case of becoming a party of a lawsuit or arbitration, the following matters:
 - (i) the name and address of a party of the lawsuit or arbitration;
 - (ii) the date on which a petition for the lawsuit has been filed or arbitration has been offered;
 - (iii) the name of a competent court;
 - (iv) the details of the case;
 - (b) in the case where a lawsuit or arbitration has been completed, the following matters:
 - (i) the name and address of a party of the lawsuit or arbitration;
 - (ii) the date on which a lawsuit or arbitration has been completed;
 - (iii) the details of the judgment or reconciliation;
- (17) the case of falling under Article 199 (10) — the following matters:
 - (a) the details of the penalties;
 - (b) the date of, and reasons for, the penalties;
- (18) the case of falling under Article 199 (11) (a) — the following matters:
 - (a) in the case of falling under (5) (a) of Article 29-4.1 of the Act, the date of, and reasons for, ceasing to be a business corporation provided in (5) (a) of said Article 29-4.1;
 - (b) in the case of falling under Article 29-4.1 (5) (b) of the Act, the date on which and reasons why the amount of net assets has dropped below the amount provided in Article 15-9.1 of the Order;
- (19) the case of falling under Article 199 (11) (b) — the date on which and reasons why the amount of net assets has dropped below the amount of capital;
- (20) the case of falling under Article 199 (11) (c) — matters referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
 - (a) in the case of knowing that a major shareholder has fallen under Article 29-4.1 (5) (d) of the Act, the following matters:
 - (i) the name of a major shareholder who has so fallen under;
 - (ii) in the case where such major shareholder has fallen under Article 29-4.1 (2) (a) of the Act, the date of becoming subject to judgment of commencement of guardianship or judgment of

- commencement of assistance or procedures similar thereto under laws or regulations in a foreign jurisdiction;
- (iii) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under Article 29-4.1 (2) (b) of the Act, the date of the ruling of the commencement of bankruptcy proceedings;
 - (iv) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, the date of finalization of the penalty and the type of penalty;
 - (v) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under (d) or (e) of Article 29-4.1 (2) of the Act, the date of, and reasons for, the revocation;
 - (vi) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under of Article 29-4.1 (2) (f) of the Act, the date on which and reasons why the removal has been ordered;
- (b) in the case of knowing that a major shareholder has fallen under Article 29-4.1 (5) (e) of the Act, the following matters:
- (i) the name or trade name of a major shareholder who has so fallen under;
 - (ii) in the case where such major shareholder has fallen under Article 29-4.1 (1) (a) of the Act, the details and date of registration, etc. granted to such major shareholder and the date of, reasons for and the details of business subject to revocation of such registration, etc.;
 - (iii) in the case where such major shareholder has fallen under Article 29-4.1 (1) (b) of the Act, the provisions of the laws or regulations violated, the date of finalization of the penalty and the amount of the fine;
 - (iv) in the case where such major shareholder has fallen under (5) (e) (iii) of Article 29-4.1 of the Act, the name of an officer who represents a juridical person falling under any of (2) (a) to (2) (g) of said Article 29-4.1;
 - (v) in the case where an officer representing the juridical person who is a major shareholder has fallen under Article 29-4.1 (2) (a) of the Act, the date of judgment of commencement of guardianship or judgment of commencement of assistance;
 - (vi) in the case where an officer representing the juridical person who is a major shareholder has fallen under Article 29-4.1 (2) (b) of the Act, the date of the ruling of the commencement of bankruptcy proceedings;
 - (vii) in the case where an officer representing the juridical person who is a major shareholder has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, the date of finalization of the penalty and the type of penalty;
 - (viii) in the case where an officer representing the juridical person who is a major shareholder has fallen under (d) or (e) of Article 29-4.1 (2) of the Act, the date of, and reasons for, the revocation;
 - (ix) in the case where an officer representing the juridical person who is a major shareholder has fallen under of Article 29-4.1 (2) (f) of the Act, the date on which and reasons why the removal has been ordered;
- (c) in the case of knowing that a person equivalent to a major shareholder of a foreign juridical person has fallen under Article 29-4.1 (5) (f) of the Act, the following matters:
- (i) the name or trade name of a person equivalent to a major shareholder who has so fallen under;
 - (ii) the details of the confirmation made for such major shareholder and the date of, and reasons for, knowing that the confirmation has not been made;
- (21) the case of falling under Article 199 (11) (f) or Article 200 (9) — matters referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
- (a) in the case of knowing that a financial instruments intermediary firm has become a party of a lawsuit or arbitration, the following matters:
 - (i) the name or trade name of the financial instruments intermediary firm;
 - (ii) the name and address of a party of the lawsuit or arbitration;
 - (iii) the date on which a petition for the lawsuit has been filed or arbitration has been offered;
 - (iv) the name of a competent court;
 - (v) the details of the case;
 - (b) in the case of knowing that a lawsuit or arbitration for which a financial instruments intermediary firm has become a party has been completed, the following matters:

- (i) the name or trade name of the financial instruments intermediary firm;
 - (ii) the name and address of a party of the lawsuit or arbitration;
 - (iii) the date on which the lawsuit or arbitration has been completed;
 - (iv) the details of the judgment or reconciliation;
- (22) the case of falling under Article 199 (11) (g) or Article 200 (10) — matters referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
- (a) in the case of commissioning a financial instruments intermediary firm to conduct the business, the following matters:
 - (i) the name or trade name of the financial instruments intermediary firm;
 - (ii) the location of the principal business office, etc. of the financial instruments intermediary firm;
 - (b) in the case of ceasing to commission a financial instruments intermediary firm to conduct the business, the following matters:
 - (i) the name or trade name of the financial instruments intermediary firm;
 - (ii) the reasons for ceasing to commission to conduct the business;
- (23) the case of falling under Article 199 (11) (h) — matters referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
- (a) in the case of establishing a representative office, the following matters:
 - (i) the name and location of the representative office;
 - (ii) the date of, and reasons for, the establishment;
 - (iii) the organization and staff allocation of the representative office;
 - (iv) the summary of the local procedures;
 - (b) in the case of closing a representative office, the following matters:
 - (i) the name and location of the representative office;
 - (ii) the date of, and reasons for, the closure;
- (24) the case of falling under (12) (a) or (13) (c) Article 199 — matters referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
- (a) in the case of having borrowed a loan funds with special provisions of subordination or knowing that a subsidiary juridical person, etc. has borrowed a loan funds with special provisions of subordination, the following matters:
 - (i) the lender and reasons for borrowing;
 - (ii) the amount of the loan (in the case where the loan is denominated in a foreign currency, the amount of the loan and the amount translated into Yen) and the current borrowing balance and the borrowing balance after the borrowing;
 - (iii) the date of borrowing, interest rate and deadline for repayment;
 - (b) in the case of having issued a corporate debt security with special provisions of subordination or knowing that a subsidiary juridical person, etc. has issued a corporate debt security with special provisions of subordination, the following matters:
 - (i) the method of and reasons for issuance;
 - (ii) the total issue amount (in the case where the corporate debt security is denominated in a foreign currency, the total issue amount and the amount translated into Yen) and the current issue balance and the issue balance after the issuance;
 - (iii) the date of issuance, interest rate and deadline for redemption;
- (25) the case of falling under (12) (b) or (13) (d) of Article 199 (limited to the case of advance repayment for borrowing with special provisions of subordination or the case of advance redemption for corporate debt security with special provisions of subordination) — the following matters:
- (a) the amount and date of repayment or redemption;
 - (b) the balance after repayment or redemption;

Article 202. — Documents Required to be Attached to Notification

202.1. In notifying pursuant to the provisions of Article 50.1 of the Act, the financial instruments firm, etc.(in (3), referred to as "filing person") shall attach documents provided in each of the following items according to the classification of the case referred to in such item to notification containing the matters provided in Article 201:

- (1) the case of falling under Article 50.1 (1) of the Act (limited to the case of suspending business) — a written statement containing the method to settle a customer account during the period of suspension;
- (2) the case of falling under Article 50.1 (2) of the Act — a written statement containing the method to settle a customer account in connection with business ceased;
- (3) the case of falling under Article 50.1 (3) of the Act — a written statement referred to in

- the following (a) to (c) according to the classification of the cases referred to in such (a) to (c);
- (a) in the case of merger with any other juridical person, the following documents:
 - (i) a written statement containing the details of a contract of merger and procedures for merger;
 - (ii) the latest balance sheet of a party (including related notes; hereinafter in Article 202, the same);
 - (iii) a written statement containing the amount of net assets (in the case where the filing person is a person carrying out the first-type financial instruments business, the amount of net assets and capital requirement ratio; in (b) (iii) and (c) (iii), the same) after merger;
 - (iv) a written statement containing the method to settle a customer account;
 - (b) in the case of the succession to the whole or part of business of an other juridical person as a result of demerger, the following documents:
 - (i) a written statement containing the details of a contract of absorption-type demerger and procedures for demerger;
 - (ii) the latest balance sheet of a party;
 - (iii) a written statement containing the amount of net assets after demerger;
 - (c) in the case of acquisition by assignment of the whole or part of business from any other juridical person, the following documents:
 - (i) a written statement containing the details of a contract of acquisition by assignment of business and procedures for acquisition by assignment of business;
 - (ii) the latest balance sheet of a party;
 - (iii) a written statement containing the amount of net assets after acquisition by assignment of business;
 - (4) the case of falling under Article 50.1 (5) of the Act (limited to the case where a financial instruments firm holds the majority of voting rights of a bank, etc. held by all of its shareholders, etc. and such bank, etc. has merged, dissolved or ceased the whole of business) — the following documents:
 - (a) the latest daily sheet (in the case of a merger, the latest balance sheet of a party and a copy of a contract of merger);
 - (b) in the case of dissolution or cessation, documents containing the method of and procedures for liquidation;
 - (5) the case of falling under Article 50.1 (6) of the Act — the following documents:
 - (a) documents containing the summary of business of a juridical person or other type of organization holding voting rights;
 - (b) documents containing the total number of voting rights held by a juridical person or other type of organization holding voting rights and major shareholders of such juridical person or other type of organization;
 - (6) the case of falling under Article 50.1 (7) of the Act — the following documents:
 - (a) a copy of a written statement of filing petitions of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
 - (b) the latest daily sheet;
 - (7) the case of falling under Article 199 (1) — matters referred to in the following (a) to (d) according to the classification of the cases referred to in such (a) to (d):
 - (a) in the case where a financial instruments firm has fallen under Article 29-4.1 (1) (a) of the Act (limited to the portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act) or the case where a registered financial institution has fallen under Article 33-5.1 (1) of the Act (limited to the portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act), the following documents:
 - (i) a copy of a written statement to order revocation or a written statement equivalent thereto;
 - (ii) the laws and regulations in such foreign jurisdiction and its translation;
 - (b) in the case where a financial instruments firm has fallen under Article 29-4.1 (1) (b) of the Act or the case where a registered financial institution has fallen under Article 33-5.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (c) in the case where a financial instruments firm has fallen under Article 29-4.1 (3) of the Act, the following documents:
 - (i) in the case where the financial instruments firm has fallen under Article 29-4.1 (2) (a) of the Act, a copy of the judgment of the ruling of the commencement of guardianship or the ruling of the commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
 - (ii) in the case where the financial instruments firm has fallen under Article 29-4.1 (2) (b) of

- the Act, a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
- (iii) in the case where the financial instruments firm has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (iv) in the case where the financial instruments firm has fallen under (d) or (e) of Article 29-4.1 (2) of the Act and has become subject to revocation in a foreign jurisdiction, a copy of a written statement to order the revocation or a written statement equivalent thereto and the laws or regulations based on which such revocation has been made and its translation;
- (d) in the case where a financial instruments firm has fallen under Article 29-4.1 (4) of the Act, a registration certificate or a written statement equivalent thereto;
- (8) the case of falling under Article 199 (2) — the following documents:
- (a) in the case where an officer or important employee has fallen under Article 29-4.1 (2) (a) of the Act, a copy of the judgment of the ruling of the commencement of guardianship or commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
 - (b) in the case where an officer or important employee has fallen under Article 29-4.1 (2) (b) of the Act, a copy of judgment of ruling commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (c) in the case where an officer or important employee has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (e) in the case where an officer or important employee has fallen under (d) or (e) of Article 29-4.1 (2) of the Act and has become subject to revocation in a foreign jurisdiction, the laws or regulations based on which such revocation has been made and its translation;
- (9) the case of falling under Article 199 (3) or Article 200 (4) — the following documents:
- (a) documents containing the summary of business of a parent juridical person, etc. or subsidiary juridical person, etc. which has fallen under or has ceased to fall under;
 - (b) documents describing the relationship between a financial instruments firm, etc. and a parent juridical person, etc. or subsidiary juridical person, etc.;
- (10) the case of falling under Article 199 (4) or Article 200 (5) — the following documents:
- (a) documents containing the summary of business of the holding company which has so fallen under or has ceased to so fall under;
 - (b) documents containing the relationship between a financial instruments firm, etc. and the holding company;
- (11) the case of falling under Article 199 (5) or Article 200 (2) — the latest daily sheet;
- (12) the case of falling under Article 199 (6) or Article 200 (3) — the articles of incorporation after change;
- (13) the case of falling under Article 199 (10) — the laws or regulations in a foreign jurisdiction providing for such penalty and its translation;
- (14) the case of falling under Article 199 (11) (a) (limited to the case where the amount of net assets has dropped below the amount provided in Article 15-9.1 of the Order) — the daily sheet of the day on which the amount of net assets has dropped below the amount provided in Article 15-9.1 of the Order and a written statement computing the amount of net assets;
- (15) the case of falling under Article 199 (11) (b) — the daily sheet of the day on which the amount of net assets has dropped below the amount of capital and a written statement computing the amount of net assets;
- (16) the case of falling under Article 199 (11) (c) — documents referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
- (a) in the case of knowing that a major shareholder has fallen under Article 29-4.1 (5) (d) of the Act, the following documents:
 - (i) in the case where such major shareholder has fallen under Article 29-4.1 (2) (a) of the Act, a copy of the judgment of the ruling of the commencement of guardianship or the ruling of the commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
 - (ii) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under Article 29-4.1 (2) (b) of the Act, a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (iii) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has

- fallen under (c) or (g) of Article 29-4.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
- (iv) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has become subject to a penalty in a foreign jurisdiction, the laws or regulations in a foreign jurisdiction based on which such penalty has been imposed and its translation;
- (v) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has become subject to revocation of registration, etc. in a foreign jurisdiction, the laws or regulations in a foreign jurisdiction based on which such revocation of registration, etc. has been made and its translation;
- (b) in the case of knowing that a major shareholder has fallen under Article 29-4.1 (5) (e) of the Act, the following documents:
 - (i) in the case where such major shareholder has fallen under Article 29-4.1 (1) (a) of the Act, a copy of documents to order revocation or a written statement equivalent thereto;
 - (ii) in the case where such major shareholder has fallen under (1) (a) of Article 29-4.1 of the Act or an officer representing a juridical person which is a major shareholder has fallen under (2) (d) or (2) (e) of said Article 29-4.1 and the registration has been revoked in a foreign jurisdiction, the laws or regulations in a foreign jurisdiction based on which such revocation has been made and its translation;
 - (iii) in the case where such major shareholder has fallen under Article 29-4.1 (1) (b) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (iv) in the case where an officer representing the juridical person who is a major shareholder has fallen under Article 29-4.1 (2) (a) of the Act, a copy of the judgment of the ruling of the commencement of guardianship or the ruling of the commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
 - (v) in the case where an officer representing the juridical person who is a major shareholder has fallen under Article 29-4.1 (2) (b) of the Act, a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (vi) in the case where an officer representing the juridical person who is a major shareholder has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
- (17) the case of falling under Article 199 (11) (g) or Article 200 (10) (limited to the case of commissioning a financial instruments intermediary firm to conduct the business) — a copy of a contract of commissioning to conduct the business;
- (18) the case of falling under (12) (a) or (13) (c) of Article 199 — the following cases:
 - (a) in the case of having borrowed a loan fund with special provisions of subordination or knowing that a subsidiary juridical person, etc. has borrowed a loan fund with special provisions of subordination, a copy of the contract;
 - (b) in the case of having issued a corporate debt security with special provisions of subordination or knowing that a subsidiary juridical person, etc. has issued a corporate debt security with special provisions of subordination, the prospectus or a copy of its equivalent.

Article 203. — Determination of Majority Holding of Voting Rights

203.1. For the purpose of determination whether the majority holding of voting rights as provided in Article 50.2 of the Act is applicable or not, voting rights attached to shares of stock or capital contributions held in the name of any other person or voting rights attached to shares of stock or capital contributions in the cases referred to in the items of Article 35.1 shall be included in voting rights held.

203.2. Notwithstanding the provisions of Article 203.1, voting rights attached to shares of stock or capital contributions referred to in the items of Article 35.2 shall be excluded from voting rights held under Article 203.1.

Article 204. — Notification of Cessation of Business, etc.

204.1. In notifying pursuant to the provisions of Article 50-2.1 of the Act, such person shall file with the competent Commissioner of the Financial Services Agency, etc. a notification containing the matter provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case of falling under Article 50-2.1 (1) of the Act — such fact and the date of death;

- (2) the case of falling under Article 50-2.1 (2) of the Act — the date of, and reasons for, cessation;
- (3) the case of falling under Article 50-2.1 (3) of the Act — the following matters:
 - (a) the name or trade name of the counterparty of the merger;
 - (b) the date of, and reasons for, the merger;
 - (c) the method of the merger;
- (4) the case of falling under Article 50-2.1 (4) of the Act — the following matters:
 - (a) the date on which petition for commencement of bankruptcy proceedings has been filed;
 - (b) the date of the ruling of the commencement of bankruptcy proceedings has been made;
- (5) the case of falling under Article 50-2.1 (5) of the Act — the date of, and reasons for, the dissolution;
- (6) the case of falling under Article 50-2.1 (6) of the Act — the following matters:
 - (a) the name or trade name of a succeeding person;
 - (b) the date of, and reasons for, demerger;
- (7) the case of falling under Article 50-2.1 (7) of the Act — the following matters:
 - (a) the name or trade name of an acquiring person by assignment;
 - (b) the date of, and reasons for, the assignment.

204.2. The documents referred to in each of the following items shall be attached to a notification under Article 204.1 according to the classification of such item:

- (1) the case of falling under (1) or (2) of Article 50-2.1 of the Act — the following documents:
 - (a) the latest daily sheet;
 - (b) a written statement containing the method to settle claims and liabilities to customers;
- (2) the case of falling under Article 50-2.1 (3) of the Act — the following documents:
 - (a) a written statement containing the details of a contract of merger and procedures for merger;
 - (b) a written statement containing the method that a juridical person, which continues to exist after merger, succeeds to claims and liabilities to customers;
- (3) the case of falling under Article 50-2.1 (4) of the Act — the following documents:
 - (a) a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (b) a written statement containing the method to settle claims and liabilities to customer;
- (4) the case of falling under Article 50-2.1 (5) of the Act — a written statement containing the method to settle claims and liabilities to customers;
- (5) the case of falling under Article 50-2.1 (6) of the Act — the following documents:
 - (a) a written statement containing the details of incorporation-type demerger plan or contract of absorption-type demerger and procedures for demerger;
 - (b) a written statement containing the method to transfer claims or liabilities to customers to succeeding party;
- (6) the case of falling under Article 50-2.1 (7) of the Act — the following documents:
 - (a) a written statement containing the details of a contract of business assignment;
 - (b) a written statement containing the method that an assignee succeeds to claims and liabilities to customers.

Article 205. — Public Notice, etc. of Cessation of Business, etc.

205.1 A public notice pursuant to the provisions of Article 50-2.6 of the Act shall be made by an official gazette or a daily news paper which generally carries current events (in the case where a financial instruments firm, etc. is a juridical person, a method of public notice by such juridical person (including a period of public notice)).

205.2 A public notice and display at a business office or other type of office pursuant to the provisions of Article 50-2.6 of the Act shall inform the method to settle customer transactions as provided in Article 50-2.8 of the Act and the method to return properties deposited by a customer regarding financial instruments business, etc. (excluding investment advisor or agent business) and properties occupied by the financial instruments firm, etc. for the account of customers.

205.3 A notification provided in Article 50-2.7 of the Act shall state:

- (1) the name or trade name;
- (2) the date of registration and registration number;
- (3) a cause of notification; and
- (4) the expected date of occurrence of the cause of notification.

205.4 A notification under Article 205.3 shall be accompanied by a written statement containing the method provided in Article 205.2.

Article 206. — Public Notice to Person Whose Place of Residence is Unknown

A public notice pursuant to the provisions of Article 52.4 and 52-2.3 of the Act shall be made by an official gazette.

Article 207. — Public Notice of Supervisory Dispositions

A public notice pursuant to the provisions of Article 54-2 of the Act (excluding Article 54-2 (2) of the Act in the case of a registered financial institution) shall be made by an official gazette.

Article 208. — Maintenance of Assets in Japan

The amount of liabilities provided in Article 17-2 of the Order shall be computed by deducting the amount of liabilities to a non-resident from the amount of liabilities (including the amount of guarantee liabilities) required to be accounted in the class of liabilities of the balance sheet.

Section 4-2. Special Provisions for Special Financial Instruments Firms, etc.

Subsection 1. Special Financial Instruments Firm

Article 208-2. — Computation of Amount of Total Assets

The amount of total assets computed pursuant to the provisions of Article 57-2.1 of the Act shall be the total of the amounts required to be accounted as assets in the balance sheet.

Article 208-3. — Documents, etc. Difficult to be Submitted Within One Month since Notifying Date

208-3.1 Documents prescribed by the Cabinet Office Ordinance as provided in Article 17-2-3.1 of the Order shall be documents containing the matters provided in the Form referred to in Article 208-5 (2).

208-3.2 A special financial instruments firm the parent corporation (which means a parent corporation as defined in Article 57-2.8 of the Act; hereinafter in Section 4-2, the same) of which is a foreign corporation shall file an approval application stating the following matters with the Commissioner of the Financial Services Agency in order to obtain an approval under the proviso to Article 17-2-3.1 of the Order:

- (1) the trade name;
- (2) the date of registration and registration number;
- (3) the name or trade name of such parent corporation;
- (4) the period for which such approval is applied regarding filing of documents provided in Article 17-2-3.1 of the Order;
- (5) the notification day (which means a notification day as defined in Article 57-2.2 of the Act; hereinafter in Section 4-2, the same);
- (6) the reason why such approval is necessary for filing documents provided in Article 17-2-3.1 of the Order.

208-3.3 An approval application under Article 208-3.2 shall be accompanied by the following documents:

- (1) the articles of incorporation of the parent corporation or a written statement equivalent thereto;
- (2) if the reason under Article 208-3.2 (6) is laws or regulations or practices prevailing in the home country of such parent corporation, written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.
- (3) if the reason under Article 208-3.2 (6) is the case other than the laws or regulations or practices prevailing in the home country of such parent corporation, a written statement certifying such reason.

208-3.4. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 208-3.2 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in the home country of such parent corporation or for other reason, for such special financial instruments firm to file documents provided in Article 17-2-3.1 of the Order within three months since such notification day, grant an approval under the proviso to said Article 17-2-3.1.

Article 208-4. — Entries in respect of Parent Corporation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 57-2.2 (1) of the Act shall be:

- (1) the amount of capital or total amount of capital contributions;
- (2) the name and location of the principal business office or principal office (including, in the case of a foreign corporation having an office in Japan, the principal office in Japan); and
- (3) the details of the business.

Article 208-5. — Documents Containing Business and Financial Conditions of Parent Corporation and its Subsidiary Juridical Person, etc.

Documents referred to in Article 57-2.2 (2) of the Act shall contain the matters prescribed by the following Forms:

- (1) Form 17-2;
- (2) Form 17-3.

Article 208-6. — Documents Containing Details and Methods of Business Management or Assistance regarding Financing

Documents referred to in Article 57-2.2 (4) of the Act shall contain the following matters:

- (1) the following matters as the details and methods of business management:
 - (a) the name or trade name of the parent corporation performing business management;
 - (b) the method of business management;
 - (c) the system of business management;
 - (d) if an officer or employee of the parent corporation holds the position of an officer of such special financial instruments firm concurrently, the name thereof and the name of the positions at such parent corporation and such special financial instruments firm and the dates of taking such positions;
- (2) the following matters as the details and methods of assistance regarding financing:
 - (a) the policies and method of assistance regarding financing;
 - (b) performance standards of assistance regarding financing.

Article 208-7. — Documents, etc. Difficult to be Filed Within One Month since Day of Having Parent Corporation on or after Notifying Date

The provisions of Article 208-3.1 shall apply *mutatis mutandis* to documents prescribed by the Cabinet Office Ordinance as provided in Article 17-2-3.2 of the Order, and the provisions of Articles 208-3.2 to 208-3.4 shall apply *mutatis mutandis* in the case where a special financial instruments firm having the parent corporation which is a foreign corporation wishes to obtain an approval under the proviso to Article 17-2-3.2 of the Order. For these purposes, "the notification day" in Article 208-3.2 (5) shall be read as "the day of having a parent corporation on or after the notification day"; and "notification day" in Article 208-3.4 shall be read as "the day of having a parent corporation on or after the notification day."

Article 208-8. — Documents for which Filing of Notification of Change in Documents concerning Parent Corporation is Not Required

Documents prescribed by the Cabinet Office Ordinance as provided in Article 57-2.4 of the Act shall be documents referred to in (3) and (4) of Article 57-2.2 of the Act.

Article 208-9. — Notification of Change in Documents concerning Parent Corporation

A special financial instruments firm filing a notification pursuant to the provisions of Article 57-2.4 of the Act shall file a notification containing the details of, the date of and reason for change with the Commissioner of the Financial Services Agency together with the documents referred to in (1), (3) and (4) of Article 57-2.2 of the Act (limited to documents in which there was a change).

Article 208-10. — Documents, etc. Containing Business and Financial Conditions of Parent Corporation and its Subsidiary Juridical Person, etc.

208-10.1 Documents provided in Article 57-2.5 of the Act shall contain the matters provided in the following Forms:

- (1) Form 17-2;
- (2) Form 17-3.

208-10.2 Documents prescribed by the Cabinet Office Ordinance as provided in Article 57-2.5 of the Act shall be documents containing the matters provided in the Forms referred to in the items of Article 208-10.1.

Article 208-11. — Documents, etc. Difficult to be Filed Within One Month after the End of Quarter

208-11.1 Documents prescribed by the Cabinet Office Ordinance as provided in Article 17-2-3.3 of the Order shall be documents containing the matters provided in the Form referred to in (2) of Article 208-10.1.

208-11.2 A special financial instruments firm having a parent corporation which is a foreign corporation shall, in order to obtain an approval under the proviso to Article 17-2-3.3 of the Order, file with the Commissioner of the Financial Services Agency an application for approval containing:

- (1) the trade name;
- (2) the registration date and registration number;
- (3) the name or trade name of such parent corporation;
- (4) the period for which the special financial instruments firm wishes to obtain such approval for filing of documents provided in Article 17-2-3.3 of the Order;
- (5) reasons why such approval is necessary regarding filing of documents provided in Article 17-2-3.3 of the Order.

208-11.3. The following documents shall be attached to an application for approval under Article 208-11.2:

- (1) the articles of incorporation, or a written statement equivalent thereto, of such parent corporation;
- (2) if the reason under Article 208-11.2 (5) is laws or regulations or practices prevailing in the home country of such parent corporation, written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.
- (3) if the reason under Article 208-11.2 (5) is the case other than laws or regulations or practices prevailing in the home country of such parent corporation, the written statement certifying such reason.

208-11.4. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 208-11.2 and he finds that it is practically impossible, in view of the laws or regulations or practices prevailing in its home country of such parent corporation or for other unavoidable reason, for such special financial instruments firm to file documents provided in Article 17-2-3.3 of the Order within three months after the end of a quarter (which means a quarter provided in Article 57-2.5 of the Act; hereinafter in Section 4-2, the same), grant an approval under the proviso to Article 17-2-3.3 of the Order for the filing of such documents for quarters as from the quarter in which the date of application fell (the immediately preceding quarter if that date is within three months after the commencement of the quarter (or within the period for which such approval has been granted if such approval has been granted regarding the filing of documents for the immediately preceding quarter)) through the quarter immediately preceding the quarter in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 208-11.2 (5) for such application.

208.5. The Commissioner of the Financial Services Agency, etc. shall grant an approval under the proviso to Article 17-2-3.3 of the Order on the condition that a special financial instruments firm under Article 208-11.4 files with the Commissioner of the Financial Services Agency documents containing the following matters (in the case of the matter referred to in (2), limited to the case where the reason under Article 208-11.2 (5) is laws or regulations or practices prevailing in the home country of such parent corporation) within three months after the end of each quarter; *provided*, that the entry of the matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the quarter; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

Article 208-12. — Business Report

208-12.1. A business report submitted by a special financial instruments firm pursuant to the provisions of Article 57-3.1 of the Act shall be made on Form 17-4.

208-12.2. In preparing a business report under Article 208-12.1, the special financial instruments firm shall comply with the practices for corporate accounting which is generally recognized as fair and reasonable.

Article 208-13. — Entries in Explanatory Documents

Matters prescribed by the Cabinet Office Order as provided in Article 57-4 of the Act shall be:

- (1) regarding the general conditions of the special financial instruments firm and its subsidiary juridical person, etc. (excluding a subsidiary juridical person, etc. which has no important influence on the explanatory documents under Article 57-4 of the Act; hereinafter in Article 208-13, the same):
 - (a) the trade name, the date of registration and the registration number and notification date of the special financial instruments firm;
 - (b) major business and organization structure of the special financial instruments firm and its subsidiary juridical person, etc.;
 - (c) regarding a subsidiary juridical person, etc. of the special financial instruments firm:
 - (i) the name or trade name;
 - (ii) the location of the principal business office or principal office;
 - (iii) the amount of capital, the total amount of basic funds or the total amount of capital contributions;
 - (iv) the details of business;
 - (v) the ratio of the number of voting rights of a subsidiary juridical person, etc. held by the special financial instruments firm to the number of voting rights of such subsidiary juridical person, etc. held by all of its shareholders;
 - (vi) the ratio of the number of voting rights of one subsidiary juridical person, etc. held by the special financial instruments firm and a subsidiary juridical person, etc. and a subsidiary juridical person, etc. other than the first-mentioned subsidiary juridical person, etc. to the number of voting rights of the first-mentioned subsidiary juridical person, etc. held by all of its shareholders;
- (2) regarding the business conditions of the special financial instruments firm and its subsidiary juridical person, etc.:
 - (a) the summary of the business during the latest business year;
 - (b) as the indicators of the business conditions during the latest three consolidated accounting years (which means a period for which the statements referred to in (3) (a) are prepared; hereinafter in Article 208-13 and 208-26, the same):
 - (i) operating income and net operating income;
 - (ii) recurring profit or recurring loss;
 - (iii) net profit or net loss;
 - (iv) the amount of net assets;
 - (v) the amount of total assets;
 - (vi) the consolidated capital requirement ratio (which means a ratio computed by the computation formula for standards whether the state of capital adequacy provided in Article 57-5.1 of the Act is appropriate or not; in (3) (f), the same) as of the end of each consolidated accounting year;
- (3) regarding financial conditions of the special financial instruments firm and its subsidiary juridical person, etc. during the latest two consolidated accounting years:
 - (a) the consolidated balance sheet (including related notes), consolidated profit and loss statement (including related notes), and consolidated shareholders' equity, etc. change statement (including related notes);
 - (b) the following matters as of the end of each consolidated accounting year:
 - (i) major lenders and the borrowing amount;
 - (ii) the acquisition value, market price and valuation profit or loss of securities held by the special financial instruments firm and its subsidiary juridical person, etc. (excluding securities accounted as trading instruments (which means trading instruments in an item of the consolidated balance sheet; in (iii), the same));
 - (iii) the value of contract, market price and valuation profit or loss of derivatives transactions (excluding securities accounted as trading instruments);
 - (c) if the special financial instruments firm and its subsidiary corporation, etc. (which means a subsidiary corporation, etc. provided in Article 15-16-2.2 of the Order, and excluding a subsidiary corporation, etc. which does not have important influence on explanatory documents under Article 57-4 of the Act) are engaged in more than one different type of business, the amount computed, according to the classification of the type of business, as the amount of operating income and net operating income, recurring profit or recurring loss and assets (in (c), referred to as "operating income, etc.") belonging to such classification (excluding the case where the ratio of the amount of each operation income, etc. to the total amount of operating income, etc. is small);
 - (d) if an accounting auditor audits the documents referred to in (a) under the provisions of

- Article 444.4 of the Corporation Law, such fact;
- (e) if a certified public accountant or audit corporation has certified the documents referred to in (a) under the provisions of Article 193-2 of the Act, such fact;
 - (f) the state of soundness of business management (which means soundness of business management provided in Article 57-5.2 of the Act, and excluding the state related to consolidated capital requirement ratio).

Article 208-14. — Notification of Written Statement Containing State of Soundness of Business Management

A notification pursuant to the provisions of Article 57-5.2 of the Act shall be made in the manner to provide the Commissioner of the Financial Services Agency with written statements prepared in accordance with the provisions of Article 180 within 50 days after each quarter has passed.

Article 208-15. — Public Disclosure of Written Statement Containing State of Soundness of Business Management

Retention and public disclosure pursuant to the provisions of Article 57-5.3 of the Act shall be made by written statements prepared in accordance with the provisions of Article 180.

Article 208-16. — Public Notice of Supervisory Dispositions

A public notice pursuant to the provisions of Article 57-7 of the Act shall be made by an official gazette.

Article 208-17. — Person to Become Parent Corporation

Corporation, etc. prescribed by the Cabinet Office Ordinance as provided in Article 57-10.2 of the Act shall be a corporation provided in Article 38-3.

Subsection 2. Designated Parent Corporation

Article 208-18. — Details and Methods of Business Management or Assistance regarding Financing

Matters prescribed by the Cabinet Office Ordinance as provided in Article 57-13.1 (6) of the Act shall be:

- (1) the following matters as the details and methods of business management:
 - (a) the method of business management;
 - (b) the system of business management;
 - (c) if an officer or employee of the designated parent corporation holds the position as an officer of the object special financial instruments firm concurrently, the name of such officer and the name of the position at such designated parent corporation and such object special financial instruments firm and the date of taking such position;
- (2) the following matters as the details and methods of assistance regarding financing:
 - (a) the policies and method of assistance regarding financing;
 - (b) performance standards for assistance regarding financing.

Article 208-19. — Entries in Documents by Designated Parent Corporation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 57-13.1 (7) of the Act shall be:

- (1) the details of the business;
- (2) the ratio of the number of voting rights of the object special financial instruments firm held by such designated parent corporation to the number of voting rights of such object special financial instruments firm held by all of its shareholders;
- (3) the ratio of the number of voting rights of one object special financial instruments firm held by such designated parent corporation and a subsidiary juridical person, etc. other than the first-mentioned one object special financial instruments firm to the number of voting rights of the first-mentioned one object special financial instruments firm held by all of its shareholders.

Article 208-20. — Attachments to Documents by Designated Parent Corporation

Documents referred to in Article 57-13.2 (2) of the Act shall be:

- (1) a written statement containing business operation system including personnel structure and organization for business;

- (2) the resume of an officer (if an officer is a juridical person, a written statement containing the history of the officer);
- (3) an abridged copy of the resident's card of an officer (if an officer is a juridical person, a registration certificate of the officer), or a written statement equivalent thereto;
- (4) a certificate issued by government offices or public offices that an officer falls under none of (a) or (b) of Article 29-4.1 (2) of the Act, or a written statement equivalent thereto;
- (5) a written statement in which an officer swears that such officer falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (6) documents containing the following matters as the state of a subsidiary juridical person, etc.:
 - (a) the name or trade name;
 - (b) the amount of capital, total amount of basic fund or total amount of capital contributions;
 - (c) the location of the principal business office or the principal office;
 - (d) type of business;
 - (e) the ratio of the number of voting rights of a subsidiary juridical person, etc. held by such designated parent corporation to the number of voting rights of such subsidiary juridical person, etc. held by all of its shareholders; and
 - (f) the ratio of the number of voting rights of one subsidiary juridical person, etc. held by such designated parent corporation and a subsidiary juridical person, etc. other than the first-mentioned one subsidiary juridical person, etc. to the number of voting rights of the first-mentioned one subsidiary juridical person, etc. held by all of its shareholders.

Article 208-21. — Electronic or Magnetic Record

208-21.1. An electronic or magnetic record prescribed by the Cabinet Office Ordinance as provided in Articles 57-13.3 of the Act shall be a magnetic disk with the structure of 90 mm flexible disk cartridge conforming with JIS X6223.

208-21.2. An electronic or magnetic record under Article 208-21.1 shall be recorded by:

- (1) with respect to the track format, the method specified in JIS X6225; and
- (2) with respect to the volume and file composition, the method specified in the JIS X0605.

208-21.3. An electronic or magnetic record under Article 208-21.1 shall paste, on the label area prescribed in JIS X6223, a written statement containing:

- (1) the name or trade name of a designated parent corporation; and
- (2) the filing date of a notification.

Article 208-22. — Notification of Change

A designated parent corporation which notifies pursuant to the provisions of Article 57-14 of the Act shall file with the Commissioner of the Financial Services Agency a notification stating the details of, the date of and the reason for the change together with documents provided in each of the following items according to the classification of the case referred to in such item: *Provided*, That, if there is an unavoidable reason, filing of documents provided in the following items without delay after the filing of such notification shall suffice:

- (1) the case where there has been a change in the matter referred to in (1), (2) or (4) of Article 57-13.1 of the Act — the registration certificate containing matters of such change or a written statement equivalent thereto;
- (2) the case where there has been a change in the matter referred to in (3) of Article 57-13.1 of the Act — the following documents:
 - (a) a written statement containing business operation system including personnel structure and organization for business;
 - (b) the registration certificate containing matters of such change or a written statement equivalent thereto;
 - (c) the following documents for a person who has become an officer newly:
 - (i) the resume (if an officer is a juridical person, a written statement containing the history of the officer);
 - (ii) an abridged copy of the resident's card (if an officer is a juridical person, a registration certificate of the officer), or a written statement equivalent thereto;
 - (iii) a certificate issued by government offices or public offices, or a written statement equivalent thereto, that the officer falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
 - (iv) a written statement in which an officer swears that such officer falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (3) the case where there has been a change in the matter referred to in (5) or (6) of Article 57-13.1 of the Act — documents containing such matter after the change.

Article 208-23. — Business Report

208-23.1. A business report submitted by an ultimate designated parent corporation pursuant to the provisions of Article 57-15.1 of the Act shall be made on Form 17-5.

208-23.2. In preparing a business report under Article 208-23.1, an ultimate designated parent corporation shall comply with the practices of fair and reasonable corporate accounting or the designated international accounting standards.

Article 208-24. — Procedures, etc. for Approval of Deadlines for Submission of Business Reports

208-24.1. An ultimate designated parent corporation which is a foreign juridical person shall, when it wishes to obtain an approval under Article 57-5.1 of the Act which is applied *mutatis mutandis* after amended readings under Article 17-2-12.2 of the Order, file with the Commissioner of the Financial Services Agency an application for approval containing:

- (1) the name or trade name;
- (2) the period for which the ultimate designated parent corporation wishes to obtain such approval regarding the submission of such business report;
- (3) the day on which the business year for the business report ends; and
- (4) reasons why such approval is required regarding the submission of such business report.

208-24.2. The following documents shall be attached to an application for approval under Article 208-24.1:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) the written proof that the representative of the ultimate designated parent corporation stated in such application has the due authority regarding the filing of such application for approval;
- (3) if the reason under Article 208-24.1 (4) is laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions;
- (4) if the reason under Article 208-24.1 (4) is the case other than laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, a written statement certifying such reason.

208-24.3. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 208-24.1 and he finds that it is practically impossible, in view of the laws or regulations or practices prevailing in its home country or for other unavoidable reason, for such ultimate designated parent corporation to submit the business report within three months after the end of the business year, grant an approval under Article 57-15.1 of the Act which is applied *mutatis mutandis* after amended readings under Article 17-2-12.2 of the Order to such ultimate designated parent corporation for the submission of business reports for business years as from the business year in which the date of application fell (the immediately preceding business year if that date is within three months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding the submission of a business report for the immediately preceding business year)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 208-24.1 (4) for such application.

208-24.4. The Commissioner of the Financial Services Agency shall grant an approval under Article 57-5.1 of the Act which is applied *mutatis mutandis* after amended readings under Article 17-2-12.2 of the Order on the condition that an ultimate designated parent corporation under Article 208-24.3 provides documents containing the following matters (limited, in the case of the matter referred to in (2), to the case where the reason under Article 208-24.1 (4) is laws or regulations or practices prevailing in the home country of such ultimate designated parent corporation) to the Commissioner of the Financial Services Agency within three months after the end of each business year: *Provided*, that the entry of the matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations as referred to in such written legal opinions.

Article 208-25. — Report regarding Business and Financial Conditions

208-25.1. An ultimate designated parent corporation shall submit the report referred to in each of the following items to the Commissioner of the Financial Services Agency no later than the deadline provided in such item pursuant to the provisions of Article 57-15.2 of the Act:

- (1) a report regarding the state, etc. of assistance regarding financing made on Form 17-6 — within one month after each quarter has passed; and
 - (2) quarterly consolidated financial statements (which mean a quarterly consolidated balance sheet and quarterly consolidated profit and loss statement or a statement equivalent to a quarterly consolidated balance sheet and quarterly consolidated profit and loss statement required to be prepared pursuant to the designated international accounting standards and shareholders' equity, etc. change statement, and excluding those for the last quarter of a business; hereinafter in Article 208-25, the same) — within three months after each quarter has passed (if it is determined that it is practically impossible, in view of the laws, regulations or practices prevailing in the home country or for other unavoidable reason, for the ultimate designated parent corporation which is a foreign corporation to submit quarterly consolidated financial statements within three months after the quarter has passed, within the period approved by the Commissioner of the Financial Services Agency).
- 208-25.2. In preparing quarterly consolidated financial statements, the ultimate designated parent corporation shall comply with the practices of fair and reasonable corporate accounting or the designated international accounting standards.
- 208-25.3. If an ultimate designated parent corporation which is a foreign corporation wishes to obtain an approval under Article 208-25.1 (2), such ultimate designated parent corporation shall submit an application for approval stating the following matters with the Commissioner of the Financial Services Agency:
- (1) the name or trade name;
 - (2) period for which the ultimate designated parent corporation wishes to obtain an approval regarding the submission of quarterly consolidated financial statements; and
 - (3) reasons why such approval is required regarding the submission of quarterly consolidated financial statements.
- 208-25.4. The following documents shall be attached to an application for approval under Article 208-25.1:
- (1) the articles of incorporation or a written statement equivalent thereto;
 - (2) the written proof that the representative of the ultimate designated parent corporation stated in such application for approval has the due authority regarding the filing of such application for approval; and
 - (3) if the reason under Article 208-25.3 (3) is laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.
 - (4) if the reason under Article 208-25.3 (3) is the case other than laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, a written statement certifying such reason.
- 208-25.5. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 208-25.3 and he finds that it is practically impossible, in view of the laws or regulations or practices prevailing in its home country or for other unavoidable reason, for such ultimate designated parent corporation to submit quarterly consolidated financial statements within three months after the quarter has passed, grant an approval under Article 208-25.1 (2) to such ultimate designated parent corporation for the submission of quarterly consolidated financial statements for a quarter as from the quarter in which the date of application fell (the immediately preceding quarter if that date is within three months after the commencement of the quarter (or within the period for which such approval has been granted if such approval has been granted regarding the submission of quarterly consolidated financial statements for the immediately preceding quarter)) through the quarter immediately preceding the quarter in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 208-25.3 (3) for such application.
- 208-25.6. The Commissioner of the Financial Services Agency shall grant an approval under Article 208-25.1 (2) on the condition that an ultimate designated parent corporation under Article 208-25.5 provides documents containing the following matters (limited, in the case of the matter referred to in (2), to the case where the reason under Article 208-25.3 (3) is laws or regulations or practices prevailing in the home country of such ultimate designated parent corporation) to the Commissioner of the Financial Services Agency within three months after the quarter has passed: *Provided*, That the entry of matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:
- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the quarter; and
 - (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of

the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

Article 208-26. — Entries in Explanatory Documents

Matters prescribed by the Cabinet Office Order as provided in Article 57-16 of the Act shall be:

- (1) regarding the general conditions and organization of the ultimate designated parent corporation:
 - (a) the name or trade name;
 - (b) the date of designation pursuant to the provisions of Article 57-12.1 of the Act;
 - (c) the history and organization of business management (including the system of business management of a subsidiary juridical person, etc. (excluding a subsidiary juridical person, etc. which does not make important influence on explanatory documents under Article 57-16 of the Act; hereinafter in Article 208-26, the same) of the ultimate designated parent corporation);
 - (d) the names of the 10 largest shareholders or capital contributors holding voting rights of shares of stock, etc. (which means a shares of stock or share; in (d), the same) and the number of voting rights of such shares of stock, etc. held by such shareholders or capital contributors and the ratio of the number of voting rights of such shares of stock, etc. to the number of voting rights held by all of its shareholders, etc.;
 - (e) the matters referred to in (2) to (4) of Article 57-13.1 of the Act and the matter referred to in (1) of Article 208-19;
 - (f) the trade name, registration date, registration number and notification date of the object special financial instruments firm;
- (2) regarding the general conditions of the ultimate designated parent corporation and its subsidiary juridical person, etc.:
 - (a) major business and organization structure of the ultimate designated parent corporation and its subsidiary juridical person, etc.;
 - (b) regarding a subsidiary juridical person, etc. of the ultimate designated parent corporation:
 - (i) the name or trade name;
 - (ii) the location of the principal business office or principal office;
 - (iii) the amount of capital, the total amount of basic funds or the total amount of capital contributions;
 - (iv) the details of business;
 - (v) the ratio of the number of voting rights of a subsidiary juridical person, etc. held by the ultimate designated parent corporation to the number of voting rights of such subsidiary juridical person, etc. held by all of its shareholders;
 - (vi) the ratio of the number of voting rights of one subsidiary juridical person, etc. held by the designated parent corporation and a subsidiary juridical person, etc. other than the first-mentioned subsidiary juridical person, etc. to the number of voting rights of the first-mentioned subsidiary juridical person, etc. held by all of its shareholders;
- (3) regarding the business of the ultimate designated parent corporation and its subsidiary juridical person, etc.:
 - (a) the outline of the business during the latest business year;
 - (b) as the indicators of the business conditions during the latest three consolidated accounting years:
 - (i) operating income (including sales or other items equivalent thereto; in (4) (c), the same);
 - (ii) recurring profit or recurring loss;
 - (iii) net profit or net loss;
 - (iv) the amount of net assets;
 - (v) the amount of total assets;
 - (vi) the consolidated capital requirement ratio (which means a ratio computed by the computation formula for standards whether the state of capital adequacy provided in Article 57-17.1 of the Act is appropriate or not; in (4) (f), the same) as of the last day of each consolidated accounting year;
- (4) regarding financial conditions of the ultimate designated parent corporation and its subsidiary juridical person, etc. during the latest two consolidated accounting years:
 - (a) the consolidated balance sheet (including related notes), consolidated profit and loss statement (including related notes) and consolidated shareholders' equity, etc. change statement (including related notes) or statements equivalent thereto required to be prepared pursuant to the designated international accounting standards;
 - (b) the following matters as of the end of each consolidated accounting year:
 - (i) major lenders of borrowing money and the borrowing amount;
 - (ii) the acquisition value, market price and valuation profit or loss of securities held by the

- ultimate designated parent corporation and its subsidiary juridical person, etc. (excluding securities accounted as trading instruments (which means trading instruments in one of items of the consolidated balance sheet or its equivalent; in (iii), the same));
- (iii) the value of contract, market price and valuation profit or loss of derivatives transactions (excluding securities accounted as trading instruments);
- (c) if the ultimate designated parent corporation and its subsidiary juridical person, etc. (which means a subsidiary juridical person, etc. provided in Article 15-16-2.2 of the Order, and excluding a subsidiary juridical person, etc. which does not have important influence on explanatory documents under Article 57-16 of the Act) are engaged in more than one different types of business, the amount computed, according to the classification of the type of business, as the amount of operating income, recurring profit or recurring loss and assets (in (c), referred to as "operating income, etc.") belonging to such classification (excluding the case where the ratio of the amount of each operation income, etc. to the total amount of operating income, etc. is small);
- (d) if an accounting auditor audits the documents referred to in (a) under the provisions of Article 444.4 of the Corporation Law, the fact;
- (e) if a certified public accountant or audit corporation has certified the audit of the documents referred to in (a) under the provisions of Article 193-2 of the Act, the fact;
- (f) the state of soundness of business management (which means soundness of business management provided in Article 57-17.2 of the Act, and excluding the state related to consolidated capital requirement ratio).

Article 208-27. — Procedures, etc. for Approval of Period for Making Explanatory Documents Available for Public Inspection

208-27.1. An ultimate designated parent corporation which is a foreign corporation shall, when it wishes to obtain an approval pursuant to the proviso to Article 17-10.2 of the Order, file with the Commissioner of the Financial Services Agency an application for approval containing:

- (1) the name or trade name;
- (2) the period for which the ultimate designated parent corporation wishes to obtain such approval regarding making explanatory documents available for public inspection;
- (3) the day on which the business year for explanatory documents ends; and
- (4) reasons why such approval is required regarding making such explanatory documents available for public inspection.

208-27.2. The following documents shall be attached to an application for approval under Article 208-27.1:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) the written proof that the representative of the ultimate designated parent corporation stated in such application for approval has the due authority regarding the filing of such application for approval;
- (3) if the reason under Article 208-27.1 (4) is laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions;
- (4) if the reason under Article 208-27.1 (4) is the case other than laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, a written statement certifying such reason.

208-27.3. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 208-27.1 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in its home country or for other unavoidable reason, for such ultimate designated parent corporation to keep explanatory documents and make it available for public disclosure by the date on which four months have passed since the end of the business year, grant an approval under the proviso to Article 17-2-10.2 of the Order to such ultimate designated parent corporation for the explanatory documents for business years as from the business year in which the date of application fell (the immediately preceding business year if that date is within four months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding making the explanatory documents available for public inspection for the immediately preceding business year)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 208-27.1 (4) for such application.

208-27.4. The Commissioner of the Financial Services Agency shall grant an approval under the proviso to Article 17-2-10.2 of the Order on the condition that an ultimate designated parent

corporation under Article 208-27.3 provides documents containing the following matters (in the case of the matter referred to in (2), limited to the case where the reason under Article 208-27.1 (4) is laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation) to the Commissioner of the Financial Services Agency within four months after the end of each business year: *Provided*, That the entry of the matter referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding the matter referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations as referred to in such written legal opinions.

Article 208-28. — Notification, etc. of Written Statement Containing State of Soundness of Business Management

208-28.1 A notification pursuant to the provisions of Article 57-17.2 of the Act shall be made in the manner to provide written statements prepared in accordance with the provisions of Article 180 (in the case where the Commissioner of the Financial Services Agency specifies, a written statement prepared in the manner provided by the Commissioner of the Financial Services Agency; in Article 208-30, the same) to the Commissioner of the Financial Services Agency within 50 days after each quarter has passed (if it is determined that it is impossible, in view of the laws or regulations or practices prevailing in its home country or for other unavoidable reason, for an ultimate designated parent corporation which is a foreign corporation to provide a written statement containing the state of soundness of business management (which means the state of soundness of business management provided in Article 57-17.2 of the Act; hereinafter in Subsection 2, the same) within 50 days after each quarter has passed, within the period approved by the Commissioner of the Financial Services Agency).

208-28.2 The designated parent corporation which is a foreign corporation shall, in order to obtain an approval under Article 208-28.1, file with the Commissioner of the Financial Services Agency an application for approval containing.

- (1) the name or trade name;
- (2) the period for which the designated parent corporation wishes to obtain such approval for providing a written statement containing the state of soundness of business management;
- (3) reasons why such approval is required regarding providing a written statement containing the state of soundness of business management.

208-28.3. The following documents shall be attached to an application for approval under Article 208-28.2:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) the written proof that the representative of the ultimate designated parent corporation stated in such application for approval has the due authority regarding the filing of such application for approval;
- (3) if the reason under Article 208-28.1 (3) is laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions;
- (4) if the reason under Article 208-28.1 (3) is the case other than laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, a written statement certifying such reason.

208-28.4. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 208-28.2 and he finds that it is practically impossible, in view of the laws or regulations or practices prevailing in its home country or for other unavoidable reason, for such ultimate designated parent corporation to provide a written statement containing the state of soundness of business management within 50 days after the end of a quarter, grant an approval under Article 208-28.1 of the Order for the filing of such documents for a quarter as from the quarter in which the date of application fell (the immediately preceding quarter if that date is within 50 days after the commencement of the quarter (or within the period for which such approval has been granted if such approval has been granted regarding the providing of such written statement for the immediately preceding quarter)) through the quarter immediately preceding the quarter in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 208-28.2 (3) for such application.

208-28.5. The Commissioner of the Financial Services Agency shall grant an approval under Article 208-28.1, on the condition that the designated parent corporation under Article 208-28.4

provides documents containing the following matters (in the case of the matter referred to in (2), limited to the case where the reason under Article 208-28.2 (3) is laws or regulations or practices prevailing in the home country of such ultimate designated parent corporation) to the Commissioner of the Financial Services Agency within 50 days after each quarter has passed: *Provided*, That the entry of the matter referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the quarter; and
- (2) written legal opinions regarding the matter referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations as referred to in such written legal opinions.

Article 208-29. — Procedures, etc. for Approval of Period for Making Written Statement Containing State of Soundness of Business Management Available for Public Inspection

208-29.1. An ultimate designated parent corporation which is a foreign corporation shall, when it wishes to obtain an approval pursuant to the proviso to Article 17-2-11.3 of the Order, file with the Commissioner of the Financial Services Agency an application for approval containing:

- (1) the name or trade name;
- (2) the period for which the ultimate designated parent corporation wishes to obtain such approval regarding making a written statement containing the state of soundness of business management available for public inspection;
- (3) reasons why such approval is required regarding making a written statement containing the state of soundness of business management available for public inspection.

208-29.2. The following documents shall be attached to an application for approval under Article 208-29.1:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) the written proof that the representative of the ultimate designated parent corporation stated in such application for approval has the due authority regarding the filing of such application for approval;
- (3) if the reason under Article 208-29.1 (3) is laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions;
- (4) if the reason under Article 208-29.1 (3) is the case other than laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation, a written statement certifying such reason.

208-29.3. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 208-29.1 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in its home country or for other an avoidable reason, for such ultimate designated parent corporation to keep a written statement containing the state of soundness of business management and make it available for public disclosure by the date on which two months have passed since the end of a quarter has passed, grant an approval under the proviso to Article 17-2-11.3 of the Order to such ultimate designated parent corporation for the written statement for a quarter as from the quarter in which the date of application fell (the immediately preceding quarter if that date is within two months after the commencement of the quarter (or within the period for which such approval has been granted if such approval has been granted regarding making the written statement available for public inspection for the immediately preceding quarter)) through the quarter immediately preceding the quarter in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 208-29.1 (3) for such application.

208-29.4. The Commissioner of the Financial Services Agency shall grant an approval under the proviso to Article 17-2-11.3 of the Order on the condition that an ultimate designated parent corporation under Article 208-29.3 provides documents containing the following matters (in the case of the matter referred to in (2), limited to the case where the reason under Article 208-29.1 (3) is laws or regulations or practices prevailing in the home country of the ultimate designated parent corporation) to the Commissioner of the Financial Services Agency within two months since the end of each quarter: *Provided*, That the entry of the matter referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the quarter; and

- (2) written legal opinions regarding the matter referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations as referred to in such written legal opinions.

Article 208-30. — Making Written Statement Containing State of Soundness of Business Management Available for Public Inspection

Keeping and making available for public disclosure pursuant to the provisions of Article 57-17.3 of the Act shall be made by a written statement prepared in accordance with the provisions of Article 180.

Article 208-31. — Notification of Merger, etc.

208-31.1. A notification pursuant to the provisions of Article 57-18.1 of the Act shall be made by filing with the Commissioner of the Financial Services Agency a notification stating the matters provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case of falling under Article 57-18.1 (1) of the Act — the following matters:
 - (a) the name or trade name of the counterparty of the merger;
 - (b) the date of, and reasons for, the merger;
 - (c) the method of the merger;
- (2) the case of falling under Article 57-18.1 (2) of the Act — the date of, and reasons for, filing petitions of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (3) the case of falling under Article 208-32 — matters referred to in the following (a) or (b) according to the classification of the cases referred to in such (a) or (b):
 - (a) the case where the ultimate designated parent corporation has fallen under Article 29-4.1 (1) (a) of the Act (limited to the portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act) — the following matters:
 - (i) the details of the same type of registration or license that the ultimate designated parent corporation is granted in a foreign jurisdiction pursuant to the provisions of laws or regulations in the foreign jurisdiction analogous to the Act;
 - (ii) the date of such registration, etc.;
 - (iii) the date of or reasons for the revocation of such registration, etc.;
 - (iv) the details of business for which registration, etc. has been revoked;
 - (b) the case where the ultimate designated parent corporation has fallen under Article 29-4.1 (1) (b) of the Act — the following matters:
 - (i) the provisions of the laws or regulations violated;
 - (ii) the date of the finalization of the penalty and the amount of fine;
- (4) the case of falling under Article 208-32 (2) — the following matters:
 - (a) the name of an officer who has fallen under any of (a) to (g) of Article 29-4.1 (2) of the Act;
 - (b) in the case where such officer has fallen under Article 29-4.1 (2) (a) of the Act, the date of judgment of commencement of guardianship or judgment of commencement of assistance;
 - (c) in the case where such officer has fallen under Article 29-4.1 (2) (b) of the Act, the date of the ruling of the commencement of bankruptcy proceedings;
 - (d) in the case where such officer has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, the date of finalization of the penalty or the type of the penalty;
 - (e) in the case where such officer has fallen under (d) or (e) of Article 29-4.1 (2) of the Act, the date of, and reasons for, the revocation;
 - (f) in the case where such officer has fallen under Article 29-4.1 (2) (f) of the Act, the date on which and reasons why the removal has been ordered;
- (5) the case of falling under Article 208-32 (3) — the following matters:
 - (a) the name or trade name of a parent corporation, etc. or subsidiary juridical person, etc. which has fallen under or has ceased to fall under;
 - (b) the date on which a parent corporation, etc. or subsidiary juridical person, etc. has become applicable or has ceased to be applicable;
- (6) the case of falling under Article 208-32 (4) — the following matters:
 - (a) the date of, and reasons for, filing petition of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
 - (b) the name or trade name of a person who has filed petition of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
- (7) the case of falling under Article 208-32 (5) — the following matters:
 - (a) the details of, or reasons for, the change;

- (b) the date of the change;
- (8) the case of falling under Article 208-32 (6) — the following matters:
 - (a) the name of a business office or other type of office where an act in violation of laws or regulations, etc. (including laws or regulations in a foreign jurisdiction) (limited to an act which may influence grossly on business management of such designated parent corporation or financial conditions of such designated parent corporation and its subsidiary juridical person, etc.; hereinafter in Articles 208-31.1 and 208-32, referred to as "accident, etc.") has occurred;
 - (b) the name, title and belonging of an officer or employee who has initiated an accident, etc.;
 - (c) the outline of an accident, etc.;
- (9) the case of falling under Article 208-32 (7) — the following matters:
 - (a) the name of a business office or other type of office where an accident, etc. has occurred;
 - (b) the name, title and belonging of an officer or employee who has initiated an accident, etc.;
 - (c) the details of an accident, etc.;
 - (d) in the case where internal disposition has been made, the detail thereof;
- (10) the case of falling under Article 208-32 (8) — matters provided in the following (a) or (b) according to the classification of the case referred to in such (a) or (b):
 - (a) the case of becoming a party of a lawsuit or arbitration — the following matters:
 - (i) the name and address or location of the party of the lawsuit or arbitration;
 - (ii) the date on which a petition for the lawsuit has been filed or arbitration has been offered;
 - (iii) the name of a competent court;
 - (iv) the details of the case;
 - (b) the case where a lawsuit or arbitration has been completed — the following matters:
 - (i) the name and address or location of the party of the lawsuit or arbitration;
 - (ii) the date on which a lawsuit or arbitration has been completed;
 - (iii) the details of the judgment or reconciliation;
- (11) the case of falling under Article 208-32 (9) — matters provided in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
 - (a) in the case of knowing that a major shareholder has fallen under (i) or (ii) of Article 29-4.1 (5) (d) of the Act — the following matters:
 - (i) the name of a major shareholder who has so fallen under;
 - (ii) in the case where such major shareholder has fallen under Article 29-4.1 (2) (a) of the Act, the date of becoming subject to judgment of commencement of guardianship or judgment of commencement of assistance or procedures similar thereto under laws or regulations in a foreign jurisdiction;
 - (iii) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under Article 29-4.1 (2) (b) of the Act, the date of the ruling of the commencement of bankruptcy proceedings;
 - (iv) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, the date of finalization of the penalty and the type of penalty;
 - (v) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under (d) or (e) of Article 29-4.1 (2) of the Act, the date of, and reasons for, the revocation;
 - (vi) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under the laws or regulations in a foreign jurisdiction has fallen under of Article 29-4.1 (2) (f) of the Act, the date on which, and reasons why, the removal has been ordered;
 - (b) in the case of knowing that a major shareholder has fallen under any of (i) to (iii) of Article 29-4.1 (5) (e) of the Act — the following matters:
 - (i) the name or trade name of a major shareholder who has so fallen under;
 - (ii) in the case where such major shareholder has fallen under Article 29-4.1 (1) (a) of the Act, the details and date of registration, etc. granted to such major shareholder and the date of, reasons for and the details of business subject to the revocation of such registration, etc.;
 - (iii) in the case where such major shareholder has fallen under Article 29-4.1 (1) (b) of the Act, the provisions of the laws or regulations violated, the date of finalization of the penalty and the amount of the fine;
 - (iv) in the case where such major shareholder has fallen under (5) (e) (iii) of Article 29-4.1 of the Act, the name of an officer who represents a juridical person falling under any of (2) (a) to (2) (g) of said Article 29-4.1;
 - (v) in the case where an officer representing the juridical person who is a major shareholder

- has fallen under Article 29-4.1 (2) (a) of the Act, the date of judgment of commencement of guardianship or judgment of commencement of assistance;
- (vi) in the case where an officer representing the juridical person who is a major shareholder has fallen under Article 29-4.1 (2) (b) of the Act, the date of the ruling of the commencement of bankruptcy proceedings;
- (vii) in the case where an officer representing the juridical person who is a major shareholder has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, the date of finalization of the penalty and the type of penalty;
- (viii) in the case where an officer representing the juridical person who is a major shareholder has fallen under (d) or (e) of Article 29-4.1 (2) of the Act, the date of, and reasons for, the revocation;
- (ix) in the case where an officer representing the juridical person who is a major shareholder has fallen under of Article 29-4.1 (2) (f) of the Act, the date on which, and reasons why, the removal has been ordered;
- (12) the case of falling under Article 208-32 (10) — the date of, and reasons for, ceasing to be a business corporation provided in Article 57-20.1 (4) of the Act;
- (13) the case of falling under Article 208-32 (11) — the following matters:
 - (a) the details of the penalties;
 - (b) the date of, and reasons for, the penalties;
- (14) the case of falling under Article 208-32 (12) (a) — the following matters:
 - (a) the name or trade name of a subsidiary juridical person, etc. and the name of its business office or other type of office where an accident, etc. has occurred;
 - (b) the name, title and belonging of an officer or employee who has initiated an accident, etc.;
 - (c) the details of an accident, etc.;
- (15) the case of falling under Article 208-32 (12) (b) — the following matters:
 - (a) the name or trade name of a subsidiary juridical person, etc. and the name of its business office or other type of office where an accident, etc. has occurred;
 - (b) the name, title and belonging of an officer or employee who has initiated an accident, etc.;
 - (c) the details of an accident, etc.;
 - (d) if an internal disposition has been made, the details thereof;
- (16) the case of falling under Article 208-32 (12) (c) — matters referred to in the following (a) or (b) according to the classification of the case referred to in such (a) or (b):
 - (a) the case of knowing that a subsidiary juridical person, etc. has become the party of the lawsuit or arbitration — the following matters:
 - (i) the name and address or location of the party of the lawsuit or arbitration;
 - (ii) the date on which a petition for the lawsuit has been filed or arbitration has been offered;
 - (iii) the name of a competent court;
 - (iv) the details of the case;
 - (b) the case of knowing that a lawsuit or arbitration in which a subsidiary juridical person, etc. is a party has been completed — the following matters:
 - (i) the name and address or location of the party of the lawsuit or arbitration;
 - (ii) the date on which the lawsuit or arbitration has been completed;
 - (iii) the details of the judgment or reconciliation;
- (17) the case of falling under Article 208-32 (12) (d) — matters referred to in the following (a) or (b) according to the classification of the case referred to in such (a) or (b):
 - (a) the case of borrowing a loan fund with special provisions of subordination or knowing that a subsidiary juridical person, etc. has borrowed a loan fund with special provisions of subordination — the following matters:
 - (i) the institution from which, and reason why, such borrowing has been made;
 - (ii) the amount of borrowing (in the case where such borrowing is denominated in a foreign currency, the amount of borrowing and the amount transferred into Yen) and the current balance, and the balance after the borrowing, of the loan funds;
 - (iii) the date, interest rate and term to maturity of the borrowing;
 - (b) the case of issuing a corporate debt security with special provisions of subordination or knowing that a subsidiary juridical person, etc. has issued a corporate debt security with special provisions of subordination — the following matters:
 - (i) the method of, and reason for, the issuance;
 - (ii) the total amount of the issue (in the case where such issue is denominated in a foreign currency, the total amount of the issue and the amount transferred into Yen) and the current balance, and the balance after the issue;
 - (iii) the date, interest rate and term to redemption of the issue;
- (18) the case of falling under Article 208-32 (12) (e) — the following matters:
 - (a) the amount and date of repayment or redemption;

- (b) the balance after the repayment or redemption.
- 208-31.2. Documents provided in each of the following items according to the classification of the case referred to in such item shall be attached to a notification under Article 208-31.1:
- (1) the case of falling under Article 57-18.1 (1) of the Act — the following documents:
 - (a) a written statement containing the details of the contract of the merger and procedures for the merger;
 - (b) the latest balance sheet of the party (including related notes);
 - (c) in the case of the ultimate designated parent corporation, a written statement containing the state of soundness of business management after the merger;
 - (2) the case of falling under Article 57-18.1 (2) of the Act — the following documents:
 - (a) a copy of a written statement of filing petitions of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings;
 - (b) the latest daily sheet;
 - (3) the case of falling under Article 308-32 (1) — documents provided in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
 - (a) the case of falling under Article 29-4.1 (1) (a) of the Act (limited to the portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act) — the following documents:
 - (i) a copy of a written statement to order revocation or a written statement equivalent thereto;
 - (ii) the laws and regulations in such foreign jurisdiction and its translation;
 - (b) the case of falling under Article 29-4.1 (1) (b) of the Act — a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (4) the case of falling under Article 308-32 (2) — the following matters:
 - (a) in the case where an officer has fallen under Article 29-4.1 (2) (a) of the Act, a copy of the judgment of the ruling of the commencement of guardianship or the ruling of the commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
 - (b) in the case where an officer has fallen under Article 29-4.1 (2) (b) of the Act, a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (c) in the case where an officer has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (d) in the case where an officer has fallen under (d) or (e) of Article 29-4.1 (2) of the Act (limited to the case of revocation in a foreign jurisdiction), laws or regulations in a foreign jurisdiction based on which such revocation has been made;
 - (5) the case of falling under Article 208-32 (3) — the following documents:
 - (a) documents containing the summary of business of the parent corporation or subsidiary juridical person, etc. which has so fallen under or has ceased to fall under;
 - (b) documents describing the relationship between a designated parent corporation and parent corporation or subsidiary juridical person, etc.;
 - (6) the case of falling under Article 208-32 (4) — the latest daily sheet;
 - (7) the case of falling under Article 208-32 (5) — the articles of incorporation after amendment;
 - (8) the case of falling under Article 208-32 (9) — documents referred to in the following (a) and (b) according to the classification of the cases referred to in such (a) and (b):
 - (a) in the case of knowing that a major shareholder has fallen under (i) or (ii) of Article 29-4.1 (5) (d) of the Act — the following documents:
 - (i) in the case where such major shareholder has fallen under Article 29-4.1 (2) (a) of the Act, a copy of the judgment of the ruling of the commencement of guardianship or the ruling of the commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
 - (ii) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under laws or regulations in a foreign jurisdiction has fallen under Article 29-4.1 (2) (b) of the Act, a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (iii) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under laws or regulations in a foreign jurisdiction has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (iv) in the case where such major shareholder or a statutory agent of an adult ward or assisted

- person or person who is so deemed under laws or regulations in a foreign jurisdiction has become subject to a penalty in a foreign jurisdiction, the laws or regulations in the foreign jurisdiction based on which such penalty has been imposed;
- (v) in the case where such major shareholder or a statutory agent of an adult ward or assisted person or person who is so deemed under laws or regulations in a foreign jurisdiction has become subject to revocation of registration, etc. in the foreign jurisdiction, laws or regulations in the foreign jurisdiction based on which such revocation of registration, etc. has been made;
- (b) in the case of knowing the fact that a major shareholder has fallen under any of (i) to (iii) of Article 29-4.1 (5) (e) of the Act — the following documents:
 - (i) in the case where such major shareholder has fallen under Article 29-4.1 (1) (a) of the Act, a copy of documents to order the revocation or a written statement equivalent thereto;
 - (ii) in the case where such major shareholder has fallen under (1) (a) of Article 29-4.1 of the Act or an officer representing a juridical person which is a major shareholder has fallen under (2) (d) or (2) (e) of said Article 29-4.1 (limited to the case of revocation of registration, etc. in a foreign jurisdiction), laws or regulations in the foreign jurisdiction based on which such revocation has been made;
 - (iii) in the case where such major shareholder has fallen under Article 29-4.1 (1) (b) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (iv) in the case where an officer representing such juridical person who is a major shareholder has fallen under Article 29-4.1 (2) (a) of the Act, a copy of the judgment of the ruling of the commencement of guardianship or the ruling of the commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
 - (v) in the case where an officer representing the juridical person who is a major shareholder has fallen under Article 29-4.1 (2) (b) of the Act, a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (vi) in the case where an officer representing the juridical person who is a major shareholder has fallen under (c) or (g) of Article 29-4.1 (2) of the Act, a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
 - (9) the case of falling under Article 208-32 (11) — laws or regulations in a foreign jurisdiction providing for such penalty;
 - (10) the case of falling under (12) (d) of Article 208-32 — the following documents:
 - (a) in the case of having borrowed a loan fund with special provisions of subordination or knowing that a subsidiary juridical person, etc. has borrowed a loan fund with special provisions of subordination, a copy of the contract;
 - (b) in the case of having issued a corporate debt security with special provisions of subordination or knowing that a subsidiary juridical person, etc. has issued a corporate debt security with special provisions of subordination, the prospectus or a copy of its equivalent.

Article 208-32. — Case of Notification of Merger, etc.

Case prescribed by the Cabinet Office Ordinance as provided in Article 57-18.1 (3) of the Act shall be:

- (1) the case of falling under (a) (limited to the portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act) or (b) of Article 29-4.1 (1) of the Act;
- (2) the case of knowing the fact that an officer has fallen under any of (a) to (g) of Article 29-4.1 (2) of the Act;
- (3) the case where a parent corporation, etc. or subsidiary juridical person, etc. has become applicable, or has ceased to be applicable, to other juridical person or other organization;
- (4) the case of knowing the fact that a petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings or commencement of reorganization proceedings has been filed (including, in the case of a foreign corporation, knowing the fact that the same type of petition has been filed in a jurisdiction where the principal business office is located under the laws or regulations in the foreign jurisdiction);
- (5) the case of amendment of the articles of incorporation;
- (6) the case of knowing that an officer or employee has caused an accident, etc.;
- (7) the case where the details of the accident, etc. under (6) has become clear;
- (8) the case of becoming a party of a lawsuit or arbitration (limited to those that will likely influence grossly on the business of such designated parent corporation or financial conditions of such designated parent corporation and its subsidiary juridical person, etc.) or the case of

- completion of such lawsuit or arbitration;
- (9) the case of knowing the fact that a major shareholder has fallen under any of (d) (i) or (d) (ii) or (e) (i) to (e) (iii) of Article 29-4.1 (5) of the Act;
 - (10) in the case of a domestic corporation, the case of falling under Article 57-20.1 (4) of the Act;
 - (11) in the case of a foreign juridical person, the case of becoming subject to penalties by an administrative office under laws or regulations in a foreign jurisdiction analogous to the Act (excluding the case of falling under Article 29-4.1 (1) (a) of the Act);
 - (12) with respect to the ultimate designated parent corporation, the following cases:
 - (a) the case of knowing that an officer or employee of a subsidiary juridical person, etc. has caused accident, etc. (excluding the case where a subsidiary juridical person, etc. is required to file a notification with the Commissioner of the Financial Services Agency or take other procedures pursuant to the provisions of the laws or regulations for such accident, etc.; in (b), the same);
 - (b) the case where the details of the accident, etc. under (a) has become clear;
 - (c) the case of a subsidiary juridical person, etc. has become a party of a lawsuit or arbitration (limited to those that will likely influence grossly on the business of such designated parent corporation or financial conditions of such ultimate designated parent corporation and its subsidiary juridical person, etc.) or the case of knowing that such lawsuit or arbitration has been completed (excluding the case where a subsidiary juridical person, etc. is required to file a notification with the Commissioner of the Financial Services Agency or take other procedures pursuant to the provisions of the laws or regulations for the lawsuit or arbitration);
 - (d) the case of having borrowed a loan with special provisions of subordination or the case of having issued a corporate debt security with special provisions of subordination or the case of having known that a subsidiary juridical person, etc. has borrowed a loan fund with special provisions of subordination or the case of having known that a subsidiary juridical person, etc. has issued a corporate debt security with special provisions of subordination (excluding the case where a subsidiary juridical person, etc. is required to file a notification with the Commissioner of the Financial Services Agency, etc. or take other procedures pursuant to the provisions of the laws or regulations for a loan fund with special provisions of subordination or a corporate debt security with special provisions of subordination; in (d), the same);
 - (e) the case of having made advance payment for a loan fund with special provisions of subordination or the case of having made advance redemption for a corporate debt security with special provisions of subordination (including having made repayment or redemption for a loan fund or corporate debt security without maturity date) or the case of having known that a subsidiary juridical person, etc. has made advance repayment for a loan fund with special provisions of subordination or having known that a subsidiary juridical person, etc. has made advance redemption for a corporate debt security with special provisions of subordination (including the case of knowing repayment or redemption for a loan fund or corporate debt security without maturity date).

Article 208-33. — Notification of Ceasing to be Parent Corporation, etc.

208-33.1. A person who files a notification pursuant to the provisions of Article 57-18.2 of the Act shall file with the Commissioner of the Financial Services Agency a notification stating the matters provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case of falling under Article 57-18.2 (1) of the Act — the fact and the date of ceasing to be a parent corporation;
- (2) the case of falling under Article 57-18.2 (2) of the Act — the following matters;
 - (a) the name or trade name of the counterparty of the merger;
 - (b) the date of, and reasons for, the merger;
 - (c) the method of the merger;
- (3) the case of falling under Article 57-18.2 (3) of the Act — the following matters;
 - (a) the date of filing a petition for the commencement of bankruptcy proceedings;
 - (b) the date of the ruling of the commencement of bankruptcy proceedings;
- (4) the case of falling under Article 57-18.2 (4) of the Act — the date of, and reasons for, the dissolution.

208-33.2. Documents provided in each of the following items according to the classification of the case referred to in such item shall be attached to a notification under Article 208-33.1:

- (1) the case of falling under Article 57-18.2 (2) of the Act — a written statement of the details of the contract of the merger and the procedures for the merger;
- (2) the case of falling under Article 57-18.2 (3) of the Act — a copy of the judgment of the

ruling of the commencement of bankruptcy proceedings or a written statement of the ruling of the commencement of bankruptcy proceedings;

Article 208-34. — Public Notice of Supervisory Disposition

A public notice pursuant to the provisions of Article 57-22 of the Act shall be given by an official gazette.

Subsection 3. Miscellaneous Provisions

Article 208-35.

The provisions of Articles 36 to 38 shall apply *mutatis mutandis* in the case of *mutatis mutandis* application of Articles 32.1 and 32.2 of the Act under Article 57-26.1 of the Act.

Section 5. Special Provisions for Foreign Firms

Subsection 1. Foreign Securities Firms

Article 208-36. — Exceptions for Restriction on Purchase or Sale, etc. of Security to Specific Investors in Respect of Foreign Securities Firm

The case prescribed by the Order Office Ordinance as the case where the protection of investors will be unlikely harmed as provided in Article 17-3 of the Order shall be any of the cases referred to in the items of Article 125-3.

Article 209. — Extent of Financial Institutions which are Allowed to Become Counterparty of Purchase or Sale, etc. of Security

A financial institution prescribed by the Cabinet Office Ordinance as provided in Article 17-3 (1) (b) of the Order shall be the following financial institutions (with respect to an agriculture cooperative association among financial institutions referred to in (8), limited to an agriculture cooperative association to which an eligible institutional investor is applicable):

- (1) banks;
- (2) insurance companies;
- (3) shinkin banks and the Shinkin Central Bank;
- (4) labor banks and the Rokinren Bank;
- (5) the Norinchukin Bank;
- (6) the Business Corporation Shokochukin Bank Limited;
- (7) credit cooperatives and federations of credit cooperatives (which means a federation of cooperatives which carry out the businesses referred to in Article 9-9.1 (1) of the Law on Cooperatives of Small Business, etc.);
- (8) agricultural cooperatives and federations of agricultural cooperatives which are allowed to accept money savings as a business.

Article 210.

A financial institution prescribed by the Cabinet Office Ordinance as provided in Article 17-3 (1) (d) of the Order shall be a financial institution referred to in the items of Article 209.

Article 211.

A financial institution prescribed by the Cabinet Office Ordinance as provided in Article 17-3 (1) (e) of the Order shall be a bank.

Article 212. — Purchase or Sale, etc. of Securities which is Allowed to Conduct for Customer Account

Act prescribed by the Cabinet Office Ordinance as provided in Article 17-3 (1) (e) of the Order shall be purchase or sale of a security or acts referred to in (3) or (5) of Article 28.8 of the Act conducted or performed in Japan by a bank with an order placed in writing by a foreign securities firm which is a customer for such foreign securities firm's account.

Article 213. — Act Related to Securities that Foreign Securities Firm are Allowed to Perform

213.1 Act prescribed by the Cabinet Office Ordinance as provided in Article 17-3 (2) (a) of the Order shall be:

- (1) purchase or sale of a security;
- (2) purchase or sale of a security or assuming the duties of an intermediary, broker or agent for order of transactions referred to in Article 28.8 (5) of the Act;
- (3) purchase or sale of a security or assuming the duties of an intermediary, broker or agent for order of transactions referred to in Article 28.8 (5) of the Act on a foreign financial instruments market.

213.2 Act prescribed by the Cabinet Office Ordinance as provided in Article 17-3 (2) (b) of the Order shall be purchase or sale of a security or transactions referred to in Article 28.8 (5) of the Act.

Article 214. — Notification in Respect of Discussion in Course of Underwriting Business

214.1 A foreign securities firm wishing to conduct discussions provided in Article 17-3.3 of the Order (hereinafter in Articles 214.1 and 214.3, referred to as "discussion") in Japan shall in advance file a notification stating the following matters (in the case where a foreign securities firm is an individual, excluding the matters referred to in (3) and (4)) with the Commissioner of the Financial Services Agency:

- (1) the name or trade name;
- (2) the location of the principal business office or the principal office;
- (3) the amount of capital or total amount of capital contributions;
- (4) the name and title of a representative officer;
- (5) the name and the address or place of residence in Japan of, or other place to communicate with, a person who holds such discussion;
- (6) the following matters projected regarding a security for which such discussion is made:
 - (a) the issuer or owner;
 - (b) the type;
 - (c) the volume and amount of money;
 - (d) the place and date of issuance or public sale; and
 - (e) other underwriting manager financial instruments firms (which means underwriting manager financial instruments firms as defined in Article 59-2.1 (6) (f) of the Act).

214.2 A notification under Article 214.1 shall be filed together with the following documents:

- (1) documents containing the details of business (in the case where such documents have the same details as documents filed together within one year before the day of a notification provided in Article 214.1, documents containing the date of filing together and the statement that such documents filed together shall be referred); and
- (2) documents containing the summary of business of underwriting of a security made in a foreign jurisdiction during the recent one year.

214.3 A notification provided in Article 214.1 shall not be required if the discussion is held for national government bonds or a corporate debt security or other type of a debt security the redemption and payment of interests of which is guaranteed by the national government issued in a foreign jurisdiction.

Subsection 2. Permission for Part of Underwriting Business

Article 215. — Person Deemed to Carry out Same Type of Business As Underwriting Business

A person prescribed by the Cabinet Office Ordinance as provided in Article 17-6.2 (5) of the Order shall be any of the persons referred to in the items of Article 15-16.1 of the Order or other person designated by the Commissioner of the Financial Services Agency as a person similar thereto.

Article 216. — Public Notice of Revocation of License

A public notice of revocation of license pursuant to the provisions of Article 59-5.3 of the Act shall be given by an official gazette.

Article 217. — Prohibited Act in Connection with Underwriting Business of Foreign Securities Firm

Act prescribed by the Cabinet Office Ordinance as provided in Article 38 (7) of the Act which is applied *mutatis mutandis* under Article 59-6 of the Act shall be an act to make false representation or representation which may give a false impression on importance matters

regarding underwriting business (which means underwriting business as defined in Article 59.1 of the Act).

Subsection 3. Permission for On-Exchange Trading Business

Article 218. — Application for Permission

A person who wishes to obtain a permission under Article 60-2.1 of the Act shall file an application for permission under Article 60-2.1 of the Act made in Form 18 with the Commissioner of the Financial Services Agency together with one copy of such application for permission and documents required to be attached to such application for permission pursuant to the provisions of Article 60-2.3 of the Act.

Article 219. — Other Statements in Application for Permission

Matter prescribed by the Cabinet Office Ordinance as provided in Article 60-2.1 (10) of the Act shall be the day on which business of the same type of trading as on-exchange trading (which means on-exchange trading as defined in Article 60.1 of the Act; hereinafter the same) has been commenced.

Article 220. — Type of Business and Manner of Operation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 60-2.3 (2) of the Act shall be:

- (1) principles of business management;
- (2) manner of business operation;
- (3) the method to divide the duties;
- (4) types of on-exchange trading carried out as a business;
- (5) system to settle grievances;
- (6) the state of ensuring the employment of an officer or employee having sufficient knowledge of the laws and regulations of financial instruments trading and the state of allocation of such officer and employee.

Article 221. — Attachments to Permission Application

Documents prescribed by the Cabinet Office Ordinance as provided in Article 60-2.3 (6) of the Act shall be:

- (1) a minutes of a board meeting, etc. (which means a board meeting or other organ similar thereto) which has resolved commencement of on-exchange trading business (which means on-exchange trading business provided in Article 60.1 of the Act; in (9), Article 223 and Article 229.1, the same);
- (2) a written statement certifying that the principal business office or on-exchange trading business office (which means an on-exchange trading office provided in Article 60-2.1 (3) of the Act; hereinafter the same) has obtained registration, etc. (which means registration, etc. provided in Article 59-5.1 (2) of the Act) in all of the jurisdiction where the principal business office or on-exchange trading business office is located;
- (3) a written statement certifying that all of the on-exchange trading business offices has continued to carry out the same type of business as on-exchange trading for three years or more or the case provided in Article 17-8.2 of the Order is applicable;
- (4) a written statement computing the amount net assets;
- (5) a resume of an officer, a representative in a jurisdiction where an on-exchange trading business office is located (which means a representative in a jurisdiction where an on-exchange trading business office as defined in Article 60-2.1 (3) of the Act is located; hereinafter the same) and a representative in Japan (hereinafter in Subsection 3, referred to as "officer, etc.") (if an officer is a juridical person, a written statement describing the history of such officer);
- (6) an abridged copy of the resident's card or a written statement equivalent thereto of an officer, etc. (if an officer is a juridical person, a registration statement of such officer);
- (7) a certificate issued by government offices or public offices that an officer, etc. falls under none of (a) or (b) of Article 29-4.1 (2) of the Act, or a written statement equivalent thereto;
- (8) a written statement in which an officer, etc. swears that such officer, etc. falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (9) a written statement describing the measures taken to prevent unfair trading by a terminal (which means an input and output device used by an applicant connecting with an electronic data processing and network system used by a financial instruments exchange) used for conducting on-exchange trading business.

Article 222. — Notification of Change in Statements in Permission Application

An on-exchange trading permit firm which is notifying pursuant to the provisions of Article 60-5.1 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. a notification containing the details of the change, date of change and reasons for change together with a written statement containing the details after the change made on Form 18 and a copy of such written statement and the documents provided in each of the following items according to the classification for the case referred to in such item:

- (1) the case of a change in the matter referred to in Article 60-2.1 (1) of the Act — a registration certificate stating matters concerning such change or a written statement equivalent thereto;
- (2) the case of a change in the matter referred to in Article 60-2.1 (2) of the Act — the following documents:
 - (a) a registration certificate stating matters concerning such change or a written statement equivalent thereto; and
 - (b) a written statement containing changes in the amount of net assets as a result of the change;
- (3) the case of a change in the matter referred to in Article 60-2.1 (3) of the Act — the following documents:
 - (a) a registration certificate stating matters concerning such change or a written statement equivalent thereto;
 - (b) the following documents related to a newly installed officer:
 - (i) a resume (if an officer is a juridical person, a written statement describing the history of the officer);
 - (ii) an abridged copy of the resident's card (if an officer is a juridical person, a registration statement of such officer) or a written statement equivalent thereto;
 - (iii) a certificate issued by government offices or public offices, or a written statement equivalent thereto, that an officer, etc. falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
 - (iv) a written statement in which an officer, etc. swears that such officer, etc. falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (4) the case of a change in the matter referred to in Article 60-2.1 (4) of the Act (limited to a change in the name of an on-exchange trading business office) — a registration certificate stating matters concerning such change or a written statement equivalent thereto;
- (5) the case of a change in the matter referred to in Article 60-2.1 (5) of the Act (limited to commencement of other business engagement) — documents describing the details of such other business engagement;
- (6) the case of a change in the matter referred to in Article 60-2.1 (7) of the Act (limited to establishment of an office or other facility in Japan) — a written statement containing an organization and staff allocation at the established office or other facility in Japan;
- (7) the case of a change in the matter referred to in Article 60-2.1 (8) of the Act — the following documents:
 - (a) a registration certificate stating matters concerning such change or a written statement equivalent thereto;
 - (b) the following documents related to a person who has become a representative in Japan newly:
 - (i) a resume;
 - (ii) an abridged copy of the resident's card or a written equivalent thereto;
 - (iii) a certificate issued by government offices or public offices, or a written statement equivalent thereto, that an officer in Japan falls under none of (a) or (b) of Article 29-4.1 (2) of the Act; and
 - (iv) a written statement in which an officer in Japan swears that such officer, etc. falls under none of (c) to (g) of Article 29-4.1 (2) of the Act.

Article 223. — Case Where Notification of Change is Required

Case prescribed by the Cabinet Office Ordinance as provided in Article 60-5.2 of the Act shall be:

- (1) the case of suspension or resumption of business (with respect to an on-exchange trading business office, limited to business related to on-exchange trading) at the principal business office or on-exchange trading business office;
- (2) the case of merger with an other juridical person, the case of causing succession to a part of business of an on-exchange trading permit firm or succeeding to the whole or part of business of

- any other juridical person as a result of demerger, or the case of assigning important part of business of an on-exchange trading permit firm or acquiring by assignment the whole or important part of business from any other juridical person;
- (3) the case of filing a petition for commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of liquidation or the case of filing similar type of petition in a jurisdiction where the principal business office or principal office is located under the laws or regulations in the foreign jurisdiction;
 - (4) the case of a change in the article of incorporation (limited to a change in a part related to on-exchange trading business or other important change);
 - (5) the case of commencement of on-exchange trading business;
 - (6) the case where a person provided in (a), (b), (d) to (f), (g) (limited to a portion related to the provisions of laws or regulations in a foreign jurisdiction analogous to the Act) or (h) of Article 60-3.1 (1) of the Act has become applicable;
 - (7) the case of knowing the fact that an officer, etc. has fallen under any of (a) to (g) of Article 29-4.1 (2) of the Act;
 - (8) the case where the amount of net assets has dropped below the amount of capital (excluding the case of falling under (6));
 - (9) the case of becoming subject to penalties imposed by an administrative office under the laws or regulations in a foreign jurisdiction analogous to the Act (limited to the case regarding business related to the same type of trading as on-exchange trading and excluding the case of falling under (6));
 - (10) the case of knowing that an officer or employee has committed an act in violation of the laws or regulations (in the case of an act related to business other than an on-exchange trading business or business incidental thereto, limited to an act which will likely have important influence on the business management or financial condition of such on-exchange trading business; in (11), referred to as "accident, etc."); and
 - (11) the case where the details of an accident, etc. notified under the provisions of (10) has become clear.

Article 224. — Notification of Change in Type of Business or Manner of Operation, etc.

An on-exchange trading permit firm which notifies pursuant to the provisions of Article 60-5.2 of the Act shall file with the competent Commissioner of the Financial Services Agency, etc. a notification stating the details of, date of and the reason for the change together with documents provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case where there has been a change in the matters referred to in the items of Article 223 — documents containing the matters referred to in the items of Article 223 (limited to matters subject to a change);
- (2) the case of falling under Article 223 (2) (limited to the case of merger) — the following documents:
 - (a) a written statement containing the details of the contract of the merger and procedures for the merger;
 - (b) the latest balance sheet of a party (including related notes; hereinafter in Article 224, the same);
 - (c) a written statement containing the amount of net assets after the merger;
 - (d) a written statement containing the method to settle a customer accounts;
- (3) the case of falling under Article 223 (2) (limited to the case of succession to the whole or part of business of any other juridical person as a result of demerger) — the following documents:
 - (a) a written statement containing the details of the contract of the absorption-type demerger and procedures for the demerger;
 - (b) the latest balance sheet of a party;
 - (c) a written statement containing the amount of net assets after the demerger;
- (4) the case of falling under Article 223 (2) (limited to the case of acquisition by assignment of the whole or part of business of any other juridical person) — the following documents:
 - (a) a written statement containing the details of the contract of the acquisition by assignment of business and procedures for the acquisition by assignment of business;
 - (b) the latest balance sheet of a party;
 - (c) a written statement containing the amount of net assets after the acquisition by assignment of business;
- (5) the case of falling under Article 223 (3) — the following documents:

- (a) a copy of a written statement of filing petitions of commencement of bankruptcy proceedings, commencement of rehabilitation proceedings, commencement of reorganization proceedings or commencement of liquidation;
- (b) the latest daily sheet;
- (6) the case of falling under Article 223 (4) — the articles of incorporation after the amendment;
- (7) the case of falling under Article 223 (6) (limited to the case of falling under Article 60-3.1 (1) (a) of the Act) — the following documents:
 - (a) a registration certificate of a corporation or a written statement equivalent thereto;
 - (b) a copy of the minutes of a shareholders' general meeting;
- (8) the case of falling under Article 223 (6) (limited to the case of falling under Article 60-3.1 (1) (f) of the Act) — a written statement containing the computation of the amount of net assets as of the day on which the amount of net assets has dropped below the amount provided in Article 17-9.1 of the Order;
- (9) the case of falling under Article 223 (6) (limited to the case of falling under Article 60-3.1 (1) (g) of the Act) — the following documents:
 - (a) a copy of documents to order revocation or a written statement equivalent thereto;
 - (b) such laws or order of the jurisdiction and its translation;
- (10) the case of falling under Article 223 (6) (limited to the case of falling under Article 60-3.1 (1) (h) of the Act) — a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
- (11) the case of falling under Article 223 (7) (limited to the case where an officer, etc. has fallen under Article 29-4.1 (2) (a) of the Act) — a copy of the judgment of the ruling of the commencement of guardianship or the ruling of the commencement of assistance or a written statement containing the details of the ruling of the commencement of guardianship or the ruling of the commencement of assistance;
- (12) the case of falling under Article 223 (7) (limited to the case where an officer, etc. has fallen under Article 29-4.1 (2) (b) of the Act) — a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
- (13) the case of falling under Article 223 (7) (limited to the case where an officer, etc. has fallen under (c) or (g) of Article 29-4.1 (2) of the Act) — a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
- (14) the case of falling under Article 223 (7) (limited to the case where an officer, etc. has fallen under (d) or (e) of Article 29-4.1 (2) of the Act and has become subject to revocation in a foreign jurisdiction) — a copy of documents to order revocation or a written statement equivalent thereto and the laws or regulations in the foreign jurisdiction based on which such revocation has been made and its translation;
- (15) the case of falling under Article 223 (8) — a written statement containing the computation of the amount of net assets; and
- (16) the case of falling under Article 223 (9) — the laws or regulations in a foreign jurisdiction providing for penalty and its translation.

Article 225. — Books and Records regarding Business Operations

225.1 Books and records that an on-exchange trading permit firm shall prepare and keep pursuant to the provisions of Article 46-2 of the Act which is applied *mutatis mutandis* under Article 60-6 of the Act shall be books and records referred to in (3), (4), (6), (9), (10) and (13) of Article 157.1 or documents prepared under the foreign laws or regulations which are similar to such books and records similar thereto (hereinafter in Article 225.1, referred to as "foreign books and records" and, if the foreign books and records are prepared in a foreign language, the following documents (in Article 225.2, referred to as "foreign books and records, etc.")):

225.2 Books and records provided in Article 225.1 shall be kept for seven years in respect of books and records referred to in Article 157.1 (3) and foreign books and records, etc. similar thereto or foreign books and records, etc. similar thereto since the date of preparation and ten years in respect of books and records referred to in (4), (6), (9), (10) and (13) of Article 157.1 or foreign books and records, etc. similar thereto since the date of preparation.

Article 226. — Submission of Business Report

A business report provided in Article 46-3.1 of the Act which is applied *mutatis mutandis* under Article 60-6 of the Act shall be made on Form 19.

Article 227. — Procedures, etc. for Approval of Deadline of Submission of Business Report

227.1 An on-exchange trading permit firm wishing to obtain an approval under the proviso to

Article 17-10.1 of the Order shall file with the competent Commissioner of the Financial Services Agency, etc. an application for approval stating the following matters:

- (1) the trade name;
- (2) a period for which the on-exchange trading permit firm wishes to obtain such approval regarding submission of such business report;
- (3) the last day of a business year concerned which is covered by such business report; and
- (4) the reasons why such approval is required for submission of such business report.

227.2 An application for approval under Article 227.1 shall be accompanied by the following documents:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) a written statement certifying that a representative of an on-exchange trading permit firm stated in such approval application is an duly authorized person for submission of such approval application; and
- (3) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such approval application and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

227.3. The competent Commissioner of the Financial Services Agency, etc. shall, if there has been an application for approval under Article 227.1 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in its home country, for such on-exchange trading permit firm to submit a business report within three months after the end of such period, grant an approval to such firm for the business report as from the business year in which the date of application fell (the immediately preceding period if that date is within three months after the commencement of the period (or within the period for which such approval has been granted if such approval has been granted regarding the submission of a business report for the immediately preceding period)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 227.1 (4) for such application.

227.4. An approval under Article 227.3 shall be granted on the condition that an on-exchange trading permit firm under Article 227.3 provides documents containing the following matters to the competent Commissioner of the Financial Services Agency, etc. within three months after the end of each business year; *provided*, that the entry of matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and orders as referred to in such written legal opinions.

Article 228. — Procedures for Approval of Deadline of Submission of Other Documents, etc.

228.1 An on-exchange trading permit firm wishing to obtain an approval under the proviso to Article 17-10.3 of the Order shall file with the competent Commissioner of the Financial Services Agency, etc. an application for approval stating the following matters:

- (1) the trade name;
- (2) a period for which the on-exchange trading permit firm wishes to obtain such approval regarding submission of such other documents, etc. (which means documents and written statements under Article 49-3.1 of the Act which is applied *mutatis mutandis* under Article 60-6 of the Act; hereinafter in Article 228, the same);
- (3) the last date of a business year which is covered by such other documents, etc.; and
- (4) the reasons that such approval is required for submission of such other documents, etc.

228.2 An application for approval under Article 228.1 shall be accompanied by the following documents:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) a written statement certifying that the representative of an on-exchange trading permit firm stated in such approval application is a duly authorized person for filing of such application of approval; and
- (3) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such approval application and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

228.3. The competent Commissioner of the Financial Services Agency, etc. shall, if there has been an application for approval under Article 228.1 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in its home country, for such on-exchange trading permit firm to submit the other documents, etc. within three months after the end of the

business year, grant an approval to such firm for the other documents, etc. for business years as from the business year in which the date of application fell (the immediately preceding period if that date is within three months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding the submission of other documents, etc. for the immediately preceding business year)) through the business year immediately preceding the period in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 228.1 (4) for such application.

228.4. An approval under Article 228.3 shall be granted on the condition that an on-exchange trading permit firm under Article 228.3 provides documents containing the following matters to the competent Commissioner of the Financial Services Agency, etc. within three months after the end of each period; *provided*, that the entry of matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the period; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and orders as referred to in such written legal opinions.

Article 229. — Report regarding Business and Financial Condition

229.1 The provisions of Article 173 (excluding (2)) shall apply *mutatis mutandis* to a report regarding on-exchange trading business and financial conditions of an on-exchange trading permit firm provided in Article 46-3.2 of the Act which is applied *mutatis mutandis* under Article 60-6 of the Act. For this purpose, "each business year (in the case where such financial instruments firm is a foreign juridical person, the period from April 1 to March 31 of the following year; in (2) and Article 174, the same)" in Article 173 (1) shall be read as "each business year".

229.2 The provisions of Article 194.1 shall apply *mutatis mutandis* to documents regarding financial account provided in Article 49-3.1 of the Act which is applied *mutatis mutandis* under Article 60-6 of the Act; and the provisions of Article 194.2 shall apply *mutatis mutandis* to a written statement describing the summary of business provided in Article 49-3.1 of the Act which is applied *mutatis mutandis* under Article 60-6 of the Act. For these purposes, "Article 49-3.1 of the Act" in Articles 194.1 and 194.2 shall be read as "Article 49-3.1 of the Act which is applied *mutatis mutandis* under Article 60-6 of the Act" and "which is applied after amended reading under Article 49-2.1 of the Act" in Article 194.2 shall be read as "which is applied *mutatis mutandis* under Article 60-6 of the Act".

Article 230. — Public Notice of Revocation of Permission, etc.

Public notice pursuant to the provisions of Article 60-8.3 of the Act shall be made by an official gazette.

Article 231. — Prohibited Acts in connection with On-Exchange Trading Business

231.1. Acts prescribed by the Cabinet Office Ordinance as provided in Article 38 (7) of the Act which is applied *mutatis mutandis* under Article 60-13 of the Act shall be the following acts:

- (1) an act that an officer (in the case where an officer is a juridical person, including a partner to perform the duty of an officer), a representative in Japan or employee of an on-exchange trading permit firm uses its responsibility to conduct purchase or sale or other type of transaction, etc. of a security based on information of customers' behavior regarding orders for purchase or sale or other type of transaction, etc. of a security or other special information obtained in the course of carrying out the duties;
- (2) an act to conduct acceptance, etc. of an order for purchase or sale or other type of transaction, etc. of a security despite knowing that such purchase or sale or other type of transaction, etc. of a security conducted by a customer violates or will likely violate the provisions of Article 166.1 or 166.3 of the Act or Article 167.1 or 167.3 of the Act;
- (3) an act, in respect of purchase or sale or other type of transaction of a security or securities related derivatives transaction or acting as an intermediary, broker or agent therefor, to solicit a customer by furnishing the customer with corporate related information of the issuer of the security;
- (4) an act to conduct purchase or sale or other type of transaction, etc. of a security (in the case where such purchase or other type of transaction, etc. of a security is purchase or sale of a security, excluding purchase or sale of a security concluded when an option (including a right similar to an option which is concerned with a transaction similar to Article 28.8 (3) (c) (i) of the Act among foreign market derivatives transactions) has been exercised) in connection with

- corporate related information for its house account based on such corporate related information;
- (5) an act to solicit unspecified and many customers, concurrently and excessively, continuously for a certain period to conduct purchase or sale or market derivatives transaction of a specific and small number of issue names of security or to made an order placement, etc. therefor and likely to fail to form fair prices (in the case of market derivatives transaction, matters equivalent to prices);
 - (6) an act, with the intent to move, peg, fix or stabilize market prices or value computed based on market prices or trading volume of or increase trading volume of a listed financial instrument, etc. on an on-exchange financial instruments market, to conduct purchase or sale or derivatives transaction of the listed financial instruments, etc. or make an offer therefor or make an order placement, etc. therefor;
 - (7) an act, despite knowing that moving, pegging, fixing or stabilizing market prices or value computed based on market prices or trading volume of or increase trading volume of a listed financial instrument, etc. on an on-exchange financial instruments market will make prices artificial which do not reflect the real market price, to make acceptance, etc. to conduct purchase or sale or derivatives transaction (excluding security, etc. clearing broking) of the listed financial instruments, etc.; and
 - (8) an act that an on-exchange trading permit firm which has conducted stabilization transactions or acceptance, etc. of an order therefor (excluding acceptance of an order for security, etc. clearing broking) conducts, during the period from the time of the first stabilization transaction until the end of the stabilization period provided in Article 24.1 of the Order, without representing that stabilization transactions have been conducted for a security subject to such stabilization transactions, acceptance, etc. of an order for purchase, or sale (excluding acceptance, etc. of an order for purchase from a financial instruments firm, etc., sale to a financial instruments firm, etc. and security, etc. clearing broking in connection with sale), of a share certificate, market price share warrant certificate, corporate debt security with market price share warrant, preferred capital contribution certificate or investment certificate issued by an issuer of such security or acceptance, etc. of an order (excluding acceptance, etc. of an order from a financial instruments firm, etc.) for securities related derivatives transaction (limited to acquisition of a call or granting a put) for purchase or sale of such security.
- 231.2. The provisions of (6) and (7) of Article 231.1 shall not apply in the case where a series of purchase or sale, etc. of a security are conducted on an on-exchange financial instruments market for the purpose of facilitating public offer (limited to public offer to more than 49 persons) or solicitation of subscription to specific investors (limited to solicitation of subscription to more than 49 persons) of a security or public sale (limited to public sale to more than 49 persons) or solicitation of sale, etc. to specific investors (limited to solicitation of sale, etc. to more than 49 persons) of a security, such series of purchase or sale, etc. of a security or making an order placement, etc. therefor.

Article 232. — State of Business Management Which Will Likely Be Inconsistent with Public Interest or Constitute Failure of Protection of Investors

State prescribed by the Cabinet Office Ordinance as provided in Article 40 (2) of the Act which is applied *mutatis mutandis* under Article 60-13 of the Act shall be:

- (1) the state that a financial instruments firm, etc. is determined to have failed to take measures necessary and appropriate to prevent unfair transaction using corporate related information in respect of management of corporate related information handled by the financial instruments firm, etc. or management of information regarding purchase or sale or other type of transaction, etc. of a security by a customer; and
- (2) the state that a financial instruments firm, etc. is determined to have failed to make sufficient trade control to prevent an act of acceptance, etc. of an order for purchase or sale or derivatives transaction of a listed financial instrument, etc. on an on-exchange financial instruments market which will likely form artificial prices or value not reflecting the real market prices or value by means of moving, pegging, fixing or stabilizing market prices or value computed based on market prices or trading volume of, or increasing trading volume of, such listed financial instrument, etc.

Subsection 4. Establishment of Facility Used for Collection of Information

Article 233

233.1. Person, among persons carrying out business having a close relationship with securities

related business, prescribed by the Cabinet Office Ordinance as provided in Article 62.1 of the Act shall be:

- (1) a person who performs an act referred to in (7) or (17) of Article 2.8 of the Act as a business in a foreign jurisdiction in accordance with the laws or regulations in the foreign jurisdiction;
- (2) a person who performs the act referred to in Article 2.8 (16) of the Act (excluding acceptance of deposit of money from a customer regarding such person's acts referred to in (1) to (10) of Article 2.8 of the Act (excluding acts falling under the items of Article 28.8 of the Act) as a business in a foreign jurisdiction in accordance with the laws or regulations in the foreign jurisdiction; and
- (3) a person who carries out business, which is the same type as business that a trust company carries out, in a foreign jurisdiction in accordance with the laws or regulations in the foreign jurisdiction.

233.2. Matters prescribed by the Cabinet Office Ordinance as provided in Article 62.1 of the Act shall be the following matters (in the case where a foreign securities firm is an individual, excluding the matters referred to in (4) and (5)):

- (1) the name or trade name;
- (2) the location of the principal business office or the principal office;
- (3) the type of business;
- (4) the amount of capital or total amount of capital contributions;
- (5) the name and title of a representative officer;
- (6) the following matters regarding a facility to be established in Japan:
 - (a) the name;
 - (b) the name and the address in Japan of the representative;
 - (c) the reason for the establishment;
 - (d) the number of employees; and
 - (e) the projected date of establishment.

Section 6. Special Provisions for Eligible Institutional Investors, etc. Business Subject to Special Provisions

Article 234. — Same Type of Interest in New Issue

Other interest prescribed by the Cabinet Office Ordinance, which is the same type as such interests provided in Article 17-12.3 (2) (b) of the Order shall be an interest, as a security, which is issued by the same issuer and the same capital contribution object project as the interest as a security.

Article 235. — Person Excluded from Eligible Institutional Investor, etc.

Person prescribed by the Cabinet Office Ordinance as provided in Article 63.1 (1) (c) of the Act shall be:

- (1) a special-purpose company if a person other than eligible institutional investors acquires an interest represented by any of the securities referred to in (5), (9) or (15) of Article 2.1 of the Act or the security referred to in (17) of said Article 2.1 (limited to a security having the same nature as any of securities referred to in (5), (9) or (15) of said Article 2.1) or any of interests referred to in (3) or (4) of Article said 2.1 (excluding an interest which does not have a right to receive the payment of properties exceeding the amount of consideration for the acquisition thereof) issued by the special-purpose company;
- (2) a person who, based on a contract or other juristic act in connection with investment business in an interest referred to in (5) or (6) of Article 2.2 of the Act (limited to a contract or other juristic act if an interest referred to in (5) or (6) of said Article 2.2 is applicable to an interest based on such contract or other juristic act) and with a person, as a counterparty, other than eligible institutional investors (excluding the following contracts or other juristic acts), uses or wishes to use money or other property contributed by such counterparty to carry out such investment business:
 - (a) in the case where the total of the following numbers is less than 50, a contract of investment business limited liability association and contract of limited liability business association in connection with such investment business (including a contract based on the laws or regulations in a foreign jurisdiction similar thereto; in (ii), the same):
 - (i) the number of persons, other than eligible institutional investors, having an interest based on a contract or juristic act in connection with investment object business for which money or other property contributed as such investment business is used (excluding a person who

- carries out or wishes to carry out such investment business); and
- (ii) the number of persons, other than eligible investors, having an interest based on a contract of investment business limited liability association and contract of limited liability business association (excluding a contract in which a person who carries out, or wishes to carry out, such investment business is a financial instruments firm, etc. (limited to a person who carries out investment management business)) in connection with such investment business;
- (b) in the case where a person who carries out, or wishes to carry out, such investment business and a person who uses, or wishes to use, such money or other property contributed as such investment business to carry out capital contribution object project is the same person, and the total of the following numbers is less than 50, a contract or other juristic act of such investment business:
 - (i) the number of persons, other than eligible institutional investors, having an interest based on a contract or juristic act in connection with such investment object business (excluding a person who carries out or wishes to carry out, such investment business); and
 - (ii) the number of persons, other than eligible institutional investors, having an interest based on a contract or other juristic act of such investment business.

Article 236. — Notification of Eligible Institutional Investors, etc. Business Subject to Special Provisions

236.1 A person who notifies pursuant to the provisions of Article 63.2 of the Act shall file a notification of eligible institutional investors, etc. business subject to special provisions made on Form 20 with the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office, etc. of such person (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) together with a copy of such notification.

236.2 A notification under Article 236.1 may be filed on a form equivalent to Form 20 and stated in English.

Article 237. — Employee of Filing Person of Business Subject to Special Provisions

237.1. A person in a position prescribed by the Cabinet Office Ordinance as provided in Article 17-13 (1) of the Order shall be a division manager, assistant division manager, section manager or any other employee, whatever title such person may hold, who is authorized to act as a person responsible for the overall control of the business provided in said Article 17-13 (1).

237.2. A person in a position prescribed by the Cabinet Office Ordinance as provided in Article 17-13 (2) of the Order shall be a person who make an investment judgment on the basis of the analysis of values, etc. of financial instruments.

Article 238. — Notification of Eligible Institutional Investors, etc. Business Subject to Special Provisions

Matters prescribed by the Cabinet Office Ordinance as provided in Article 63.2 (8) of the Act shall be, in the case of performing any of the acts referred to in the items of Article 194-6.3 of the Act as a business, such fact.

Article 239. — Notification of Changes in Matters Notified for Eligible Institutional Investors, etc. Business Subject to Special Provisions

239.1. A filing person of business subject to special provisions who notifies pursuant to the provisions of Article 63.3 of the Act shall file a notification stating the detail of, the date of and reasons for the change with, in the case of a filing person of business subject to special provisions designated by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 42.2 of the Order, the Commissioner of the Financial Services Agency or, in the case of other filing person of business subject to special provisions, the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office, etc. of such notifying person of business subject to special provisions (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) together with a written statement containing the detail after the change made on Form 20 and a copy of such written statement.

239.2. A notification under Article 239.1 may be stated in English.

239.3. A written statement under Article 239.1 may be made on a form equivalent to Form 20 and stated in English.

Article 240. — Notification in Case Where Eligible Institutional Investors, etc. Business Subject to Special Provisions ceased to be Applicable

240.1. A filing person of business subject to special provisions who notifies pursuant to the provisions of Article 63.6 of the Act shall file a notification stating the fact and the date of and the reason for having ceased to be applicable, in the case of a filing person of business subject to special provisions designated by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 42.2 of the Order, the Commissioner of the Financial Services Agency or, in the case of other filing person of business subject to special provisions, the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office, etc. of such notifying person of business subject to special provisions (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan).

240.2. A notification under Article 240.1 may be stated in English.

Article 241. — Notification of Succession to Status of Eligible Institutional Investors, etc. Business Subject to Special Provisions

241.1. A person who notifies pursuant to the provisions of Article 63-2.2 of the Act shall file a notification stating the following matters, in the case where a filing person of business subject to special provisions under Article 63-2.1 of the Act is designated by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 42.2 of the Order, the Commissioner of the Financial Services Agency or, in the case of other filing person of business subject to special provisions, the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office, etc. of such notifying person of business subject to special provisions (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan):

- (1) the name or trade name of a person who has so succeeded;
- (2) the date of and the reason for the succession; and
- (3) the method of the succession.

241.2. A notification under Article 241.1 may be stated in English.

Article 242. — Notification of Cessation of Business by Filing Person of Business Subject to Special Provisions

242.1. A filing person of business subject to special provisions pursuant to the provisions of Article 63-2.3 of the Act shall file a notification stating the matter provided in each of the following items according to the classification of the case referred to in such item, in the case of a filing person of business subject to special provisions designated by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 42.2 of the Order, the Commissioner of the Financial Services Agency or, in the case of other filing person of business subject to special provisions, the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office, etc. of such notifying person of business subject to special provisions (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan):

- (1) the case of falling under Article 63-2.3 (1) of the Act — the period of suspension or the date of resumption and the reason for the suspension or resumption; or
- (2) the case of falling under Article 63-2.3 (2) of the Act — the date of and the reason for the cessation.

242.2. A notification under Article 242.1 may be stated in English.

Article 243. — Notification of Dissolution of Filing Person of Business Subject to Special Provisions

243.1. A person who notifies pursuant to the provisions of Article 63-2.4 of the Act shall file a notification stating the date of and the reason for the dissolution, in the case where such notifying person of business subject to special provisions for such notification is a filing person of business subject to special provisions designated by the Commissioner of the Financial Services Agency pursuant to the provisions of Article 42.2 of the Order, the Commissioner of the Financial Services Agency or, in the case of other filing person of business subject to special provisions, the director-general of a local finance bureau who has the jurisdiction over the location of the principal

business office, etc. of such notifying person of business subject to special provisions (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan).

243.2. A notification under Article 243.1 may be stated in English.

Article 244. — Notification of Eligible Institutional Investors, etc. Business Subject to Special Provisions by Financial Instruments Firm, etc.

A financial instruments firm, etc. (which means a financial instruments firm, etc. as defined in Article 63-3.1 of the Act; hereinafter in Articles 244 to 246, the same) who notifies pursuant to the provisions of Article 63-3.1 of the Act shall file a notification regarding eligible institutional investors, etc. business subject to special provisions made on Form 21 with the competent Commissioner of the Financial Services Agency, etc. together with a copy of such notification.

Article 245. — Notification by Financial Instruments Firm, etc. in Case where Eligible Institutional Investors, etc. Business Subject to Special Provisions Ceased to be Applicable

A financial instruments firm, etc. who notifies pursuant to the provisions of Article 63.6 of the Act which is applied *mutatis mutandis* under Article 63-3.2 of the Act shall file a notification stating the fact and the date of or reason for having ceased to be applicable with the competent Commissioner of the Financial Services Agency, etc.

Article 246. — Notification by Financial Instruments Firm, etc. of Cessation, etc. of Eligible Institutional Investors, etc. Business Subject to Special Provisions

A financial instruments firm, etc. who notifies pursuant to the provisions of Article 63-2.3 of the Act which is applied *mutatis mutandis* under Article 63-3.2 of the Act shall file a notification stating the matter provided in each of the following items according to the classification of the case referred to in such item with the competent Commissioner of the Financial Services Agency, etc.:

- (1) the case of falling under Article 63-2.3 (1) of the Act which is applied *mutatis mutandis* under Article 63-3.2 of the Act — the period of suspension or the date of resumption and the reason for the suspension or resumption; or
- (2) the case of falling under Article 63-2.3 (2) of the Act which is applied *mutatis mutandis* under Article 63-3.2 of the Act — the date of and the reason for the cessation.

Section 7. Sales Representatives

Article 247. — Entries in Sales Representative Registry Book

Matters prescribed by the Cabinet Office Order as provided in Article 64.1 of the Act shall be:

- (1) the name or trade name of an applicant for registration;
- (2) regarding the sales representative:
 - (a) the distinction of officer (in the case of a foreign juridical person, an officer (including a director, accounting partner, auditor and executive officer or a person in a position similar thereto) located in a business office or other type of office Japan) or employee; and
 - (b) if a sales representative was ordered to suspend the duties pursuant to the provisions of Article 64-5.1 of the Act, the date of the disposition, reason and period.

Article 248. — Place to Keep Sales Representative Registry Book

Places prescribed by the Cabinet Office Order as provided in Article 64.1 of the Act shall be local finance bureaus and Fukuoka Finance Branch (in the case of the registration book for sales representatives of a financial instruments firm, etc. for which an association (which means an association provided in said Article 64-7.1; hereinafter the same) conducts registration administration (which means registration administration as defined in Article 64-7.1 of the Act; hereinafter the same) pursuant to the provisions of Article 64-7.1 or 64-7.2 of the Act, such association).

Article 249. — Registration Application

A financial instruments firm, etc. wishing to register under Article 64.1 of the Act shall file a registration application as provided in Article 64.3 of the Act made on Form 22 with the competent director-general of a local finance bureau, etc. together with a copy of such registration application and documents required to be attached to such registration application pursuant to the provisions of Article 64.4 of the Act.

Article 250. — Entries in Registration Application

Matters prescribed by the Cabinet Office Ordinance as provided in Article 64.3 (4) of the Act shall be whether a sales representative for whom the registration application is filed has experience of financial instruments business and, in the case of a person who has experience of financial instruments business, the period.

Article 251. — Attachments to Registration Application

Documents prescribed by the Cabinet Office Ordinance as provided in Article 64.4 of the Act shall be:

- (1) an abridged copy of the resident's card, or a written statement equivalent thereto, of a sales representative for whom the registration application is filed; and
- (2) a written statement in which an applicant or sales representative for whom the registration application is filed swears that such sales representative falls under none of the items of Article 64-2.1 of the Act.

Article 252. — Notification of Changes, etc. in Registered Matters

252.1. A financial instruments firm, etc. which files a notification pursuant to the provisions of Article 64-4 (1) of the Act shall file a notification of change made on Form 23 with the competent director-general of a local finance bureau, etc.

252.2. A financial instruments firm, etc. which files a notification pursuant to the provisions of (2) or (3) of Article 64-4 of the Act shall file with the competent director-general of a local finance bureau, etc. the notification stating matters provided in each of the following items according to the classification of the case in such item:

- (1) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under Article 29-4.1 (2) (a) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under; and
 - (b) the date of judgment to commence guardianship or judgment to commence assistance;
- (2) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under Article 29-4.1 (2) (b) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under; and
 - (b) the date of the ruling of the commencement of bankruptcy proceedings;
- (3) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under (c) or (g) of Article 29-4.1 (2) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under; and
 - (b) the date of finalization of criminal penalty and type of criminal penalty;
- (4) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under (d) or (e) of Article 29-4.1 (2) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under; and
 - (b) the date of, and reasons for, the revocation;
- (5) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under Article 29-4.1 (2) (f) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under; and
 - (b) the date of or reason for the order of removal;
- (6) the case of falling under Article 64-4 (3) of the Act — the following matters:
 - (a) the name of a person who has ceased engagement; and
 - (b) the reason for cessation of engagement in the duties of sales representative.

252.3. A financial instruments firm, etc. which files a notification pursuant to the provisions of (2) or (3) of Article 64-4 of the Act shall attach the documents provided in each of the following items in the case where the case referred to in such item is applicable to a notification stating the matters provided in Article 252.2:

- (1) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under Article 29-4.1 (2) (a) of the Act) — a copy of judgment of ruling to commence guardianship or ruling to commence assistance or a written statement describing the details of ruling to commence guardianship or ruling to commence assistance;
- (2) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under Article 29-4.1 (2) (b) of the Act) — a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement describing the details of the ruling of the commencement of bankruptcy proceedings;
- (3) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under (c) or (g) of Article 29-4.1 (2) of the Act) — a copy of the finalized judgment or a written statement containing the details of the finalized judgment; or
- (4) the case of falling under Article 64-4 (2) of the Act (limited to the case of falling under (d) or

(e) of Article 29-4.1 (2) of the Act and revocation in a foreign jurisdiction) — a copy of documents to order revocation, or a written statement equivalent thereto, and the laws or regulations in a foreign jurisdiction based on which the revocation has been made and its translation.

Article 253. — Notification at Time of Resignation of Sales Representative

A financial instruments firm, etc. wishing to notify pursuant to the provisions of Article 64-4 (3) of the Act shall, in the case where the sales representative is involved in a fact falling under Article 64-5.1 (2) of the Act, furnish the competent director-general of a local finance bureau, etc. with a written statement containing the details of such fact under the provisions of Article 50.1 of the Act before such notification.

Article 254. — Registration Administration by Association concerning Sales Representative

Under the provisions of Articles 64-7.1 and 64-7.2 of the Act, an association shall perform the following operations regarding registration in respect of a sales representative of a financial instruments firm, etc. which is a member of the association, and an association designated by the Commissioner of the Financial Services Agency shall perform such operations in respect of a sales representative of a financial instruments firm, etc. which is a member of none of the associations pursuant to the provisions of Article 64-7.2 of the Act:

- (1) acceptance of registration application pursuant to the provisions of Article 64.3 of the Act;
- (2) registration pursuant to the provisions of Article 64.5 of the Act;
- (3) notice pursuant to the provisions of Article 64.6, 64-2.3 and 64-5.3 of the Act;
- (4) refusal of registration pursuant to the provisions of Article 64-2.1 of the Act;
- (5) hearing pursuant to the provisions of Article 64-2.2 of the Act;
- (6) acceptance of a notification pursuant to the provisions of Article 64-4 of the Act;
- (7) revocation of registration and issuance of an order to suspend duties pursuant to the provisions of Article 64-5.1 of the Act;
- (8) hearing pursuant to the provisions of Article 64-5.2 of the Act; and
- (9) erasion of registration pursuant to the provisions of Article 64-6 of the Act.

Article 255. — Notification to Director-General of Local Finance Bureau, etc.

An association which files a notification pursuant to the provisions of Article 64-7.5 of the Act shall file a notification stating the following matters with the director-general of a local finance bureau which has the jurisdiction over the location of the principal business office, etc. of a financial instruments firm, etc. to which a sales representative, for whom the registration administration is performed, belongs (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan):

- (1) the name or trade name of a financial instruments firm, etc. to which the sales representative, for whom the registration administration is performed, belongs;
- (2) the name and date of birth of the sales representative, for whom the registration administration is performed;
- (3) the details of registration administration processed and the date of processing; and
- (4) in the case where the registration administration under (3) is concerned with an order to suspend the duties or erasion of registration, the reason therefor.

Article 256. — Amount of Registration Fee

256.1. Amount prescribed by the Cabinet Office Order as provided in Article 17-15.1 of the Order shall be ¥1,000.

256.2. If the fee is paid in cash pursuant to the proviso to Article 17-15.2 of the Order, such payment shall be made based on the payment information obtained from the registration application under Article 64.1 of the Act (including the *mutatis mutandis* application under Article 66-25 of the Act) using an electronic data processing and network system as defined in Article 3.1 of the Law on the Use of Information Technology in Administrative Procedures, etc. (Law No. 151 of 2002) pursuant to the provisions of said Article 3.1.

CHAPTER III
FINANCIAL INSTRUMENTS INTERMEDIARY FIRM

Section 1. General Provisions

Article 257. — Application for Registration

A person who wishes to register under Article 66 of the Act shall file an application for registration under Article 66-2.1 of the Act made on Form 24 with the director-general of a local finance bureau who has the jurisdiction over the location of the principal business office, etc. of such person (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) together with one copy of such application for registration and documents or an electronic or magnetic record required to be attached to such application for registration pursuant to the provisions of Article 66-2.2 or 66-2.3 of the Act.

Article 258. — Entries in Registration Application

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-2.1 (6) of the Act shall be:

- (1) in the case where an applicant is an individual and engaged in regular duty of an other corporation, the trade name and type of business of such other corporation;
- (2) in the case where an applicant is a juridical person and its officer is engaged in regular duty of an other corporation or engaged in other business, the name of such officer and the trade name and type of business of such other corporation or the type of such other business; and
- (3) in the case where there are more than one belonging financial instruments firm, etc., the name or trade name of a belonging financial instrument firm, etc. which compensates losses caused by an accident (which means an accident as defined in Article 39.3 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act; hereinafter in (3), Articles 277 to 279 and Article 281 (12) (c), the same) of the applicant for registration.

Article 259. — Type of Business and Manner of Operation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-2.2 (2) of the Act shall be:

- (1) the type of business and manner of operation; and
- (2) the method to divide the duties in the case of a juridical person.

Article 260. — Attachments to Registration Application

Documents prescribed by the Cabinet Office Ordinance as provided in Article 66-2.2 (4) of the Act shall be:

- (1) in the case of a juridical person:
 - (a) the resume of an officer (if an officer is a juridical person, a written statement containing the history of the officer);
 - (b) an abridged copy of the resident's card, or a written statement equivalent thereto, of an officer (if an officer is a juridical person, a registration certificate of the officer);
 - (c) a certificate issued by government offices or public offices, or a written statement equivalent thereto, that an officer falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
 - (d) a written statement in which an officer swears that such officer falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (2) in the case of an individual:
 - (a) the resume;
 - (b) an abridged copy of the resident's card or a written statement equivalent thereto;
 - (c) a certificate issued by government offices or public offices, or its equivalent, that the applicant for registration falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
- (3) a copy of a contract of commissioning of financial instruments intermediary business between the applicant for registration and a belonging financial instruments firm, etc.; and
- (4) a copy of a contract related to the matter referred to in Article 258 (3).

Article 261. — Electronic or Magnetic Records

261.1. An electronic or magnetic record prescribed by the Cabinet Office Ordinance as provided in Article 66-2.3 of the Act shall be a magnetic disk with the structure of 90 mm flexible disk cartridge conforming with JIS X6223.

- 261.2. An electronic or magnetic record under Article 261.1 shall be recorded by:
- (1) with respect to the track format, the method specified in JIS X6225; and
 - (2) with respect to the volume and file composition, the method specified in the JIS X0605.
- 261.3. An electronic or magnetic record under Article 261.1 shall have a label in the label area specified in JIS X6223 stating:
- (1) the name or trade name of the applicant for registration; and
 - (2) the filing date of the application.

Article 262. — Making Financial Instruments Intermediary Firm Registry Book Available for Public Inspection

The competent director-general of a local finance bureau, etc. shall keep the financial instruments intermediary firm registry book for a financial instruments intermediary firm which has been registered by the competent director-general of a local finance bureau, etc. at the local finance bureau which has the jurisdiction over the location of the principal business office, etc. of the financial instruments intermediary firm (Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) and make it available for public inspection.

Article 263. — Notification of Change in Entries of Application for Registration

263.1. A financial instruments intermediary firm which notifies pursuant to the provisions of Article 66-5.1 of the Act shall file with the competent director-general of a local finance bureau, etc. a notification stating the details of, the date of and the reason for the change together with a written statement containing the details of after the change made on Form 24 and a copy of such written statement and documents provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case where there has been a change in the matter referred to in Article 66-2.1 (1) of the Act — the registration certificate containing matters subject to such change (in the case of an individual, an abridged copy of the resident's card) or a written statement equivalent thereto;
- (2) the case where there has been a change in the matter referred to in Article 66-2.1 (2) of the Act — the following documents:
 - (a) the registration certificate containing matters of such change or its equivalent;
 - (b) the following documents for a newly installed officer:
 - (i) the resume (if an officer is a juridical person, a written statement containing the history of the officer);
 - (ii) an abridged copy of the resident's card (if the officer is a juridical person, a registration certificate of the officer) or a written statement equivalent thereto;
 - (iii) a certificate issued by government offices or public offices, or a written statement equivalent thereto, that an officer falls under none of (a) or (b) of Article 29-4.1 (2) of the Act;
 - (iv) a written statement in which an officer swears that such officer falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (3) the case where there has been a change in the matter referred to in Article 66-2.1 (4) of the Act (limited to the case of being commissioned newly) — a copy of a contract of commissioning of financial instruments intermediary business with a belonging financial instruments firm, etc. commissioned newly;
- (4) the case where there has been a change in the matter referred to in Article 258 (3) (limited to the case where there are more than one belonging financial instruments firm) — the following documents:
 - (a) a written statement containing the reason for the change;
 - (b) documents referred to in Article 260 (4).

263.2. If the competent director-general of a local finance bureau, etc. has received from a financial instruments intermediary firm a notification that the location of the principal business office, etc. has been changed to the location under the jurisdiction different from the jurisdiction of the competent director-general of a local finance bureau, etc., the competent director-general of a local finance bureau, etc. shall send such notification and the part, related to the financial instruments intermediary firm, of the financial instruments intermediary firm registry book and other documents to the director-general of a local finance bureau (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) who has the jurisdiction over the location of the principal business office, etc. after the change for which the notification has been filed.

263.3. The director-general of a local finance bureau or the director of Fukuoka Finance Branch

who has received documents pursuant to the provisions Article 263.2 shall register matters related to such financial instruments intermediary firm in the financial instruments intermediary firm registry book.

Article 264. — Notification of Change in Type of Business and Manner of Operation

A financial instruments intermediary firm which notifies pursuant to the provisions of Article 66-5.3 of the Act shall file with the competent director-general of a local finance bureau, etc. a notification stating the details of, the date of and the reason for the change together with documents containing matters (limited to matters changed) referred to in the items of Article 259.

Section 2. Business

Article 265. — Form of Sign Required to be Displayed

Form specified by the Cabinet Office Ordinance as provided in Article 66-8.1 of the Act shall be Form 25.

Article 266. — Act Similar to Advertisement

Acts prescribed by the Cabinet Office Ordinance as provided in the items of Article 66-10 of the Act shall be acts to furnish information containing similar details to a large number of persons by means of postal mail, mail delivery, method to transmit by facsimile, method to transmit by an electronic mail or method to distribute leaflets or pamphlets or other methods (excluding the following methods):

- (1) the method to distribute documents prepared based on the laws or regulations or a disposition made by administrative offices under the laws or regulations;
- (2) the method to distribute materials regarding analysis and assessment of an individual corporation which is not used to solicitation to enter into a financial instruments transaction contract for an financial instruments intermediary act;
- (3) the method to offer a gift or other goods representing only all of the following matters (limited to a gift or other goods representing the matters referred to in (b) to (d) clearly and accurately) (in the case where there are, among such matters, matters which are not represented on the gift or other goods, including the method to offer such gift or other goods and other goods representing such matters as a unit):
 - (a) the name, issue name or common name of any of the followings:
 - (i) a financial instruments transaction contract of a financial instruments intermediary act or the type thereof;
 - (ii) a security or the type thereof;
 - (iii) capital contribution object project or the type thereof;
 - (iv) matters equivalent to the matters referred to in (i) to (iii);
 - (b) the name, trade name or common name of a financial instruments intermediary firm offering the similar information to a large number of persons by the method provided in (3);
 - (c) the matter referred to in Article 18.2 (1) of the Order (limited to matters represented by letters or figures by the size that is not significantly smaller than letters or figures concerning matters, other than the first-mentioned matters, with largest size);
 - (d) the statement that any of the following written statements concerning a financial instruments intermediary act should be read fully:
 - (i) a written statement delivered prior to transaction;
 - (ii) a written statement concerning listed securities, etc.;
 - (iii) a prospectus provided in Article 80.1 (3) (in the case where there is a written statement furnished together with such prospectus as a unit pursuant to the provisions of Article 80.1 (3), such prospectus and such written statement); or
 - (iv) a written statement of change in contract.

Article 267. — Presentation Method of Advertisement, etc. concerning Financial Instruments Intermediary Business

267.1. In advertising or performing an act as defined in Article 266 (hereinafter in Section 2, referred to as "advertisement, etc.") concerning the financial instruments intermediary business, the financial instruments intermediary firm shall describe the matters referred to in the items of Article 66-10.1 of the Act clearly and correctly.

267.2. In making advertisement, etc. concerning the financial instruments intermediary business, the financial instruments intermediary firm shall represent letters and figures concerning the matters referred to in (4) and (5) of Article 18.1 of the Order by the size that is not significantly

smaller than letters or figures concerning matters, other than the first-mentioned matters, with largest size.

Article 268. — Matters regarding Consideration Payable by Customer

268.1. Matters prescribed the Cabinet Office Ordinance as provided in Article 18.1 (1) of the Order shall be the amount of money or the upper limit thereof or the summary of the computation method thereof for each type of fee, remuneration or cost, whatever the name it may be called, consideration that a customer is required to pay regarding a financial instruments transaction contract of financial instruments intermediary act (excluding the price of a security or the amount of guarantee money, etc.; hereinafter in Section 2, referred to a "fee, etc.") (such computation method includes a ratio to the price of a security, the amount of derivatives transaction, etc. as defined in Article 16.1 (3) of the Order or the amount of properties under investment management under the financial instruments transaction contract or a ratio to a profit arising from performing financial instruments transaction act; hereinafter in Article 268.1, the same) and the total amount of such amount of money or the upper limit thereof or the summary of the computation method thereof: *Provided*, That such matters shall, in the case where such representation is impossible, be the fact and the reason therefor.

268.2. In the case where a financial instruments transaction contract of financial instruments intermediary act under Article 268.1 is concerned with acquisition of an investment trust beneficial interest, etc. and the property of such investment trust beneficial interest, etc. is used as a capital contribution of or paid to any other investment trust beneficial interest, etc. (hereinafter in Article 268, referred to as "capital contribution object investment trust beneficial interest, etc."), a fee, etc. under Article 268.1 shall include trust fee or other fee, etc. for such capital investment object investment trust beneficial interest, etc.

268.3. In the case where a property of capital contribution object investment trust beneficial interest, etc. under Article 268.2 is used as capital contribution of or paid to any other investment trust beneficial interest, etc., such other investment trust beneficial interest, etc. shall be deemed to be a capital contribution object investment trust beneficial interest, etc. and the provisions of Articles 268.1 and 268.2 shall apply.

268.4. The provisions of Articles 268.3 shall apply *mutatis mutandis* in the case where a property of an investment trust beneficial interest, etc. which is deemed to be a capital contribution object investment trust beneficial interest, etc. pursuant to the provisions of Article 268.3 (including the *mutatis mutandis* application under Article 268.4) is used as capital contribution of or paid to any other investment trust beneficial interest, etc.

Article 269. — Important Matters Which Influence Customer's Judgment

Matters prescribed by the Cabinet Office Ordinance as provided in Article 18.1 (6) of the Order shall be:

- (1) a fact which is disbenefit to a customer in respect of important matters regarding financial instruments transaction contract of financial instruments intermediary act;
- (2) if a belonging financial instruments firm, etc. is a member of a financial instruments firms association, such fact and the name of such financial instruments firms association.

Article 270. — Method Equivalent to Method to Cause Broadcasting through Broadcasting System of General Broadcaster

270.1. Method prescribed by the Cabinet Office Ordinance as provided in Article 18.2 of the Order shall be:

- (1) method to cause broadcasting through a broadcasting system of the following persons:
 - (a) a cable television broadcaster;
 - (b) a person operating cable radio broadcasting;
 - (c) a person operating broadcasting using electric telecommunication service;
- (2) a method to make information (limited to the same information as matters furnished by a method to cause broadcasting through a broadcasting system of a general broadcaster or the method referred to in (1)) recorded in a file in a computer used by a financial instruments intermediary firm or a person who has been commissioned to make advertisement, etc. on behalf of such financial instruments intermediary firm available for a customer's browsing through the telecommunication network;
- (3) method to represent to the general public outside or inside of building constantly or continuously for a certain period, which is posted at an advertising display, movable advertising display and poster and representation on an advertisement board, building or other fixture or other method similar thereto.

270.2. Matters prescribed by the Cabinet Office Ordinance as provided in Article 18.2 (2) of the Order shall be the matter referred to in Article 266 (3) (d).

Article 271. — Prohibitions against Exaggerated Advertising

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-10.2 of the Act shall be:

- (1) matters regarding cancellation of a financial instruments transaction contract of a financial instruments intermediary act (including matters regarding the provisions of Articles 37-6.1 to 37-6.4 of the Act);
- (2) matters regarding the bearing of the whole or part of losses or guaranteeing profits in respect of a financial instruments transaction contract of a financial instruments intermediary act;
- (3) matters regarding the plan of payment of damages (including penalties) in respect of financial instruments transaction contract of a financial instruments intermediary act;
- (4) matters regarding a financial instruments market or a market, located in a foreign jurisdiction, similar to a financial instruments market under a financial instruments transaction contract of a financial instruments intermediary act;
- (5) matters regarding the financial resources or credit standing of a belonging financial instruments firm, etc.;
- (6) matters regarding performance of financial instruments business carried out by a belonging financial instruments firm, etc. (in the case of a registered financial institution, registered financial institution business);
- (7) matters regarding the amount of fee, etc. payable by a customer or computation method thereof, method and time of payment thereof and where the fee, etc. shall be paid in respect of a financial instruments transaction contract of a financial instruments intermediary act;
- (8) in the case where a financial instruments intermediary firm makes advertisement, etc. of purchase or sale or other type of transaction of mortgage security, etc. in respect of a financial instruments intermediary act, the following matters:
 - (a) matters regarding the certainty or guarantee of payment of the principal and interests on claims described on the mortgage security, etc. in respect of a financial instruments intermediary act;
 - (b) matters regarding recommendation of a belonging financial instruments firm, etc.;
 - (c) matters regarding interests; or
 - (d) matters regarding the object of mortgage clause described on the mortgage security, etc. in respect of a financial instruments intermediary act.
- (9) in the case where a financial instruments intermediary firm makes advertisement, etc. of an investment advisory contract of a financial instruments intermediary act, matters regarding the details and method of advice;
- (10) in the case where a financial instruments intermediary firm makes advertisement, etc. of a contract of discretionary investment of a financial instruments intermediary act, matters regarding the details and method of investment judgment; or
- (11) in the case where a financial instruments intermediary firm makes advertisement, etc. of public offering or private placement of interests referred to in Article 7 (4) (d) (i), matters regarding the blood line and feeding condition of a racing horse.

Article 272. — Matters Required to be Clarified

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-11 (4) of the Act shall be:

- (1) in the case where there are more than one belonging financial instruments firms, etc. and the amount of money or fee, etc. payable by a customer for transactions that the customer wishes to conduct differs among the belonging financial instruments firms, etc., such fact;
- (2) in the case of carrying out investment advisory business and performing a financial instruments intermediary act (limited to acts referred to in (1) to (3) of Article 2.11 of the Act; hereinafter in Article 272, the same) on behalf of a customer of investment advisory business (excluding the case where the amount of fee, etc. for a financial instruments intermediary act for the a specified period is fixed regardless of the number of times of such financial instruments intermediary acts and the type or amount of such fee, etc. is clarified to a customer in advance), the amount of fee, etc. receivable from such financial instruments intermediary act (in the case where the amount of fee, etc. is not fixed in advance, the computation method of the amount of fee, etc.); and
- (3) in the case where there are more than one belonging financial instruments firms, etc., the name or trade name of a belonging financial instruments firm, etc. which will become a customer's counterparty of transactions.

Article 273. — Person Excluded from Person Having Close Relation with Financial

Investments Intermediary Firm, etc.

Person prescribed by the Cabinet Office Ordinance as provided in the portion, other than the items, of Article 18-2 of the Order shall be:

- (1) a financial instruments firm (limited to a person engaged in security, etc. custody business);
- (2) a bank;
- (3) a cooperative financial institution;
- (4) an insurance company;
- (5) a trust company; and
- (6) Business Corporation Shoko Chukin Bank Limited.

Article 274. — Exceptions for Prohibition of Solicitation of Purchase or Sale of Security with Condition of Granting Credit

Act prescribed by the Cabinet Office Ordinance as provided in Article 66-14 (1) (e) of the Act shall be, among acts to conduct acceptance, etc. of orders for purchase or sale of a security (limited to acceptance, etc. of orders in respect of financial instruments intermediary business; in (1), the same) on the condition of granting credit, an act meeting all of the following requirements:

- (1) an act to conduct acceptance, etc. of orders for purchase or sale of a security from an individual who has shown or given a notice of a voucher, etc. for which the individual pays the amount equivalent to consideration for such security within the period less than two months in lump sum and such amount is paid to a belonging financial instruments firm, etc. (limited to a person carrying out security, etc. custody business; in (3), the same);
- (2) the amount of credit granted to one person shall not exceed ¥100,000;
- (3) such purchase or sale of a security is conducted based on a contract of cumulative investment (which means a contract based on which a belonging financial instruments firm, etc. accepts the deposit of money from a customer and sells a security continuously to such customer on a predetermined date for the consideration of such money and which meets all of the following requirements):
 - (a) the contract provides for, as a method of purchase of a security, the type of the security and the method to use money on deposit for purchase;
 - (b) the contract provides for, as a method to manage money on deposit, accounting payment money from a customer and money on deposit with a belonging financial instruments firm, etc. arising from the receipt of income from and redemption money of such security deposited by the customer as cumulative investment money on deposit separate from other money on deposit;
 - (c) the contract shall provide, in the case of purchase jointly with other customer or other belonging financial instruments firm, etc., that a customer's ownership of such security shall be established solely when an issue number and certificate number of a security purchased by a customer has been specified;
 - (d) with respect to a method to manage a security, a security deposited (limited to a security jointly owned by a belonging financial instruments firm, etc. and the customer) shall be segregated from other security; and
 - (e) the contract shall be cancelled when a customer has offered cancellation.

Article 275. — Prohibited Acts regarding Financial Instruments Intermediary Business by Financial Instruments Intermediary Firm

275.1. Acts prescribed by the Cabinet Office Ordinance as provided in Article 66-14 (3) of the Act shall be:

- (1) an act to make a false representation, or representation that will likely give a false impression on important matters regarding a financial instruments intermediary act;
- (2) an act to make a promise to a customer or a person designated by the customer to offer a special profit, or to offer a special profit to a customer or a third party (including an act to cause a third party to make a promise to offer a special profit or require a third party to offer a special profit) regarding a financial instruments intermediary act;
- (3) an act to employment of deception, violence or duress regarding a financial instruments intermediary act;
- (4) refusing or taking unreasonably long time for the whole or part of the performance of a financial instruments intermediary act under a financial instruments transaction contract of financial instruments intermediary act;
- (5) an act to solicit a customer (in the case where a financial instruments intermediary act is an act other than an act related to purchase or sale or other type of transaction of a mortgage security, etc. or commodity fund related beneficial interest or contract referred to in (1) of Article 16-4.1 or

- the items of Article 16-4.2 of the Order, limited to an individual) by telephoning or visit at a time that the customer feels annoyed regarding a financial instruments intermediary act;
- (6) an act to gather customers (excluding a specific investor) without, in advance, informing the customers that the financial instruments intermediary firm will solicit to enter into a financial instruments transaction contract provided in Article 38 (4) of the Act (excluding a contract for the transactions referred to in (a) and (b) of Article 116.1 (3)) and solicit such customers to enter into such financial instruments transaction contract;
 - (7) an act, in respect of entering into a financial instruments transaction contract provided in Article 38 (6) of the Act (excluding a contract for the transactions referred to in (a) and (b) of Article 116.1 (3)) to solicit a customer (excluding a specific investors) to enter into such financial instruments transaction contract despite the customer's showing of the intent that the customer does not want to enter into such financial instruments transaction contract (including the intent that the customer does not want such solicitation of entering into such financial instruments transaction contract);
 - (8) an act to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security for a customer's account without obtaining the customer's prior consent;
 - (9) an act that a financial instruments intermediary firm which is an individual or an officer (in the case where an officer is a juridical person, including a partner to perform the duty of an officer) or employee (limited to a person engaged in financial instruments intermediary business) of a financial instruments intermediary firm conducts purchase or sale or other type of transaction, etc. of a security for the purpose of seeking speculative profit entirely;
 - (10) an act to accept an offer to act as an intermediary for purchase or sale or other type of transaction of a security or to act as an intermediary for an order of purchase or sale, or an intermediary for an order of market derivatives transaction or foreign market derivatives transaction, of a security on an on-exchange financial instruments market or foreign financial instruments market despite knowing that such purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security conducted by a customer violates or likely violate the provisions of Article 166.1 or 166.3 of the Act or Article 167.1 or 167.3 of the Act;
 - (11) an act to furnish a customer with nonpublic information related to decision of making or discontinuation of a tender offer provided in Article 27-2.1 of the Act (limited to the case where the provisions of the main text of said Article 27-2.1 are applicable), accumulation of share certificates, etc. (which means share certificate, etc. provided in said Article 27-2.1) equivalent thereto and tender offer provided in Article 27-22.1 of the Act (limited to the case where the provisions of the main text of said Article 27-22.1 are applicable) concerning the issuer of the security to solicit the customer for acting as an intermediary for an order of purchase or sale or other type of transaction of a security or acting as an intermediary for an order of purchase or sale of a security on an on-exchange financial instruments market or foreign financial instruments market or acting as an intermediary for an order of transactions referred to in Article 28.8 (3) of the Act transactions referred to in Article 2.21 (5) of the Act (limited to those related to a security);
 - (12) an act that a financial instruments intermediary firm or its officer (in the case where an officer is a juridical person, including a partner to perform the duty of an officer) or employee receives from, or gives, its parent juridical person, etc. or subsidiary juridical person, etc. information of customers' behavior regarding orders for purchase or sale, market derivatives transaction or foreign market derivatives transaction of a security or other special information obtained by an officer or employee of the financial instruments intermediary firm or its parent juridical person, etc. or subsidiary juridical person, etc. in the course of performing the duties or other special information (excluding the case where such customer has given a written prior consent for giving special information by such financial instruments intermediary firm or its parent juridical person, etc. or subsidiary juridical person, etc. or its officer or employee, the case where a parent juridical person, etc. or subsidiary juridical person, etc. is a belonging financial instruments firm, etc. and receives information referred to in (a) to (c) of Article 123 (18) and furnishing information referred to in (a) to (c) of Article 281 (12) and the case where financial institution agent business is carried out on commission from a belonging financial institution which is a parent bank, etc. or subsidiary bank, etc. and receives information referred to in (1) or (2) of Article 275.2 and furnishing information referred to in (3) or (4) of Article 275.2) or uses such special information acquired from a parent juridical person, etc. or subsidiary juridical person, etc. (excluding special information given by such parent juridical person, etc. or subsidiary juridical person, etc. after obtaining a written prior consent from such customer) to

- solicit purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction (excluding security, etc. clearing broking) of a security;
- (13) an act, without explaining to a customer (excluding a specific investor) that the foreign corporation report, etc. in respect of securities is written in English or without furnishing a customer (excluding a specific investor) with documents stating such fact, to act as an intermediary purchase, or act as an intermediary for an order of purchase of the beneficial interest certificate on an on-exchange financial instruments market or foreign financial instruments market (excluding the case of making such explanation to such customer and furnishing such customer with such documents within one year prior to the day of performing such act);
- (14) an act to use movements of prices, indices, values or amounts of consideration reflected by a customer's transactions for the purpose of generating profit of its own or a customer other than the first-mentioned customer to solicit unspecified and many customers, concurrently and excessively and continuously for a certain period to act as an intermediary for purchase or sale of a security or act as an intermediary for an order thereof or act as an intermediary for an order of market derivatives transaction;
- (15) an act, despite knowing that moving, pegging, fixing or stabilizing market prices or value computed based on market prices or trading volume of or increase trading volume of a listed financial instrument, etc. on an on-exchange financial instruments market or over-the-counter traded security on an over-the-counter traded security market will make prices artificial which do not reflect the real market price, to act as an intermediary for purchase or sale or act as an intermediary for an order thereof or act as an intermediary for an order of market derivatives transaction of the listed financial instruments, etc. or over-the-counter traded security;
- (16) an act to act as an intermediary for purchase, or act as an intermediary for an order of purchase, of such beneficial interest certificate on an on-exchange financial instruments market or foreign financial instruments market without explanation to a customer (excluding a specific investor) to the effect that, or furnishing a customer with a written statement containing the statement that, a foreign corporation report (which means a foreign corporation report as defined in Article 24.8 of the Act (including the *mutatis mutandis* application under Article 27 of the Act)) and a foreign corporation interim report, etc. for a security is written in English (excluding the case where such explanation has been made, and such written statement furnished, to such customer within one year prior to the day of performing such act);
- (17) an act to act as an intermediary for purchase or sale of a mortgage security, etc. by means other than endorsement;
- (18) in the case of carrying out investment advisory business, an act to solicit a customer other than such customer to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security for the purpose of closing purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security based on an advice in connection with such investment advisory business;
- (19) in the case of carrying out investment management business, an act to solicit a customer other than an interest holder of such properties under investment management to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security for the purpose of closing purchase or sale or other type of transactions, market derivatives transaction or foreign market derivatives transaction of a security conducted as investment management of such properties regarding investment management business;
- (20) in the case of carrying out defined contribution pension management business (which means defined contribution pension management business as defined in Article 2.7 of the Defined Contribution Pension Law; in (21), the same), an act of using information regarding direction of investment management (limited to direction related to purchase or sale of a security; in (21), the same) by a pension scheme member, etc. of such defined contribution pension management business (which means a pension scheme member, etc. as defined in Article 2.7 (1) (a) of said Law; in (21), the same) to solicit a customer other than such pension scheme member, etc. to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security;
- (21) in the case of carrying out defined contribution pension management business, an act to solicit a customer other than such pension scheme member, etc. to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security for the purpose of closing purchase or sale of a security conducted based on direction of investment management by pension scheme member, etc. of such defined

- contribution pension management business;
- (22) in the case of carrying out trust business, etc. (which means trust business as defined in Article 2.1 of the Trust Business Law, trust contract agent business as defined in Article 2.8 of said Law, business of property management as defined in Article 21.1 of said Law or business carried out on commission by a trust company (which means a trust company as defined in Article 2.2 of said Law) for trust business under Article 22.1 of said Law; (23), the same), an act of using information regarding purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security in connection with management or disposition of trust properties in the course of such trust business, etc. to solicit a customer other than a customer of such trust properties to make an order, etc. to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security;
- (23) in the case of carrying out trust business, etc., an act to solicit a customer other than a customer of a trust contract to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security (excluding security, etc. clearing broking) for the purpose of closing purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security conducted based on such trust contract or direction by a trusting person in the course of such trust business, etc.;
- (24) in the case of carrying out financial institution agent business, performing any of the acts referred to in the items of Article 2.11 of the Act on the condition of acting as an agent or intermediary for entering into a contract of loans of funds or discount of bills (excluding an act based on an act referred to in (2));
- (25) in the case of carrying out financial institution agent business, an act by a financial instruments intermediary firm or its officer (in the case where an officer is a juridical person, including a partner responsible for the duty) or employee engaged in financial instruments intermediary business to receive from, or furnish to, a financial instruments intermediary firm or its officer or employee engaged in financial institution agent business nonpublic loan, etc. information in respect of a customer who is an issuer of a security (which means a security provided in Article 117.1 (31); hereinafter in (25), the same) (which means nonpublic information or other special information in respect of business carried out by its customer that a financial instruments intermediary firm or its office or employee who is engaged in financial institution agent business has obtained in the course of carrying out the duties, which is determined to have influence on investment judgment of customers of such security that a financial instruments intermediary firm or its officer or employee engaging in financial instruments intermediary business solicit or information of customers' behavior regarding orders for purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security conducted by its customer or other special information that a financial instruments intermediary firm or its officer or employee engaging in financial instruments intermediary business has obtained in the course of carrying out the duties, which is determined to have important influence on financial institution agency business in respect of an issuer of such security; hereinafter in (25) and Article 281 (9), the same) (excluding the following case):
- (a) with respect to furnishing nonpublic loan, etc. information, the case of furnishing it after obtaining a written prior consent from a customer;
 - (b) the case where it is determined necessary to receive nonpublic loan, etc. information from a financial instruments intermediary firm or its officer or employee engaged in financial institution agent business for the purpose of complying with the laws and regulations for financial instruments intermediary business;
 - (c) the case of furnishing a financial instruments intermediary firm or its officer or employee who has overall responsibility for business of an organization (limited to an organization carrying out financial institution agent business together; in Article 281 (9), the same) carrying out financial instruments intermediary business with nonpublic loan, etc. information;
- (26) in the case of carrying out financial instruments agent business, an act to conduct purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security (excluding security, etc. clearing broking) by a financial instruments intermediary firm or its officer or employee engaged in financial institution agent business based on nonpublic information obtained in the course of carrying out the duties, which is determined to have influence on investment judgment in respect of a security; and
- (27) in the case where a commissioning financial instruments firm (which means a financial instruments firm carrying out the first-type financial instruments business which commissions a

financial instruments intermediary firm to carry out financial instruments intermediary business; hereinafter in (27), the same) becomes an underwriter of a security (which means a security provided in Article 117.1 (31)) issued by a person having liabilities related to borrowing from a parent juridical person, etc. or subsidiary juridical person, etc. of such commissioning financial instruments firm or treasury stock for which public sale is made, performing any of the act referred to in Article 2.11 (1) of the Act for such security without, despite the fact that such financial instruments intermediary firm knows that the proceeds in connection with such security is used for the repayment of liabilities related to such borrowing, informing the fact to a customer (such act is limited to an act to sell such security during the period from the day on which such commissioning financial instruments firm which has made underwriting of such security has become an underwriter until the day on which six months has passed therefrom) or the act referred to in Article 2.11 (3) of the Act.

275.2. Information received from, or furnished by, a belonging financial institution which is a parent bank, etc. or subsidiary bank, etc. under Article 275.1 (12) shall be the following information:

- (1) information concerning financial institution agent business carried out by a financial instruments intermediary firm on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.;
- (2) information if it is determined that it is necessary to receive such information in order to comply with the laws and regulations for financial institution agent business carried out by a financial instruments intermediary firm on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.;
- (3) information that is determined necessary to furnish a belonging financial institution with such information necessary for a financial instruments intermediary firm to carry out financial institution agent business on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc.; and
- (4) information, obtained in the course of financial institution agent business carried out by a financial instruments intermediary firm on commission of a belonging financial institution which is its parent bank, etc. or subsidiary bank, etc., that is determined necessary to furnish a belonging financial institution with such information necessary for the financial instruments intermediary firm to comply with the laws and regulations.

275.3. The provisions of Article 275.1 (15) shall not apply, in the case where a series of purchase or sale, etc. of a security are conducted on an on-exchange financial instruments market or over-the-counter traded security market for the purpose of facilitating public offer (limited to public offer to more than 49 persons) or solicitation of subscription to specific investors (limited to solicitation of subscription to more than 49 persons) of a security or public sale (limited to public sale to more than 49 persons or solicitation of sale, etc. to specific investors (limited to solicitation of sale, etc. to more than 49 persons) of a security), acting as an intermediary for such series of purchase or sale, etc. of a security, etc.

Article 275-2. — Person Who is Not Included in Retail Investors

275-2.1. Person prescribed by the Cabinet Office Ordinance as provided in Article 66-14-2 of the Act shall be:

- (1) a director, etc. (director, auditor, executive officer or a person equivalent thereto) of the issuer of such security intended to be placed with specific investors who holds voting rights (including voting rights attached to a share of stock or capital contribution which cannot counter the issuer pursuant to the provisions of Articles 147.1 and 148.1 of the Law on Book Transfer of Corporate Debt Securities, Shares of Stock, etc. (including the *mutatis mutandis* application of these provisions under Articles 228.1, 235.1, 239.1 and 276 (limited to the portion related to (2)) of said Law) of said Law) exceeding 50/ 100 of the voting rights on the issuer held by all of its shareholders, etc. (hereinafter in Article 175-2, referred to as "eligible voting rights") in the name of such director, etc. or an other person (hereinafter in Article 175-2, referred to as "specific officer") or controlled juridical person, etc. (excluding the issuer) of such specific officer;
- (2) a corporation holding eligible voting rights exceeding 50/ 100 of voting rights on the issuer of securities intended to be placed with specific investors held by all of its shareholders, etc. in the name of the corporation or an other person (excluding the person referred to in (1));
- (3) an officer, etc. of the issuer of a security intended to be placed with specific investors (limited to the followings) (limited to a person who makes purchase of such security intended to be placed with specific investors (limited to purchase based on a contract that purchase is made jointly with other officers, etc. of the issuer, continuously, according to a certain plan and without relying on an individual investment decision if the amount of contribution for each officer, etc.

and each purchase is less than 1 million Yen) and excluding the person referred to in (1)):

- (a) the security referred to in Article 2.1 (9) of the Act;
- (b) the security referred to in (17) of Article 2.1 of the Act to which the security referred to in (9) of said Article 2.1 is by nature applicable;
- (c) a certificate of a beneficial interest in a security trust, the trustee security of which is the security referred to in (a) or (b);
- (d) the security referred to in Article 2.1 (20) of the Act which represent interests in the security referred to in (a) and (b);

275-2.2. In the case where a specific officer and its controlled juridical person, etc. jointly hold eligible voting rights exceeding 50/ 100 of the voting rights on an other juridical person, etc. (which means a juridical person or other type of organization; hereinafter in Article 275-2, the same) held by all of its shareholders, etc. in the name of the specific officer or its controlled juridical person, etc. or an other person, such other juridical person, etc. shall be deemed to be a controlled juridical person, etc. of such specific officer and the provisions of Articles 275-2.1 and 275-2.2 shall apply.

275-2.3. "Controlled juridical person, etc." under Article 275-2.1 (1) and Article 275-2.2 means, in the case where a specific officer holds eligible voting rights exceeding 50/ 100 of the voting rights on an other juridical person, etc. held by all of its shareholders, etc. in the name of the specific officer or other person.

275-2.4. "Officer, etc." under Article 275-2.1 (3) means an officer, etc. as defined in Article 1-3-3 (5) of the Order.

Article 275-3. — Exceptions for Restriction on Acting as Intermediary for Purchase or Sale, etc. of Security Intended to Be Placed with Specific Investors

Case prescribed by the Cabinet Office Ordinance as provided in Article 66-14-2 of the Act shall be, without based on solicitation to a retail investor (which means a retail investor as defined in said Article 66-14-2; hereinafter in Article 175-3, the same), the case of acting as an intermediary for an order of sale on an on-exchange financial instruments market or on a foreign financial instruments market conducted by such retail investor on behalf of a belonging financial instruments firm, etc.

Article 276. — Accidents

Act prescribed by the Cabinet Office Ordinance as provided in Article 39.3 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act shall be an act from which a customer has suffered a loss as a result of any of the following acts performed by a financial instruments intermediary firm or its representative, etc. regarding business of such financial instruments intermediary firm in respect of purchase or sale or other type of transaction of a security, etc. (which means purchase or sale or other type of transaction of a security, etc. as defined in Article 39.1 (1) of the Act; hereinafter in Article 276, the same):

- (1) acting as an intermediary for conducting purchase or sale or other type of transaction of a security, etc., without confirming the details of a customer's order, for such customer's account;
- (2) soliciting a customer in a manner to give the customer false impression concerning:
 - (a) the nature of a security, etc. (which means a security, etc. as defined in Article 39.1 (1) of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act);
 - (b) conditions of transactions;
 - (c) whether the price of a financial instrument or the amount of consideration of an option will rise or decline, whether trade value or actual value of the transaction referred to in (2) of Article 2.21 of the Act (including foreign market derivatives transactions similar thereto) will rise or decline, whether the financial index in respect of the transaction referred to in (4) of said Article 2.21 will rise or decline, whether the price of a financial instrument will rise or decline or whether the event referred to in (5) (a) or (5) (b) of said Article 2.21 in respect of the transaction referred to in (5) of said Article 2.21 will occur or not occur;
- (3) mishandling of operation due to negligence in acting as an intermediary for purchase or sale or other type of transaction of a security, etc. for a customer's account;
- (4) making an error in acting as an intermediary for purchase or sale or other type of transaction of a security, etc. due to an error of an electronic data processing and network system for a customer's account; or
- (5) other act in violation of the laws or regulations.

Article 277. — Case where Confirmation of Accident is Not Required

- 277.1. Cases prescribed by the Cabinet Office Ordinance as provided in the proviso to Article 39.3 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act shall be:
- (1) the case where a final judgment has been made by a court;
 - (2) the case where a reconciliation has been concluded in a lawsuit (excluding a reconciliation provided in Article 275.1 of the Civil Procedure Code);
 - (3) the case where a mediation provided in Article 16 of the Civil Mediation Law has been settled or the ruling by a court has been made pursuant to the provisions of Article 17 of said Law and a petition for objection has not been filed during the period provided in Article 18.1 of said Law;
 - (4) the case where a reconciliation has been concluded by mediation conducted by a financial instruments firms association or recognized inventors protection organization or dispute resolution procedures of a designated dispute resolution organization;
 - (5) the case where a reconciliation has been concluded by mediation conducted by an organization provided in the association rules as defined in Article 33.1 of the Attorney-At-Law Law or the rules prescribed by such association rules or the case where a judgment of mediation has been made under mediation procedures by such organization;
 - (6) the case where a reconciliation has been made by mediation provided in Article 19.1 or 25 of the Consumer Basic Law or settlement has been made as a result of an agreement provided in said Article 25;
 - (7) the case where a reconciliation has been made by authentication dispute resolution procedures taken by a authentication dispute resolution firm (which means a authentication dispute resolution firm as defined in Article 2 (4) of the Law on Acceleration of Use of Alternative Dispute Resolution Procedures and limited to the case where a dispute in connection with a financial instruments intermediary act is included in the scope of dispute provided in Article 6 (1) of said Law);
 - (8) the case where reconciliation has been concluded and all of the following requirements are met:
 - (a) an attorney-at-law or a judicial scrivener (limited to the case of conducting operations referred to in Article 3.1 (7) of the Judicial Scrivener Law; in (9), the same) acts as an agent for a customer for procedures of such reconciliation;
 - (b) the amount to be paid by a belonging financial instruments intermediary firm, etc. to a customer as a result of such reconciliation is ¥10,000,000 (in the case where a judicial scrivener under (a) acts as an agent, the amount provided in Article 3.1 (7) of the Judicial Scrivener Law) or less;
 - (c) an attorney-at-law or a judicial scrivener under (a) has furnished a financial instruments intermediary firm and a belonging financial instruments firm, etc. of the financial instruments intermediary firm with a written statement certifying that the attorney-at-law or judicial scrivener has investigated and confirmed that the payment under (b) is made in order to compensate the whole or part of loss arisen from an accident;
 - (9) the case where the amount to be paid to a customer has been fixed between a belonging financial instruments firm, etc. and financial instruments intermediary firm and the customer in respect of the loss arisen from an accident and all of the following requirements are met (excluding the cases referred to in (1) to (8)):
 - (a) the amount to be paid by a belonging financial instruments firm, etc. to a customer is ¥10,000,000 (in the case where a committee under (b) is composed of committee members which are judicial scriveners, the amount provided in Article 3.1 (7) of the Judicial Scrivener Law) or less; and
 - (b) a committee established in a financial instruments firms association (such committee shall mean a committee composed of more than one committee members appointed by the financial instruments firms association (limited to a person who is an attorney-at-law or judicial scrivener who has no special interest in the belonging financial instruments firm, etc., financial instruments intermediary firm or the customer related to the accident)) has investigated and confirmed that the payment under (a) is made in order to compensate the losses arisen from an accident;
 - (10) the case where a financial instruments intermediary firm or its representative, etc. has caused a loss to a customer as a result of any of the acts referred to in the items of Article 276 and the amount of financial profit offered, promised or provided to the customer for such loss arisen from transactions conducted during one day is ¥100,000 or less (excluding the cases referred to in (1) to (9)); or
 - (11) the case where a financial instruments intermediary firm or its representative, etc. has

caused a loss to a customer as a result of the act referred to in (3) or (4) of Article 276 (limited to the case where it is clear that an accident has caused such loss according to books and records provided in Article 46-2, 47 or 48 of the Act, a financial instruments intermediary supplementary book under Article 282.1 (1) or the record of a customer's order, and excluding the cases referred to in (1) to (9)).

277.2. Profits under Article 277.1 (10) shall be computed for each category of the acts referred to in the items of Article 276; in this case, the amount of financial profits offered, promised or provided in the case referred to in Article 277.1 (11) shall be reduced from the amount of profits for a category of the act referred to in (3) or (4) of Article 276.

277.3. When a belonging financial instruments firm, etc. has, in the case referred to in (10) or (11) of Article 277.1, offered or promised to provide financial profits to a customer, or has provided financial profits without confirming under the proviso to Article 39.3 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act, the belonging financial instruments firm, etc. shall make report of the matters referred to in the items of Article 279 to the director-general of a local finance bureau (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan; in Article 278, the same) having jurisdiction over the location of the principal business office or other business office or other type of office of a financial instruments intermediary firm where an accident in connection with such offering or promise or providing has occurred, no later than the end of the month immediately following the month to which the day of such offering, promise or providing belongs.

Article 278. — Application for Confirmation of Accident

A person who wishes to confirm under the proviso to Article 39.3 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act shall file an original of an application and attachments pursuant to the provisions of Article 39.5 of the Act and a copy thereof with the director-general of a local finance bureau having jurisdiction over the location of the principal business office or other business office or other type of office where an accident in connection with such confirmation has occurred.

Article 279. — Entries in Application for Confirmation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 39.5 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act shall be:

- (1) the name or trade name and registration number of a belonging financial instruments firm, etc.;
- (2) the name and location of the principal business officer or other business office or other type of office where an accident has occurred;
- (3) the following matters regarding a fact for which the confirmation is applied:
 - (a) the name or trust name of a financial instruments intermediary firm which is involved in an act resulting in an accident or the name of its representative, etc. or the name of the division;
 - (b) the name and address of a customer (in the case of a juridical person, the name or trade name, the location of the principal business office or other type of office and the name of its representative);
 - (c) the summary of the accident;
 - (d) the reason that an accident has caused customer's loss to be compensated;
 - (e) the amount of financial profits to be offered, promised or provided; and
- (4) other matters for reference.

Article 280. — Attachments to Application for Confirmation

280.1. Documents prescribed by the Cabinet Office Ordinance as provided in Article 39.5 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act shall be documents certifying that a customer has confirmed the matters referred to in the items of Article 279 and other information for reference.

280.2. The provisions of Article 280.1 shall not apply in the case where an application under Article 39.5 of the Act which is applied *mutatis mutandis* under Article 66-15 of the Act is concerned with an offer under Article 39.1 (2) of the Act.

Article 281. — State of Business Management Which Will Likely Be Inconsistent with Public Interest or Constitute Failure of Protection of Customers

State prescribed by the Cabinet Office Ordinance as provided in Article 40 (2) of the Act which

is applied *mutatis mutandis* under Article 66-15 of the Act shall be:

- (1) the state that a financial instruments intermediary firm acts as an intermediary for an order of purchase or sale of a security or acting as an intermediary for an order of purchase or sale of a security on an on-exchange financial instruments market or foreign financial instruments market or acting as an intermediary for an order of market derivatives transaction or foreign market derivatives transaction for such customer's account frequently without confirming the details of the customer's order in advance;
- (2) the state that a financial instruments intermediary firm acts as an intermediary for purchase or sale of a security or acts as an intermediary for an order of purchase or sale of a security on an on-exchange financial instruments market or foreign financial instruments market or acting as an intermediary for an order of market derivatives transaction or foreign market derivatives transaction from a person (excluding a person who performs a financial instruments transactions act in accordance with the laws and regulations) who has solicited unspecified and many investors and has been commissioned for purchase or sale of a security or market derivatives transactions or foreign market derivatives transactions without prior confirmation of the intent of an investor, despite knowing that such transaction is conducted for such investors' account;
- (3) the state that a financial instruments intermediary firm is determined to have failed to take measures necessary and appropriate to prevent unfair transaction using corporate related information in respect of management of corporate related information handled by the financial instruments intermediary firm or management of information regarding purchase or sale or other type of transaction, market derivatives transaction or foreign market derivatives transaction of a security by a customer;
- (4) the state that a financial instruments intermediary firm is determined, in handling information of a customer who is an individual, to have failed to take measures necessary and appropriate to prevent leakage, loss or damage of such information in respect of the control of security, supervision of employees and, in the case of entrusting the treatment of such information to any other person, the supervision of such other person;
- (5) the state that a financial instruments intermediary firm is determined, in handling information about races, creed, family origin, domicile of origin, health care or criminal background regarding a customer who is an individual or other special nonpublic information obtained in the course of the duties, to have failed to take measures to ensure that such information shall be used only for the purpose of ensuring appropriate management of business or other purpose deemed necessary;
- (6) the state that, in soliciting to make a switch of investment trust beneficial interest certificate, etc., a financial instruments intermediary firm has failed to give explanation of important matters regarding such switch to a customer (excluding a specific investor);
- (7) the state that, in causing acquisition or selling the security referred to in Article 2.1 (5) of the Act or the security (limited to a security with the nature of any of the securities referred to in (1) to (5) of Article 2.1 of the Act) referred to in Article 2.1 (17) of the Act as a result of the act referred to in (9) of Article 2.8 of the Act, the financial instruments intermediary firm has failed to explain to a customer who is an individual (excluding a specific customer) concerning an important event, which has occurred during the offering period of acquisition or purchase of such security and influences investment judgment;
- (8) the state that the control of an electronic data processing and network system for financial instruments intermediary business is determined to be insufficient;
- (9) the state that a financial instruments intermediary firm or its officer (including a partner responsible for the duty in the case where an officer is a juridical person) or employee responsible for the overall control of business of an organization carrying out financial instruments intermediary business acquires by its own, or receive from a financial instruments intermediary firm or its officer or employee engaged in financial institution agent business, nonpublic loan, etc. information of a customer who is an issuer of a security (which means a security provided in Article 117.1 (31)) and performs any of the acts referred to in the items of Article 2.11 of the Act concerning such security (including the state that such financial instruments intermediary firm or its officer or employee responsible for the overall control furnishes the customer's nonpublic loan, etc. information (excluding corporate related information) of the customer with a financial instruments intermediary firm or its officer or employee engaged in financial instruments intermediary business without obtaining a prior consent from the customer in writing for furnishing such nonpublic loan, etc. information);
- (10) the state that, in the case where a financial instruments intermediary firm carries out business at the principal business office or other business office or other type of office located at the same building as the principal business office or other business office or other type of office or agent office of a financial institution (which means a bank, cooperative financial institution, trust

company or other financial institution referred to in the items of Article 1-9 of the Order) (including business office or other type of office of a banking agent firm as defined in Article 2.15 of the Banking Law, long-term credit bank agent firm as defined in Article 16-5.3 of the Long-Term Credit Bank Law, shinkin bank agent firm as defined in Article 85-2.3 of the Shinkin Bank Law, credit cooperative association agent firm as defined in Article 6-3.3 of the Law on Financial Business by Cooperative Association, labor bank agent firm as defined in Article 89-3.3 of the Labor Bank Law, specific credit business agent firm as defined in Article 92-2.3 of the Agriculture Cooperative Association Law, specific credit business agent firm as defined in Article 121-2.3 of the Fisheries Cooperative Association Law and Norinchukin Bank agent firm as defined in Article 95-2.3 of the Norinchukin Bank Law and excluding a life-insurance agent as defined in Article 2.19 of the Insurance Business Law and a non-life insurance agent as defined in Article 2.21 of said Law), the financial instruments intermediary firm is determined to fail to take measures appropriate to prevent a customer's false impression that such financial instruments intermediary firm were such financial institution;

- (11) the state that, in the case where a financial instruments intermediary firm uses a computer connecting with telecommunication network to carry out its business, the financial instruments intermediary firm is determined to fail to take measures appropriate to prevent a customer's false impression that such financial instruments intermediary firm were a belonging financial instruments firm, etc. or other person;
- (12) the state that a financial instruments intermediary firm acquires information regarding a customer's property or other special information (excluding the following information) and furnishes a belonging financial instruments firm, etc. with such information without prior written consent from the customer or the state that a financial instruments intermediary firm uses information regarding a customer's property or other special information (limited to information furnished by the belonging financial instruments firm, etc. without obtaining written consent from the customer) acquired from the belonging financial instruments firm, etc. to solicit to conduct purchase or sale or other type of transaction, etc. of a security:
 - (a) information which is determined necessary for a financial instruments intermediary firm to furnish a belonging financial instruments firm, etc. in order to perform a financial instruments intermediary act;
 - (b) information obtained in the course of carrying out financial instruments intermediary business commissioned by a belonging financial instruments firm, etc., which is determined necessary to be furnished to such belonging financial instruments firm, etc. for the purpose that the financial instruments intermediary firm complies with the laws and regulations for financial instruments intermediary business;
 - (c) information which is determined necessary for a belonging financial instruments firm, etc. to compensate losses caused from an accident by the financial instruments intermediary firm.

Section 3. Account

Article 282. — Books and Records regarding Business Operations

282.1. Books and records that a financial instruments intermediary firm shall prepare pursuant to the provisions of Article 66-16 of the Act shall be:

- (1) financial instruments intermediary supplementary book; and
- (2) trading record for acting as an intermediary for entering into investment advisory contract or contract of discretionary investment.

282.2. Books and records referred to in Article 282.1 (1) and books and records referred to in Article 282.1 (2) shall be kept for at least seven years and for at least ten years respectively since the date of preparation.

Article 283. — Entries in Books and Records regarding Business Operations

283.1. A financial instruments intermediary supplementary book under Article 282.1 (1) shall contain:

- (1) whether for house account or for customer account of a belonging financial instruments firm, etc.;
- (2) the name of a customer;
- (3) the type of transaction (in the case of transactions referred to in any of the following (a) to (h), including the matters provided in (a) to (h), respectively):
 - (a) margin transactions or when-issued transactions — such fact and, in the case of margin transactions, the deadline for repayment;

- (b) transactions under repurchase agreement — the following matters:
 - (i) such fact;
 - (ii) whether the transaction is for start or for end;
 - (iii) whether the transaction is for a customer account or for a house account;
 - (iv) yield for the period;
- (c) short-selling of a security — the fact;
- (d) transactions referred to in (1) and (2) of Article 2.21 of the Act (including foreign market derivatives transactions similar thereto) — the following matters:
 - (i) the contract month;
 - (ii) whether the transaction is for establishing new position or settlement;
- (e) transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transaction similar thereto) and purchase or sale of corporate debt security with option — the following matters:
 - (i) the exercise period and the exercise price;
 - (ii) whether the transaction is put or call;
 - (iii) whether the transaction is for establishing new position, exercise, resale, repurchase or offsetting;
 - (iv) the contract month;
- (f) transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transaction similar thereto) — the transaction period and delivery date;
- (g) transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transaction similar thereto) — the following matters:
 - (i) the exercise period;
 - (ii) whether the transaction is for establishing new position, exercise, resale or repurchase;
- (h) strategy transaction prescribed by the rules of a financial instruments exchange — the type thereof;
- (4) the issue name (including a financial instrument or financial index or contract number stated in a contract containing conditions of transactions or matters to specify the object of the transaction; in Article 283.3 (1), the same);
- (5) whether for purchase or sale (in the case of the transactions referred to in the following (a) to (d), purchase or sale provided in such (a) to (d), respectively; in Article 283.3 (1), the same):
 - (a) transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transaction similar thereto) — purchase or sale which causes a customer to become a party to pay money or a party to receive money in the case where the actual value exceeded the trade value;
 - (b) transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transaction similar thereto) — purchase or sale which causes a customer to become a party to grant an option or a party to acquire an option;
 - (c) transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transaction similar thereto) — purchase or sale which causes a customer to become a party to pay money or a party to receive money in the case where the interest, etc. of a financial instrument or a financial index agreed between the parties has risen during the agreed period;
 - (d) transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transaction similar thereto) — purchase or sale which causes a customer to become a party to pay money or a party to receive money in the case where an event (which means any of the events referred to in said Article 2.21 (5); in (11) (d), the same) agreed in advance between the parties has occurred;
- (6) the order volume (if such volume does not exist, matters equivalent to the number or volume; in Article 283.3 (1), the same);
- (7) the trade volume (if such volume does not exist, matters equivalent to the number or volume; in Article 283.3 (1), the same);
- (8) whether limit price order or market order; (in the case of a limit price order, including the price and life of the order (excluding the case where such life of the order ends during the same day))
- (9) the date and time of order acceptance;
- (10) the date and time of order filling;
- (11) the trade price (in the case of the transactions referred to in the following (a) to (d), matters provided in (a) to (d), respectively):
 - (a) transaction referred to in Article 2.21 (2) of the Act (including foreign market derivatives transaction similar thereto) — trade value;
 - (b) transaction referred to in Article 2.21 (3) of the Act (including foreign market derivatives transaction similar thereto) and purchase or sale of a debt security with option — the amount

of consideration for an option or option premium;

(c) transaction referred to in Article 2.21 (4) of the Act (including foreign market derivatives transaction similar thereto) — interest rate of financial index or a financial instrument traded;

(d) transaction referred to in Article 2.21 (5) of the Act (including foreign market derivatives transaction similar thereto) — the amount of consideration for a right to receive money in the case where an event agreed in advance between the parties has occurred;

283.2. A financial instruments intermediary supplementary book under Article 283.1 shall be prepared in the following manner:

(1) in principle, a financial instruments intermediary supplementary book shall be prepared at the time of accepting an order from a customer;

(2) in the case where there are more than one belonging financial instruments firm, etc., a financial instruments intermediary supplementary book shall be prepared for each of the belonging financial instruments firm, etc.;

(3) a financial instruments intermediary supplementary book shall be kept in the order of the dates;

(4) the entry portion for unfilled order shall be kept;

(5) with respect to the portion for the details of the transaction, matters that a financial instruments intermediary firm has known shall be stated;

(6) in the case where a financial instruments intermediary supplementary book is prepared by an electronic or magnetic record, in addition to the matters referred to in (1) to (5), the financial instruments intermediary supplementary book shall be prepared in the following manners:

(a) the matters referred to in the items (excluding (7), (10) and (11)) of Article 283.1 shall be input in a computer at the time of the order receipt;

(b) the date and time when the details of an order input in a computer shall be recorded automatically;

(7) in the case of an order for a transaction subject to give-up, such fact shall be stated;

(8) in the case of a transaction subject to give-up, a financial instruments intermediary firm whose belonging financial instruments firm, etc. is an order executing member, etc. is not required to state whether the transaction is for establishing new position or settlement and whether for establishing new position resale or repurchase;

(9) in the case of a transaction subject to give-up, a financial instruments intermediary firm whose belonging financial instruments firm, etc. is a clearing executing member, etc. is not required to prepare financial instruments intermediary supplementary book;

283.3. Notwithstanding the provisions of Articles 283.1 and 283.2, the matter referred to in each of the following items may be made in accordance with such item:

(1) the matters referred to in the items of Article 283.1 for a beneficial interest certificate of an investment trust, etc. in which prices do not move during the same day — the name of a customer, issue name, whether for purchase or sale, order volume, trade volume, date of order receipt and trade date may be stated in lieu of the matters referred to in such items;

(2) the matters referred to in (d) (ii), (e) (iii) and (g) (ii) of Article 283.1 (3) — matters for which a customer is not required to direct at the time of order placement pursuant to the rules of a financial instruments exchange; and

(3) matters prepared by an electronic or magnetic record pursuant to the provisions of Article 283.2 (6) — in the case where such matters prepared by an electronic or magnetic record are displayed on a screen of a computer or output as a written statement, such matters may be displayed or output as a list.

283.4. The following matters shall be stated in a trading record for acting as an intermediary for entering into an investment advisory contract or contract of discretionary investment under Article 282.1 (2) regarding acting as an intermediary provided in Article 2.8 (13) of the Act:

(1) the date of acting as an intermediary;

(2) the name of a customer;

(3) the detail of acting as an intermediary;

(4) the amount of fee, remuneration or other type of consideration to be received regarding acting as an intermediary.

Article 284. — Report, etc. regarding Financial Instruments Intermediary Business

284.1. A report submitted by a financial instruments intermediary firm pursuant to the provisions of Article 66-17.1 of the Act shall be prepared in accordance with Form 26.

284.2. A financial instruments intermediary firm shall make a report under Article 66-17.2 of the Act available for public inspection by the method of keeping a copy of the report under Article 284.1 at all business offices or other types of offices where financial instruments intermediary business is carried out or by other methods for one year since the day on which four months has passed after a business year has passed pursuant to the provisions of Article 66-17.2 of the Act.

284.3. Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-17.2 of the Act shall be matters stated in a report under Article 284.1.

Article 285. — Public Disclosure of Explanatory Documents

A financial instruments intermediary firm shall make explanatory documents under Article 66-18 of the Act available for public inspection by keeping them at all business offices or other types of offices where financial instruments intermediary business is carried out for one year since the day on which four months has passed after a business year of a belonging financial instruments firm, etc. has passed or by other means pursuant to the provisions of said Article 66-18.

Section 4. Supervision

Article 286. — Notification of Cessation of Business, etc. by Financial Instruments Intermediary Firm

286.1. In notifying pursuant to the provisions of Article 66-19.1 of the Act, such person shall file with the competent director-general of a local finance bureau, etc. a notification, etc. stating the matter provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case of falling under Article 66-19.1 (1) of the Act (limited to the cessation of financial instruments intermediary business) — the date of, and reasons for, cessation;
- (2) the case of falling under Article 66-19.1 (1) of the Act (limited to causing succession to the whole of business related to financial instruments intermediary business as a result of demerger) — the following matters:
 - (a) the name or trade name of a succeeding person;
 - (b) the date of, and reasons for, demerger;
- (3) the case of falling under Article 66-19.1 (1) of the Act (limited to assignment of the whole of financial instruments intermediary business) — the following matters:
 - (a) the name or trade name of an acquiring person by assignment;
 - (b) the date of, and reasons for, acquisition by assignment;
- (4) the case of falling under Article 66-19.1 (2) of the Act — such fact and the date of death;
- (5) the case of falling under Article 66-19.1 (3) of the Act — the following matters:
 - (a) the name or trade name of the counterparty of the merger;
 - (b) the date of, and reasons for, the merger;
 - (c) the method of the merger;
- (6) the case of falling under Article 66-19.1 (4) of the Act — the following matters:
 - (a) the date on which petition for commencement of bankruptcy proceedings has been filed;
 - (b) the date on which ruling of the commencement of bankruptcy proceedings has been made;
- (7) the case of falling under Article 66-19.1 (5) of the Act — the date of, and reasons for, dissolution.

286.2. In notifying pursuant to the provisions of Article 66-19.1 of the Act, the person shall attach to a notification stating matters provided in Article 286.1 the documents provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case of falling under (1) or (2) of Article 66-19.1 of the Act (in the case of falling under (1), limited to cessation of financial instruments intermediary business) — the following documents:
 - (a) the latest daily sheet;
 - (b) a written statement containing the method to settle claims and liabilities to customers;
- (2) the case of falling under Article 66-19.1 (1) of the Act (limited to causing succession to the whole of business related to financial instruments intermediary business as a result of demerger) — the following documents:
 - (a) a written statement containing the details of a plan of incorporation-type demerger or a contract of absorption-type demerger and procedures for demerger;
 - (b) a written statement containing the method that a succeeding person succeeds to claims and liabilities to customers;
- (3) the case of falling under Article 66-19.1 (1) of the Act (limited to the assignment of the whole of financial instruments intermediary business) — the following documents:
 - (a) a written statement containing the details of a contract of business assignment;
 - (b) a written statement containing the method that an assignee succeeds to claims and liabilities to customer;
- (4) the case of falling under Article 66-19.1 (3) of the Act — the following matters:

- (a) a written statement containing the details of a contract of merger and procedures for merger;
- (b) a written statement containing the method that a juridical person which continues to exist after merger succeeds to claims and liabilities to customers;
- (5) the case of falling under Article 66-19.1 (4) of the Act — the following matters:
 - (a) a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
 - (b) a written statement containing the method to settle claims and liabilities to customers;
- (6) the case of falling under Article 66-19.1 (5) of the Act — a written statement containing the method to settle claims and liabilities to customers.

Section 5. Miscellaneous Provisions

Article 287. — Entries in Sales Representative Registry Book

Matters prescribed by the Cabinet Office Order as provided in Article 64.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall be:

- (1) the name or trade name of the applicant for registration;
- (2) regarding the sales representative:
 - (a) the distinction of officer (in the case of a foreign juridical person, an officer (including a director, accounting partner, auditor and executive officer or a person in a position similar thereto) located in a business office or other type of office in Japan) or employee; and
 - (b) if the sales representative was ordered to suspend the duties under the provisions of Article 64-5.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act, the date of the disposition, reason and period.

Article 288. — Place to Keep Sales Representative Registry Book

Places prescribed by the Cabinet Office Order as provided in Article 64.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall be local finance bureaus and Fukuoka Finance Branch (in the case of the registration book for sales representatives of a financial instruments intermediary firm for which an association conducts registration administration pursuant to the provisions of Article 64-7.1 or 64-7.2 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act, such association).

Article 289. — Application for Registration

A financial instruments intermediary firm wishing to register under Article 64.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall file an application for registration under Article 63.3 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act made on Form 22 with the competent director-general of a local finance bureau, etc. together with copies of such application for registration and documents required to be attached to such application for registration pursuant to the provisions of Article 64-4 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act.

Article 290. — Entries in Registration Application

Matters prescribed by the Cabinet Office Ordinance as provided in Article 64.3 (4) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall be whether the sales representative, for whom the registration is applied, has experience of financial instruments business and, in the case of a person who has experience of financial instruments business, the period thereof.

Article 291. — Attachments to Registration Application

Documents prescribed by the Cabinet Office Ordinance as provided in Article 64.4 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall be:

- (1) an abridged copy of the resident's card, or a written statement equivalent thereto, of the sales representative for whom the registration is applied; and
- (2) a written statement in which the applicant and the sales representative, for whom the registration is applied, swears that such sales representative falls under none of the items of Article 64-2.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act.

Article 292. — Notification of Changes, etc. in Registered Matters

292.1. A financial instruments intermediary firm which files a notification pursuant to the provisions of Article 64-4 (1) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall file a notification of change made on Form 23 with the competent director-general of

a local finance bureau, etc.

292.2. A financial instruments intermediary firm which files a notification pursuant to the provisions of (2) or (3) of Article 64-4 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall file with the competent director-general of a local finance bureau, etc. the notification stating matters provided in each of the following items according to the classification of the case in such item:

- (1) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under Article 29-4.1 (2) (a) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under;
 - (b) the date of judgment to commence guardianship or judgment to commence assistance;
- (2) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under Article 29-4.1 (2) (b) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under;
 - (b) the date of the ruling of the commencement of bankruptcy proceedings;
- (3) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under (c) or (g) of Article 29-4.1 (2) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under;
 - (b) the date of finalization of criminal penalty and type of criminal penalty;
- (4) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under (d) or (e) of Article 29-4.1 (2) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under;
 - (b) the date of, and reasons for, the revocation;
- (5) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under Article 29-4.1 (2) (f) of the Act) — the following matters:
 - (a) the name of a person who has so fallen under;
 - (b) the date of and the reason for order of removal;
- (6) the case of falling under Article 64-4 (3) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act — the following matters:
 - (a) the name of a person who has ceased engagement;
 - (b) the reason for cessation of engagement in the duties of a sales representative.

292.3. A financial instruments intermediary firm which files a notification pursuant to the provisions of (2) or (3) of Article 64-4 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall, in the case where the case referred to in each of the following items is applicable, attach the documents provided in such item to a notification stating the matters provided in Article 292.2:

- (1) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under Article 29-4.1 (2) (a) of the Act) — a copy of judgment of ruling to commence guardianship or ruling to commence assistance or a written statement describing the details of ruling to commence guardianship or ruling to commence assistance;
- (2) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under Article 29-4.1 (2) (b) of the Act) — a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings;
- (3) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under (c) or (g) of Article 29-4.1 (2) of the Act) — a copy of the finalized judgment or a written statement containing the details of the finalized judgment;
- (4) the case of falling under Article 64-4 (2) of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act (limited to the case of falling under (d) or (e) of Article 29-4.1 (2) of the Act and revocation made in a foreign jurisdiction) — a copy of documents to order revocation, or a written statement equivalent thereto, and the laws or regulations in a foreign jurisdiction based on which the revocation has been made and its translation.

Article 293. — Registration Administration by Association concerning Sales Representative

An association shall, under the provisions of Articles 64-7.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act, perform the following operations regarding registration in

respect of sales representative of a financial instruments intermediary firm, the belonging financial instruments firm, etc. of which is a financial instruments firm, etc. which is a member of the association, and the association:

- (1) acceptance of registration application pursuant to the provisions of Article 64.3 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act;
- (2) registration pursuant to the provisions of Article 64.5 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act;
- (3) notice pursuant to the provisions of Article 64.6, 64-2.3 and 64-5.3 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act;
- (4) refusal of registration pursuant to the provisions of Article 64-2.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act;
- (5) hearing pursuant to the provisions of Article 64-2.2 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act;
- (6) acceptance of a notification pursuant to the provisions of Article 64-4 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act;
- (7) revocation of registration and order to suspend duties pursuant to the provisions of Article 64-5.1 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act; and
- (8) hearing pursuant to the provisions of Article 64-5.2 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act; and
- (9) erasion of registration pursuant to the provisions of Article 64-6 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act.

Article 294. — Notification to Director-General of Local Finance Bureau, etc.

An association which files a notification pursuant to the provisions of Article 64-7.5 of the Act which is applied *mutatis mutandis* under Article 66-25 of the Act shall file a notification containing the following matters with the director-general of a local finance bureau (the director of Fukuoka Finance Branch if such location is within the jurisdiction of Fukuoka Finance Branch or the director-general of Kanto Finance Bureau if such person does not have a business office or other type of office in Japan) which has the jurisdiction over the location of the principal business office, etc. of a financial instruments intermediary firm to which the sales representative, for whom the registration administration is performed, belongs:

- (1) the name or trade name of a financial instruments intermediary firm to which the sales representative, for whom the registration administration is performed, belongs;
- (2) the name and date of birth of the sales representative, for whom the registration administration is performed;
- (3) the details of registration administration processed and the date of processing;
- (4) in the case where registration administration under (3) is concerned with order to suspend the duties or erasion of registration, the reason therefor; and
- (5) the name or trade name of a belonging financial instruments firm, etc. of a financial instruments intermediary firm to which a sales representative, for whom the registration administration is performed, belongs.

CHAPTER IV CREDIT RATING FIRM

Section 1. General Provisions

Article 295. — Definitions

295.1. The term referred to in each of the following items shall have the meaning provided in such item in CHAPTER IV (excluding (1) and (3) of Article 295.1, 299 (3)), 300.1 (9), 306.1 (15), 307.1 (1), 309 (3), 310, 313.2 (2) and 318 (2) (b) (iii)):

- (1) juridical person — juridical person provided in Article 66-27 of the Act;
- (2) officer — officer provided in Article 66-28. (2) of the Act.

295.2. The term referred to in each of the following items shall have the meaning provided in such item in CHAPTER IV:

- (1) person concerned with rating — person concerned with rating as defined in Article 66-33.2 of the Act;
- (2) rating policy, etc. — rating policy, etc. as defined in Article 66-36.1 of the Act;
- (3) subsidiary juridical person — subsidiary juridical person as defined in Article 66-45.2 of the Act.

295.3. The term referred to in each of the following items shall have the meaning provided in

such item in CHAPTER IV:

- (1) assets securitized instruments — securities as defined in Article 2.1 of the Act (excluding the securities referred to in (1), (2), (6), (7), (9) to (11), (16), (17) (limited to securities with the nature of securities or certificates referred to in (1), (2), (6), (7), (9) or (16) of said Article 2.1; hereinafter in (1), the same), (19), (20) (limited to securities representing rights on securities or certificate referred to in (1), (2), (6), (7), (9) to (11), (16), (17) or (19) of said Article 2.1) and (21) of said Article 2.1 (hereinafter in (1), referred to as "excluded security"), and including interests which are deemed to be securities pursuant to the provisions of Article 2.2 of the Act (excluding interests related to excluded securities and interests referred to in (3) to (6) of said Article 2.2); in Article 307.3, the same) claims on lending of funds, which meet any of the requirements referred to in the following (a) to (e) (excluding claims which meet any of the requirements referred to in the following (f) to (h)):
 - (a) claims meeting all of the following requirements
 - (i) money claims or other assets (hereinafter in (1), referred to as "underlying assets") assigned (including acquisition) by an owner directly or indirectly to a juridical person established or operated for the purpose of issuance of such securities or borrowing of funds (limited to borrowing for lending of such funds; hereinafter in (1), the same) (in (ii), (c) and Article 307.2 (3), referred to as "special purpose juridical person") shall exist;
 - (ii) such special purpose juridical person shall issue such securities or borrow such funds and such special purpose juridical person shall use money obtained from management, investment or disposal of underlying assets under (i) to perform liabilities arising from issuance of such securities or borrowing of such funds (including securities issued for the purpose of refunding of such securities or such funds or borrowing for the purpose of such refunding);
 - (b) claims meeting any of the following requirements:
 - (i) underlying assets shall be entrusted by the method referred to in (1) or (3) of Article 3 of the Trust Law (including a method under laws or regulations in a foreign jurisdiction similar to such manner; in (ii) and (d) (i), the same) and money obtained from management, investment or disposal of such underlying assets shall be used to perform liabilities arising from borrowing of trust beneficial interest certificate, etc. (which means trust beneficial interest certificate as defined in (4) of Article 1 of the Cabinet Office Ordinance on Disclosure of Specific Securities (Ministry of Finance Ordinance No. 22 of 1993), trust corporate debt security as defined in (4-2) of said Article 1, foreign loan claim trust beneficial interest certificate as defined in (4-4) of said Article 1 and interests referred to in (1) and (2) of Article 2.2 of the Act; hereinafter in (b) and (d) (ii), the same) for such trust or liabilities arising from borrowing funds for such trust (including such trust beneficial interest certificate, etc. or trust beneficial interest certificate, etc. issued for the purpose of refunding such funds or borrowing for the purpose of such refunding) shall be performed;
 - (ii) trusting shall be made by the method referred to in (1) or (3) of Article 3 of the Trust Law, money obtained from such trusting, issuance of trust corporate debt security (which means trust corporate debt security as defined in Article 1 (4-2) of the Cabinet Office Ordinance on Disclosure of Specific Securities; in (d) (ii), the same) for such trusting or borrowing of funds for such trusting shall be used to acquire underlying assets, money obtained from management or disposal of such underlying assets shall be used to perform liabilities arising from borrowing of funds for trust beneficial interest certificate, etc. related to such trusting or borrowing of funds related to such trusting (including such trust beneficial interest certificate or trust beneficial interest certificate, etc. issued for the purpose of refunding of such funds or borrowing for the purpose of such refunding);
 - (c) claims meeting all of the following requirements
 - (i) a contract to transfer the whole or part of risk of loss arising from a change in credit standing of underlying assets from a third party to a special purpose juridical person shall be entered into;
 - (ii) such special purpose juridical person shall issue such securities or borrow such funds and such special purpose juridical person shall use money obtained from management, investment or disposal of money or other assets obtained from the issuance of such securities or borrowing of such funds or a contract under (i) to perform liabilities arising from issuance of such securities or borrowing of such funds (including securities issued for the purpose of refunding of such securities or such funds or borrowing for the purpose of refunding of such funds);
 - (d) claims meeting all of the following requirements
 - (i) trusting shall be made by the method referred to in (1) or (3) of Article 3 of the Trust Law and a contract to transfer the whole or part of risk of loss arising from a change in credit

- standing of underlying assets from a third party to a trustee shall be entered into;
- (ii) money obtained from management, investment or disposal of money or other assets obtained from a contract under (i), such as trust, issuance of trust corporate debt security for such trust or borrowing of such funds shall be used to perform liabilities arising from trust beneficial interest certificate, etc. for such trust or borrowing of funds for such trust (including such trust beneficial interest certificate, etc. or trust beneficial interest certificate, etc. issued for the purpose of refunding such funds or borrowing for the purpose of such refunding);
 - (e) in addition to the requirements referred to in (a) to (d), claims designated by the Commissioner of the Financial Services Agency as claims having the nature similar thereto;
 - (f) claims on lending of such securities or funds (hereinafter in (f) and (g), referred to as "such securities, etc."), the underlying assets of which are securities (which means securities provided in Article 2.1 of the Act or interest deemed to be securities pursuant to the provisions of Article 2.2 of the Act) issued by one issuer or claims on one debtor (limited to the case where credit standing of such underlying assets is effectively deemed equivalent to credit standing of such securities, etc.);
 - (g) such securities, etc. for which a specific loan facility contract as defined in Article 2 of the Law on Specific Loan Facility Contract (Law No. 4 of 1999) (including a contract based on laws or regulations in a foreign jurisdiction analogous thereto) has been entered into between a special purpose juridical person under (a) (i) or (c) (i) and one person, and such special purpose juridical person has a right to create consumption lending or borrowing based on such contract for the purpose of performing debts regarding such securities, etc. (limited to the case where credit standing of such person is determined to be effectively same as credit standing of such securities, etc.);
 - (h) claims designated by the Commissioner of the Financial Services Agency;
- (2) underlying assets — underlying assets under (a) (i) and (b) (ii), (c) (i) and (d) (i) of (1);
 - (3) rating analyst — a person who uses professional knowledge and skills to analyze credit standing of a financial instrument or a juridical person (including a juridical person referred to in Article 24.1 of the Cabinet Office Ordinance on Definition provided in Article 2 of the Financial Instruments and Exchange Act; in Article 299 (39), 300.1 (9), 306.1 (15), 307.1 (1), 309 (3), 310, 313.2 (2) and 318 (2) (b) (iii), the same) and assess based thereon prior to granting credit rating;
 - (4) chief rating analyst — one chief rating analyst involved in the process of granting credit rating;
 - (5) person in charge of rating — a rating analyst involved in the process to grant credit rating to matters in which the credit concerned person has an interest (which means matters referred to in Article 309; hereinafter in CHAPTER IV, the same) and a member of a collegial body responsible for definitive decision making as a credit rating firm for granting such credit rating;
 - (6) compliance with laws and regulations, etc. — compliance with laws or regulations, etc. (including laws or regulations in a foreign jurisdiction), dispositions by administrative authorities under laws or regulations (including similar dispositions under laws or regulations in a foreign jurisdiction) or the articles of incorporation or other rules; in Article 299 (10) and Article 306.1 (5) (c), the same) to carry out credit rating business;
 - (7) compliance officer — a person responsible for taking measures to ensure compliance with laws and regulations, etc.;
 - (8) credit rating act — an act to grant, or provide or make public disclosure of credit rating (limited to an act related to credit rating business);
 - (9) conflicts of interests — harming an interest of an investor for the purpose of ensuring profit of own or person concerned with rating or other person;
 - (10) connected juridical person — a subsidiary juridical person of a juridical person, other juridical person having a juridical person as a subsidiary juridical person or a subsidiary juridical person (excluding such juridical person) of other juridical person having a juridical person as a subsidiary juridical person who carries out credit rating act as a business.

Article 296. — Application for Registration

A person who wishes to register under Article 66-27 of the Act shall file an application for registration under Article 66-28.1 of the Act made on Form 27 with the Commissioner of the Financial Supervisory Agency together with one copy of such application for registration and documents or an electronic or magnetic record required to be attached to such application for registration pursuant to the provisions of Article 66-27.2 or 66-27.3 of the Act.

Article 297. — Person Equivalent to Representative in Japan of Foreign Juridical Person

A person prescribed by the Cabinet Office Ordinance as provided in Article 66-28.1 of the Act shall be a person who takes the role of liaison and coordination with the Commissioner of the Financial Supervisory Agency representing a foreign juridical person (limited to a foreign juridical person who is not required to have a business office or other type of office in Japan pursuant to the proviso to Article 66-30.2 of the Act) (limited to a person who has a capacity to explain about the state of compliance with laws and regulations, etc. of such foreign juridical person).

Article 298. — Entries in Application for Registration

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-2.1 (5) of the Act shall be:

- (1) the name of the representative in Japan provided in Article 66-28.1 of the Act of the applicant for registration (limited to a foreign juridical person) or a person provided in Article 297;
- (2) the following matters regarding a connected juridical person of the applicant for registration who is other applicant for registration or credit rating firm to perform credit rating act jointly with the applicant for registration:
 - (a) the name or trade name;
 - (b) the location of the principal business office or other type of office;
- (3) the following matters regarding a connected juridical person of the applicant for registration (excluding other applicant for registration or credit rating firm, which is a connected juridical person of the applicant for registration, to perform a credit rating act jointly with the applicant for registration):
 - (a) the name or trade name;
 - (b) the location of the principal business office or other type of office;
- (4) the following matters regarding the applicant for registration (limited to a foreign juridical person):
 - (a) the name of the country where the principal business office or other type of office is located;
 - (b) if the applicant is supervised by an administrative agency or its equivalent in a foreign jurisdiction authorized to supervise a person carrying out a business equivalent to credit rating business in the country under (a) (hereinafter in CHAPTER IV, referred to as "foreign administrative agency, etc."), such fact and the name and location of such foreign administrative agency;
- (5) the name of a compliance officer, a person responsible for supervising a rating analyst in the process to grant credit rating and a member of the supervisory committee (which means a supervisory committee as defined in Article 306.1 (17); in Article 299 (35), (4) and (5) of Article 300.1 and Article 304 (6), the same).

Article 299. — Type of Business and Manner of Operation

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-28.2 (2) of the Act shall be:

- (1) principles of business management;
- (2) manner of business operation;
- (3) the method to divide the duties;
- (4) types of credit rating act performed as a business and the classification of matters subject to credit rating related to such act;
- (5) in the case where a person in charge of rating consecutively involves in the process to grant credit rating subject to matters in which the same person concerned with rating has an interest, measures to be taken to carry out the business fairly and truthfully from the position independent from such person concerned with rating;
- (6) policies for employment of an employee (excluding a rating analyst);
- (7) measure to implement the system to ensure the appropriateness of credit rating business (which means measures provided in Article 306.1 (4));
- (8) policies and procedures for compliance with laws and regulations, etc.;
- (9) policies for clarification of responsibilities of compliance with laws and regulations, etc. including appointment of a compliance officer;
- (10) measures for response when an act in violation of laws or regulations, etc. by an employee has been found;
- (11) policies for employment and training of a rating analyst;
- (12) assignment of rating analysts;
- (13) methods to appoint members of the collegial body responsible for definitive decision making for granting such credit rating and methods of decision making by such collegial body;

- (14) methods to appoint a person responsible for supervising a rating analyst in the process to grant a credit rating;
- (15) measures to be taken to ensure sufficient quality in respect of information used for granting a credit rating;
- (16) if it is impossible to employ sufficient personnel having professional knowledge and skill for granting a credit rating or to ensure sufficient quality in respect of information used for granting a credit rating, measures not to grant such credit rating;
- (17) measures to implement functions to verify appropriately the reasonableness and effectiveness of rating granting policies, etc. (which means rating granting policies, etc. as defined in Article 313.1 (1); in (18), (36), Article 306.1 (6), Article 311 and Article 312 (1), the same);
- (18) measures to publish, when an important change has been made for rating granting policies, etc., the extent of credit rating to be judged whether updating is necessary or not based on rating granting policies, etc. after the change and a period required to be updated among credit ratings granted based on such rating granting policies, etc. without delay and measures to make necessary updating within such period;
- (19) measures to verify that it is possible to grant a credit rating appropriately for the assessment of credit standings of assets securitized instruments (limited to the case where the designing of such assets securitized instruments is extremely different from the designing of assets securitized instruments for which credit rating have been granted in the past);
- (20) measures taken to perform verification and updating of credit ratings granted appropriately and continuously;
- (21) the summary of the type of specific acts (which means specific acts provided in Article 306.1 (7) (a); in (27), the same) and measures to avoid conflicts of interests (which means measures to avoid conflicts of interests provided in Article 306.1 (7) (a); in (27), the same);
- (22) measures to be taken to keep a person in charge of credit rating from conducting purchase or sale or other type of transactions, etc. of securities which may cause conflicts of interests;
- (23) in the case where the applicant for registration or its officer or employee has close relationship referred to in Article 308.1 with a rating concerned person, measures to provide credit rating for matters in which such rating concerned person has an interest or not to perform an act of making available for inspection;
- (24) in the case where there is likeliness of conflicts of interests between the applicant for registration and the person concerned with rating, measures to ensure not to harm an interest of an investor in respect of granting a credit rating to matters in which such person concerned with rating has an interest;
- (25) measures to prevent a person in charge of rating from work on encouraging to appoint the person as an officer of the person concerned with rating or its equivalent;
- (26) in the case where a rating analyst who has ceased to be an officer or employee of the applicant for registration is appointed as an officer of the person concerned with rating or its equivalent, measures taken to verify the reasonableness of credit rating of matters in which such person concerned with rating has an interest;
- (27) measures to publish the types of specific acts and the summary of measures to avoid conflicts of interests in an appropriate manner;
- (28) measures to prevent an act in the course of related business (which means a business, other than credit rating business, related to credit rating act; hereinafter in CHAPTER IV, the same) and other business (which means a business other than credit rating business or business other than related business; hereinafter in CHAPTER IV, the same) from improperly influencing on credit rating acts;
- (29) in the case where the assessment of credit standing of assets securitized instruments is an object of credit rating, measures taken to enable a third party to verify the reasonableness of such credit rating from the independent position;
- (30) policies for decision making on remuneration, etc. for an officer and employee of the applicant for registration (which means remuneration, bonus and other financial benefit received from the applicant for registration as consideration of business performance; in (31), the same);
- (31) measures to ensure that the policies for decision making on remuneration, etc. for an officer and employee of the applicant for registration shall not constitute the failure of fair and accurate performance of credit rating business;
- (32) measures to prevent a person in charge of rating from participating to a negotiation of fees for such credit rating (which means the value of money or other properties paid, or required to be paid, to the applicant for registration as considerations of granting credit rating);
- (33) measures to control information obtained in the course of credit rating business and to maintain the secret appropriately;
- (34) measures to settle grievances to the applicant for registration in an appropriate and timely

- manner;
- (35) policies for management, and methods to appoint members, of the supervisory committee;
 - (36) the following matters regarding rating granting policies, etc.:
 - (a) prerequisites of assessment of credit standing according to the classification and the details of matters subject to credit rating, standards used to decide grades representing the result of assessment of credit standing;
 - (b) policies and methods to enable a person concerned with rating to confirm the existence of a factual error regarding major information which the applicant for registration used in granting such credit rating prior to performing an act to provide granted credit rating or making it available for public disclosure;
 - (c) policies and methods to grant credit rating in the case of granting such credit rating without request by a person concerned with rating;
 - (37) rating providing policies, etc. (which means rating providing policies, etc. as defined in Article 313.1 (2));
 - (38) measures to ensure officers and employees to comply with rating policies, etc.;
 - (39) measures to prevent false representation, or representation to cause false understanding on important matters, in respect of the general nature of the result of the assessment of credit standing of a financial instrument or a juridical person;
 - (40) in the case of performing an act related to related business, measures to prevent false understanding that such act were an act related to credit rating business;
 - (41) code of conduct that the applicant for registration and its officer and employee shall comply.

Article 300. — Attachments to Registration Application

300.1 Documents prescribed by the Cabinet Office Ordinance as provided in Article 66-28.2 (4) of the Act shall be:

- (1) a written statement containing business operation system including personnel structure and organization for business;
- (2) the following written statements regarding an officer (such officer includes a person who is an advisor or consultant, whatever title such person may hold and is determined to have the controlling power over such juridical person equivalent to or stronger than the controlling power held by a director, executive officer or other person in a position equivalent thereto; hereinafter in (2), Article 303 and 304 (2), the same):
 - (a) the resume of an officer (if an officer is a juridical person, a written statement containing the history of the officer);
 - (b) an abridged copy of the resident's card of an officer (if an officer is a juridical person or foreigner, a registration certificate of the officer or foreigner registration card) or a written statement equivalent thereto;
 - (c) a certificate issued by government offices or public offices that an officer falls under none of (a) or (b) of Article 29-4.1 (2) of the Act, or a written statement equivalent thereto;
 - (d) a written statement in which an officer swears that such officer falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (3) the following written statements regarding the representative in Japan provided in Article 66-28.1 of the Act or a person provided in Article 297 of an applicant for registration (limited to a foreign juridical person):
 - (a) the resume;
 - (b) an abridged copy of the resident's card (in the case of an foreigner, registration certificate of the foreigner registration card), or a written statement equivalent thereto;
- (4) the following written statements regarding a compliance officer, a person responsible for supervising a rating analyst in the process to grant credit rating and a member of the supervisory committee:
 - (a) the resume;
 - (b) an abridged copy of the resident's card (in the case of an foreigner, registration certificate of the foreigner registration card), or a written statement equivalent thereto;
- (5) a written statement containing the reason to determine that an independent member of the supervisory committee (which means an independent member as defined in Article 306.1 (17) (a)) is independent;
- (6) a written statement containing the summary of capital relation, personnel relation and business relation for the latest one year between other applicant for registration or credit rating firm, which is a connected juridical person of the applicant for registration, performing a credit rating act jointly with the applicant for registration and the applicant for registration;
- (7) a written statement containing the following matters as the state of a connected juridical person of the applicant for registration (excluding other applicant for registration or credit rating firm, which is a connected juridical person of the applicant for registration, performing a credit

rating act jointly with the applicant for registration):

- (a) the summary of capital relation, personnel relation and business relation for the latest one year between the applicant for registration and such connected juridical person of the applicant for registration;
 - (b) the name of the country where the principal business office or other type of office of such connected juridical person of the applicant for registration (limited to a foreign juridical person) is located and, if such connected juridical person of the applicant for registration is under the supervision of a foreign administrative agency, etc. in the country, the fact and the name and the location of such foreign administrative agency, etc.;
 - (8) the latest balance sheet (including related notes; in Article 300.2, the same) and profit and loss statement (including related notes; in Article 300.2, the same);
 - (9) if the applicant for registration has statistics of changes in credit standings of an financial instrument or a juridical person (limited to credit standings the assessment of which is made for credit rating) or other information, a written statement containing such information.
- 300.2 In the case where documents referred to in Article 300.1 (8) are attached and the balance sheet or the profit and loss statement are prepared by an electronic magnetic record, such electronic or magnetic record (limited to an electronic or magnetic record provided in Article 301) may be attached in lieu of such documents.
- 300.3 An applicant for registration may attach the documents referred to in Article 306.4 to the application for registration if such applicant for registration has been registered under Article 66-27 of the Act and wishes to obtain an approval pursuant to the provisions of Articles 306.2 and 306.3.
- 300.4 An applicant for registration may attach the documents referred to in Article 306.7 to the application for registration if such applicant for registration has been registered under Article 66-27 of the Act and wishes to obtain an approval pursuant to the provisions of Articles 306.6.

Article 301. — Electronic or Magnetic Record

- 301.1. An electronic or magnetic record prescribed by the Cabinet Office Ordinance as provided in Articles 66-28.3 of the Act shall be a magnetic disk with the structure of 90 mm flexible disk cartridge conforming with JIS X6223.
- 301.2. An electronic or magnetic record under Article 301.1 shall be recorded by:
- (1) with respect to the track format, the method specified in JIS X6225; and
 - (2) with respect to the volume and file composition, the method specified in the JIS X0605.
- 301.3. An electronic or magnetic record under Article 301.1 shall paste, on the label area prescribed in JIS X6223, a written statement containing:
- (1) the name or trade name of the applicant for registration; and
 - (2) the filing date of the application.

Article 302. — Making Credit Rating Firm Registry Book Available for Public Inspection

The Commissioner of the Financial Supervisory Agency shall keep the credit rating firm registry book for registered credit rating firms in the Financial Services Agency and make it available for public inspection.

Article 303. — Examination Criteria for Implementation of System

In examining whether the applicant for registration is not determined to be a juridical person implementing a system necessary for carrying out credit rating business provided in Article 66-30.1 (5) of the Act in a fair and accurate manner, the Prime Minister shall examine, in addition to documents containing the matters referred to in Article 299 and documents referred to in Article 300.1, whether the applicant for registration is determined that the applicant for registration will likely destroy the credibility of credit rating business because of the existence, among officers or employees, of a person having improper quality to manage business considering such person's career, relationship with an organized group of gangsters as defined in Article 2 (2) of the Law on Prevention, etc. of Unjustifiable Act by Gangster or a gangster as defined in Article 2 (6) of said Law or other circumstances.

Article 304. — Notification of Change in Entries of Application for Registration

- 304.1. A credit rating firm which notifies pursuant to the provisions of Article 66-31.1 of the Act shall file with the Commissioner of the Financial Services Agency a notification stating the details of, the date of and the reason for the change together with a written statement containing the details after the change made on Form 27 and a copy of such written statement and documents provided in each of the following items according to the classification of the case referred to in such item: *Provided*, That, if there is an unavoidable reason, filing of documents provided in the

following items without delay after the filing of such notification shall suffice:

- (1) the case where there has been a change in the matter referred to in Article 66-28.1 (1) of the Act — the registration certificate containing matters of such change or a written statement equivalent thereto;
- (2) the case where there has been a change in the matter referred to in Article 66-28.1 (2) of the Act — the following documents:
 - (a) a written statement containing business operation system including personnel structure and organization for business;
 - (b) the registration certificate containing matters of such change or a written statement equivalent thereto;
 - (c) the following documents for a person who has become an officer newly:
 - (i) the resume (if an officer is a juridical person, a written statement containing the history of the officer);
 - (ii) an abridged copy of the resident's card (if an officer is a juridical person or a foreigner, a registration certificate of the officer or a registration certificate of the foreigner registration card) or a written statement equivalent thereto;
 - (iii) a certificate issued by government offices or public offices that an officer falls under none of (a) or (b) of Article 29-4.1 (2) of the Act, or a written statement equivalent thereto;
 - (iv) a written statement in which an officer swears that such officer falls under none of (c) to (g) of Article 29-4.1 (2) of the Act;
- (3) the case where there has been a change in the matter referred to in Article 298 (1) — the following documents in respect of a person who has become newly the representative in Japan provided in Article 66-28.1 of the Act or a person provided in Article 297:
 - (a) the resume;
 - (b) an abridged copy of the resident's card (if an officer is a foreigner, a registration certificate of the foreigner registration card), or a written statement equivalent thereto;
- (4) the case where there has been a change in the matter referred to in Article 298 (2) — a written statement containing the summary of capital relation, personnel relation and business relation for the latest one year between a credit rating firm and a person who has newly become a connected juridical person;
- (5) the case where there has been a change in the matter referred to in Article 298 (3) — a written statement containing the following matters:
 - (a) the summary of capital relation, personnel relation and business relation for the latest one year between the credit rating firm and a person who has newly become a connected juridical person;
 - (b) the name of the country where the principal business office or other type of office of a person (limited to a foreign juridical person) who has newly become a connected juridical person is located and, if such person is under the supervision of a foreign administrative agency, etc. in such country, the fact and the name and the location of such foreign administrative agency, etc.;
- (6) the case where there has been a change in the matter referred to in Article 298 (5) — the following written statements regarding a person who has newly become a compliance officer, a person responsible for supervising rating analysts in the process of granting credit rating or a member of the supervisory committee:
 - (a) the resume;
 - (b) an abridged copy of the resident's card (if an officer is a foreigner, a registration certificate of the foreigner registration card), or a written statement equivalent thereto.

Article 305. — Notification of Change in Type of Business and Manner of Operation

A credit rating firm which notifies pursuant to the provisions of Article 66-31.3 of the Act shall file with the Commissioner of the Financial Services Agency a notification stating the details of, the date of and the reason for the change together with documents containing the matters (limited to matters in which a change has been made) referred to in the items of Article 299.

Section 2. Business

Article 306. — Establishment of Business Management System

306.1. Business management system that a credit rating firm is required to implement pursuant to the provisions of Article 66-33.1 of the Act shall meet the following requirements:

- (1) measures to maintain fair and unbiased attitude always and perform a credit rating act at its

- judgment and responsibility shall be taken;
- (2) in the case where a person in charge of rating involves consecutively in the process of granting credit rating for matters in which the same person concerned with rating has an interest, any of the following measures shall be taken to carry out its business fairly and faithfully from the position independent from such person concerned with rating;
 - (a) in the case where a chief rating analyst who involves in the process of granting credit rating has involved, continuously for five years, in the process of granting credit rating for matters in which the same person concerned with rating has an interest, measures to prevent such chief rating analyst from involving, for two years thereafter, in the process of granting credit rating for matters in which such person concerned with rating has an interest;
 - (b) measures to ensure a collegial body makes definitive decision as a credit rating firm for granting credit rating and to prevent one third or more of all members of such collegial body from involving consecutively in the process of granting credit rating (in the case where credit rating is made for assessment of credit standing of an object other than assets securitized instruments and more than one credit ratings have been granted for matters subject to such credit rating within one business year, such more than one credit ratings shall be deemed to be one credit rating) for matters in which the same person concerned with rating has an interest;
 - (3) measures not to employ a person having important suspect in order to perform a credit rating act in a fair manner shall be taken;
 - (4) measures to implement the following systems shall be taken in order to ensure the appropriateness of the business of the credit rating firm:
 - (a) system to ensure that an officer performs the duties efficiently;
 - (b) system to retain and control of information of an officer's performance of duties;
 - (c) rules for, and other system, on control of risk of loss;
 - (5) the following measures to ensure compliance with laws and regulations, etc. shall be taken:
 - (a) making policies and procedures for compliance with laws and regulations, etc.;
 - (b) making policies for appointment of a compliance officer and other policies for clarification of responsibility for compliance with laws and regulations, etc.;
 - (c) the following measures for responses to finding of an act by an employee in violation of laws or regulations, etc.:
 - (i) when an employee of the credit rating firm is found to commit an act in violation of laws or regulations, etc., measures to inform the details of such act to an officer and a compliance officer;
 - (ii) appropriate measures that an officer and a compliance officer so informed takes measures to prevent the credit rating firm from commitment of an act in violation of laws or regulations, etc.;
 - (iii) measures to ensure that such person who has so informed shall not be treated unfavorably for the reason of such informing;
 - (6) the following measures shall be taken for making policies for control of quality of the process of granting credit rating and the performance thereof:
 - (a) measures to ensure the employment of persons having professional knowledge and skills sufficient to carry out credit rating business appropriately and smoothly (including, in the case where a collegial body makes definitive decision as a credit rating firm for granting credit rating, methods to appoint members of such collegial body and methods for decision making by such collegial body and other measures to actualize the employee's professional knowledge and skills appropriately);
 - (b) measures to ensure sufficient quality in respect of information used for granting credit rating;
 - (c) in the case where it is impossible to ensure the employment of persons having professional knowledge and skills for granting credit rating or the case where it is impossible to ensure sufficient quality for information used for granting credit rating, measures not to grant such credit rating;
 - (d) measures to implement functioning to perform verification appropriately in respect of reasonableness and effectiveness of credit rating policies, etc. (including measures to perform verification in respect of reasonableness and effectiveness of rating granting policies, etc. appropriately for assets securitized instruments when the characteristic of the credit conditions of the underlying assets of such assets securitized instruments);
 - (e) measures, if the credit rating firm has made an important change in rating granting policies, etc., to publish without delay the extent, and the period required for updating, of credit rating among credit ratings granted based on such rating granting policies, etc. for which judgment shall be made whether credit rating should be updated or not based on rating granting policies, etc. after change;

- (f) measures to verify that it is possible to grant credit rating to assessment of credit standing of assets securitized instruments (limited to the case where the design of such assets securitized instruments is significantly different from the design of assets securitized instruments for which credit rating has been granted in the past) appropriately;
 - (g) measures to perform appropriate and continuous verification and updating of credit rating granted (including, in the case where the credit rating firm has decided not to perform such verification and updating, measures to publish such fact and other required matters without delay);
- (7) the following measures shall be taken to prevent conflicts of interests in respect of credit rating business:
- (a) measures to identify an act, among credit rating acts, which causes, or will likely cause, conflicts of interests (hereinafter in CHAPTER IV, referred to as "specific act") by an appropriate method and to ensure that such act does not harm interests of investors (including the following measures; hereinafter in CHAPTER IV, referred to as "conflict of interest prevention measures"):
 - (i) measures to prevent a person in charge of rating from conducting purchase or sale or other type of transaction of securities which will likely cause conflicts of interests;
 - (ii) in the case where there is likeliness of conflicts of interests between an officer or employee and a person concerned with rating, measure to prevent such officer or employee from involving in the process of granting credit rating to matters in which such person concerned with rating has an interest;
 - (iii) in the following cases where there is likeliness of conflicts of interests between the credit rating firm and a person concerned with rating, measures to ensure not harming interests of investors in granting credit rating to matters in which such person concerned with rating has an interest:
 - (iii-i) the case where a person concerned with rating provide the credit rating firm with loan (including guarantee of liabilities and providing collateral);
 - (iii-ii) the case where a person holding 45/ 100 or more of voting rights (excluding voting rights provided in Article 16) held by all of its shareholders is a person concerned with rating;
 - (vi-iii) the case where a person concerned with rating becomes an underwriter of securities issued by the credit rating firm;
 - (iii-iv) the case where a person concerned with rating gives large amount of money or other financial benefit to the credit rating firm for considerations of services other than services related to credit rating acts;
 - (iv) measures to prevent a person in charge of rating from promoting to become an officer, or its equivalent, of a person concerned with rating;
 - (v) in the case where a rating analyst who has ceased to be an officer or employee of the credit rating firm has become an officer or its equivalent of a person concerned with rating, measures to verify the reasonableness of credit rating (limited to the case where such rating analyst has involved in the process of granting for two years prior to the date on which the officer or employee ceased to be an officer or employee of the credit rating firm) to matters in which such person concerned with rating has an interest;
 - (b) measures to publish the summary of the types of specific acts and conflicts of interests avoiding measures in an appropriate manner;
- (8) measures to prevent an act related to related business or other business from making improper influence on credit rating acts shall be taken;
- (9) in the case where credit rating is made to assessment on credit standing of assets securitized instruments, the following measures shall be taken to enable to verify the reasonableness of such credit rating by a third party from an independent position:
- (a) publishing information which is deemed important for a third party to value the reasonableness of such credit rating after sorting out the items;
 - (b) encouraging a person concerned with rating to publish information (including items published based on (a)) of such assets securitized instruments and other measures to make a third party enable to verify the reasonableness of such credit rating;
 - (c) publishing the details of promotion made by the credit rating firm based on (b) and the result thereof (which means the result heard from the person concerned with rating in respect of publishing of information of such assets securitized instruments);
- (10) the credit rating firm has established the determination policies for remuneration, etc. (which means remuneration, bonus or other financial benefit received from the credit rating firm for considerations for performance of the duties; hereinafter in CHAPTER IV, the same) of an

officer and employee of the credit rating firm and has taken measures that such determination policies (limited to the following measures) will not constitute a failure of fair and accurate performance of credit rating business (including measures for implementation of the system to make review such determination policies periodically):

- (a) the amount of remuneration, etc. to a compliance officer shall not be affected by the performance of credit rating business;
- (b) the amount of remuneration, etc. to a person in charge of rating shall not be affected by fees (which means the amount of money or other properties paid, or to be paid, to the credit rating firm for considerations of granting credit rating; hereinafter in CHAPTER IV, the same) for such credit rating;
- (11) measures to prevent a person in charge of rating from participating to negotiation regarding fees for such credit rating have been taken;
- (12) the following measures have been taken to control information, and keeping secret, obtained in the course of credit rating business appropriately:
 - (a) measures to ensure that information and secret obtained in the course of credit rating business shall not be used for the purpose other than the purpose which is determined to be necessary to carry out credit rating business fairly and accurately;
 - (b) measures to identify the extent of secrets and a person who can obtain secrets in the course of business and to prevent leakage of the secret by establishing for the method of controlling of the secret;
- (13) measures to settle grievances to the credit rating firm appropriately and smoothly (including measures for implementing a system to report such grievances to an officer of such credit rating firm) shall be taken;
- (14) measures to carry out credit rating business in accordance with rating policies, etc. (including measures for training of rating analysts) have been taken;
- (15) measures to prevent false representation, or representation to give false impression concerning important matters, regarding general nature of the result of assessment of an financial instrument or credit standings of a juridical person have been taken;
- (16) measures, in the case of performing an act related to related business, to prevent false recognition that such act were an act related to credit rating business have been taken;
- (17) measures, in order to ensure taking measures referred to in the items (1) to (16) by the credit rating firm appropriately, for establishment of a committee meeting the following requirements (hereinafter in CHAPTER IV, referred to as "supervisory committee") have been taken:
 - (a) at least one third of committee members (if the number of committee members is less than four, at least two) shall not be an officer (excluding an auditor or other person equivalent thereto) or employee of the credit rating firm, a subsidiary juridical person of such credit rating firm, an other juridical person having such credit rating firm as a subsidiary juridical person or a subsidiary juridical person (excluding such credit rating firm) of an juridical person having such credit rating firm as a subsidiary juridical person (hereinafter in (a), referred to as "connected officer, etc.") and a person who has not been a connected officer, etc. within five years in the past (hereinafter in CHAPTER IV, referred to as "independent committee member");
 - (b) at least the majority of committee members shall be persons with professional knowledge for finance;
 - (c) the amount of remuneration, etc. for an independent committee member shall not be affected by the performance of credit rating business of the credit rating firm;
 - (d) an independent committee member shall not be removed despite of the intention of the independent committee member except for the case where such independent committee member has committed unlawful act or is determined to have breached obligations for the duties or the case such removal was made under laws or regulations;
 - (e) an opinion of an independent committee member shall be submitted to the supervisory committee periodically.

306.2. The provisions of Article 306.1 (2) shall not be applied if it is difficult to comply such provisions after considering the number of officers and employees of a credit rating firm, the characteristic, scale, complexity and other circumstances of credit rating business, and it is determined that an officer and employee of such credit rating firm can carry out the business fairly and faithfully from the position independent from a person concerned with rating by means of taking other alternative measures, subject to the approval by the Commissioner of the Financial Services Agency.

306.3. The provisions of Article 306.1 (17) shall not be applied if it is difficult to comply such provisions after considering the number of officers and employees of a credit rating firm, the

characteristic, scale, complexity and other circumstances of credit rating business, and it is determined that it is possible to ensure that such credit rating firm can take the measures referred to in the items (excluding (17)) of Article 306.1 appropriately by means of taking other alternative measures, subject to the approval by the Commissioner of the Financial Services Agency.

306.4. A credit rating firm shall, in order to obtain an approval pursuant to the provisions of Articles 306.2 and 306.3, provide the Commissioner of the Financial Services Agency with an application for approval together with the following documents.

- (1) a written statement describing the reason;
- (2) a written statement containing the number of officers and employees;
- (3) a written statement containing the characteristic, scale, complexity and other circumstances of credit rating business;
- (4) a written statement containing other alternative measures;
- (5) a written statement containing other matters for reference.

306.5. If more than one credit rating firms (limited to the case where such more than one credit rating firms are connected juridical persons and have the representative in Japan or a person provided in Article 299 in common) perform a credit rating act as a business jointly, such more than one credit rating firms may implement business management system jointly.

306.6. The provisions of Article 306.1 (limited to (2), (4), (a) (iii) to (a) (v) of (7), (9) and (17) and excluding the provisions related to a business office or other type of office in Japan of a credit rating firm (limited to a foreign juridical person; hereinafter in Articles 306.6 and 306.7, the same)) shall not be applied if it is determined that such credit rating firm can carry out the business fairly and accurately by means of taking other alternative measures and it is determined that such credit rating firm is supervised by a foreign administration agency, etc. for carrying out business fairly and accurately by means of taking other alternative measures, subject to the approval by the Commissioner of the Financial Services Agency.

306.7. A credit rating firm shall, in order to obtain an approval pursuant to the provisions of Articles 306.6, provide the Commissioner of the Financial Services Agency with an application for approval together with the following documents.

- (1) a written statement describing the reason;
- (2) a written statement containing other alternative measures;
- (3) a written statement certifying that the credit rating firm is under the appropriate supervision by a foreign administrative agency, etc.;
- (4) a written statement containing other matters for reference;
- (5) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations stated in the documents referred to in (1) to (4) and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

306.8. The Commissioner of the Financial Services Agency may impose conditions or deadline to, make a change to or revoke an approval under Article 306.2, 306.3 or 306.6.

Article 307. — Person Concerned with Rating

307.1. Person prescribed by the Cabinet Office Ordinance as provided in Article 66-33.2 of the Act shall be the person (including a person who is determined to be the equivalent effectively) provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case where credit rating is made for the assessment of credit standing of a juridical person — such juridical person (excluding the juridical person referred to in Article 24.1 (4) of the Cabinet Office Ordinance on Definition as defined in Article 2 of the Financial Instruments and Exchange Act) and the trustee of operations of formation of such juridical person;
- (2) the case where credit rating is made for the assessment of credit standing of an financial instrument — the issuer of such financial instrument (limited to the case where such financial instrument is a security) or debtor (limited to the case where such financial instrument is a claim) and the trustee of operation of formation of such financial instrument.

307.2. Notwithstanding the provisions of Article 307.1, in the case where credit rating is made for the assessment of credit standing of assets securitized instruments, a person prescribed the Cabinet Office Ordinance as provided in Article 66-33.2 of the Act shall be the following persons (including a person who is determined to be a person equivalent thereto effectively):

- (1) in the case where such assets securitized instruments meet the requirements referred to in (a) or (b) of (1) of Article 295.3, a major holder of underlying assets under (a) (i), (b) (i) or (b) (ii) of said (1);
- (2) in the case where such assets securitized instruments meet the requirements referred to in (c)

or (d) of (1) of Article 295.3, a third party under (c) (i) or (d) (i) of said (1) (limited to a major person);

(3) in the case where such assets securitized instruments meet the requirements referred to in (a) or (b) of (1) of Article 295.3, a special purpose juridical person under (a) or (b) of said (1);

(4) a trustee of administration for forming such assets securitized instruments.

307.3. In the case where credit rating is made for the assessment of credit standings securities or claims on lending of funds meeting any of the requirements referred to in (a) to (e) of (1) of Article 295.3 and meeting the requirements referred to in (f) of of said (1), the assessment of credit standing of underlying assets under (f) of said (1) shall be deemed to be the object of the credit rating and the provisions of Article 307.1 (2) shall apply; and in the case where credit rating is made for the assessment of credit standing of securities or claims on lending funds meeting any of the requirements referred to in (a) to (e) of (1) of Article 295.3 and meeting the requirements referred to in (g) of said (1), the assessment of credit standings of securities issued by one person who enters into a contract on lending funds or lending funds to such person shall be deemed to be the object of credit rating and the provisions of Article 307.1 (2) shall apply.

Article 308. — Close Relationship with Person Concerned with Rating

308.1. Close relationship prescribed by the Cabinet Office Ordinance as provided in Article 66-35 (1) of the Act shall be the relationship between a credit rating firm or its officer or employee and a person concerned with rating in the following cases:

(1) the case where a person in charge of rating of the credit rating firm is an officer of the person concerned with rating or a person equivalent thereto;

(2) the case where a person in charge of rating of the credit rating firm is a relative (limited to a spouse and blood-relative and relative-in-law within the first degree of relationship) of an officer of the person concerned with rating or a person equivalent thereto (excluding the case referred to in (1));

(3) the case where the credit rating firm or its person in charge of rating is a holder of securities issued by such person concerned with rating (excluding the securities referred to in (1) and (2) of Article 2.1 of the Act and the securities referred to in (17) of said Article 2.1 (limited to securities having the nature of the securities referred to in (1) and (2) of said Article 2.1));

(4) the case where the credit rating firm or its person in charge of rating is a person having an interest in derivatives transactions (limited to derivatives transactions regarding securities issued by such person concerned with rating or such person concerned with rating);

308.2. A holder under Article 308.1 (3) and a person having an interest under Article 308.1 (4) shall include a person owning securities for such person's name or other person's name (including a nominee) (including a person having claims on delivery of securities based on purchase or sale or other contract) or a person having an interest and the following persons:

(1) a person authorized to exercise voting rights or other rights as a shareholder of the issuer of securities or authorized to direct the exercise of such voting rights or other rights under the provisions of a trust contract of money or other contract or the laws;

(2) a person authorized to invest in securities under the provisions of a trust contract of money or other contract or the laws.

Article 309. — Matters in Which Person Concerned with Rating Has Interest

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-35 (1) of the Act shall be:

(1) assessment of credit standings of the person concerned with rating;

(2) assessment of credit standings of a financial instrument in the case where the person concerned with rating is the issuer of such financial instruments (limited to the case where such financial instrument is a security) or debtor (limited to the case where such financial instrument is a claim);

(3) assessment of credit standings of a financial instrument or juridical person related to formation in the case where the person concerned with rating is a trustee of operations for such formation.

Article 310. — Matters to Make Important Influence on Credit Rating

Matters prescribed by the Cabinet Office Ordinance as provided in Article 66-35 (2) of the Act shall be:

(1) the organization form and composition of major assets and liabilities of a juridical person in the case where credit rating is made for assessment of credit standings of a juridical person, securities issued by such juridical person or claims on such juridical person;

(2) important matters regarding design of a financial instrument or a juridical person in the case

where credit rating is made for assessment of credit standings of such financial instrument or juridical person.

Article 311. — Types of Advice Excluded from Prohibition

Case prescribed by the Cabinet Office Ordinance as provided in Article 66-35 (2) of the Act shall be the case where the credit rating firm has explained, in response to a request from a person concerned with rating, about influence by information provided by such person concerned with rating or the fact on granting credit rating based on rating granting policies, etc. and matters related thereto.

Article 312. — Prohibited Acts

Acts prescribed by the Cabinet Office Ordinance as provided in Article 66-35 (3) of the Act shall be:

- (1) an act, prior to credit assessment (which means credit assessment provided in Article 2.34 of the Act; hereinafter in CHAPTER IV, the same), to make a promise with a person concerned with rating to provide, or make available for inspection, determined credit rating as the result of credit assessment (excluding an act to provide a person concerned with rating with credit rating expected based on rating granting policies, etc. and matters related thereto in advance);
- (2) an act of a person in charge of rating of the credit rating firm to receive, demand or accept an offer, of money or goods (excluding money or goods the total amount during one day of which is 3,000 Yen or less and money or goods necessary for business) from a person concerned with rating in the process of granting credit rating;
- (3) an act to refuse granting credit rating for the assessment of credit standing of assets securitized instruments only for the reason that credit rating is made for credit standings of assets securitized instruments and other credit rating firm has granted credit rating for the assessment of credit standings of such assets securitized instruments or its underlying assets.

Article 313. — Entries in Rating Policies, etc.

313.1. Rating policies, etc. provided in Article 55-36.1 of the Act shall contain:

- (1) policies and methods to grant credit rating (hereinafter in CHAPTER IV, "rating granting policies, etc.");
- (2) policies and methods to provide, or make available for inspection, credit rating (hereinafter in CHAPTER IV, referred to as "rating providing policies, etc.").

313.2. Rating granting policies, etc. shall meet the following requirements:

- (1) rating granting policies, etc. shall be rigid and systematical;
- (2) judgment shall be made based on all information materials collected together for credit standings (limited to credit standings for which credit rating is made) of an financial instruments or juridical person;
- (3) the following matters shall be stated according to the classification and the details of matters subject to credit rating:
 - (a) assumptions for assessment of credit standings and standards for determining grades which represent the result of assessment of credit standings;
 - (b) the summary of methods to grant credit rating;
- (4) policies and methods (including policies and method to secure reasonable length of time necessary for such person concerned with rating to express opinions) that a person concerned with rating can confirm the existence of a factual error regarding major information used by the credit rating firm for granting credit rating before the credit rating firm performs an act to provides, or make available for inspection, credit rating granted shall be stated;
- (5) policies and methods for granting credit rating in the case of granting such credit rating without request from a person concerned with rating shall be stated.

313.3. Rating providing policies, etc. shall meet the following requirements:

- (1) granted credit rating shall be provided, or made available for inspection, without delay after granting such credit rating;
- (2) granted credit rating shall be provided, or made available for inspection, to general public;
- (3) the following matters shall be published by means of using the Internet or other means if granted credit rating is provided, or made available for inspection; *provided*, that, if credit rating is made for the assessment of credit standings of assets securitized instruments, the credit rating firm may publish the type and scale of business and location of the person referred to in (1) or (2) of Article 307.2 and the reasonable grounds not to publish in lieu of the matter referred to in (e) (limited to the name of the person referred to in (1) or (2) of Article 307.2);
 - (a) the name or trade name and registration number of the credit rating firm and supervisory measures taken within the latest one year to such credit rating firm;
 - (b) the date of granting the credit rating;

- (c) the name of the chief rating analyst who has been involved in the process of granting credit rating and the name of a person responsible, as the representative of the credit rating firm, for granting the credit rating;
- (d) the summary of the matter referred to in (3) of Article 313.2 (in the case of the matter referred to in (b) of said (3), limited to an important matter) used for granting the credit rating and the matter subject to credit rating;
- (e) the name of a person concerned with rating;
- (f) if credit rating is made for credit standings of assets securitized instruments and the design is significantly different from the design of assets securitized instruments for which credit rating has been granted in the past, such fact;
- (g) in the case of granting the credit rating without request from a person concerned with rating, such fact and whether the credit rating firm acquired unpublished information (limited to unpublished information which is determined to make important influence on credit rating) from the person concerned with rating in the process of granting credit rating;
- (h) in the case where the credit rating firm does not update the granted credit rating, such fact and the reason therefor;
- (i) explanation of the assumption, significance and extent of the granted credit rating according to the classification of the matters subject to such credit rating (including explanation of the characteristics of change in credit rating and explanation, in the case where credit rating is made for the assessment of credit standings of an financial instrument for which information of a change in credit standings is limited, of the extent of such credit rating);
- (j) the following matters regarding major information used for granting credit rating:
 - (i) the summary of such information;
 - (ii) the summary of measures taken to ensure the quality of such information;
 - (iii) the provider of such information;
- (k) in the case where credit rating has been granted for the assessment of credit standings of assets securitized instruments, the following matters:
 - (i) information of analysis of losses, cash flow and sensitivity;
 - (ii) the code or figure or other representation to clarify that credit rating has been granted for the assessment of credit standings of assets securitized instruments (including explanations for the purpose that an investor understands the significance and the extent of such credit rating based on such representation);
- (4) information of the retraction of granted credit rating shall be provided without delay;
- (5) the credit rating firm shall not make representation to cause misunderstanding that the Commissioner of the Financial Services Agency or other administrative agency has guaranteed the reasonableness of the result of credit assessment.

Article 314. — Method to Publish Rating Policies, etc.

- 314.1. A credit rating firm shall publish rating policies, etc. to enable an investor and a user of credit rating to access to the rating policies, etc. by means of using the Internet and other means any time easily.
- 314.2. In the case where more than one credit rating firms (limited to the case where such more than one credit rating firms are connected juridical persons and have the common representative in Japan or person provided in Article 297) perform credit rating acts jointly, such more than one credit rating firms shall establish and publish rating policies, etc. jointly.
- 314.3. Before a credit rating firm makes an important change in rating policies, etc., the credit rating firm shall publish the fact and the summary of such change: *Provided*, That if there is an unavoidable reason, publishing the reason, the fact and the summary of the change without delay after the change shall suffice.

Section 3. Account

Article 315. — Books and Records regarding Business Operations

- 315.1. Books and records that a credit rating firm shall prepare pursuant to the provisions of Article 66-37 of the Act shall be:
 - (1) records for the following matters regarding granted credit rating:
 - (a) granted credit rating, the date of granting of such credit rating and matters subject to such credit rating;
 - (b) matters referred to as Article 313.3 (3);

- (c) the name of a rating analyst who has been involved in the process of granting credit rating and the name of a person responsible, as the representative of the credit rating firm, for granting credit rating;
 - (d) the names of members of a collegial body, information provided to such collegial body and the grounds for decision making and other records in the case where such collegial body makes definitive decision making as a credit rating firm for granting credit rating (if such collegial body does not make such definitive decision making, such fact and reason);
 - (e) the name and location of a connected juridical person in the case where such connected juridical person has been involved in the process of granting credit rating;
 - (f) when the credit rating firm has made credit assessment based mainly on quantitative analysis and there is importance difference between the result of such credit assessment based on such quantitative analysis and granted credit rating, main reason for such difference;
 - (g) information based on which credit rating is granted (including information which has recorded the process of negotiation with a person concerned with rating);
 - (h) the distinction whether credit rating has been granted based on the request from a person concerned with rating or not;
 - (i) the summary of confirmation of the existence of conflicts of interests between the credit rating firm and its person in charge of rating and a person concerned with rating and other measures taken to prevent conflicts of interests;
- (2) records of the following matters regarding a person concerned with rating who has paid fees to the credit rating firm:
- (a) the name or address;
 - (b) the amount of fees; and
 - (c) services for fees;
- (3) a written statement containing the summary of service or instruments provided by the credit rating firm;
- (4) a written statement regarding credit assessment on which credit granting policies, etc. are based;
- (5) a written statement containing the result of research of the state of compliance with laws and regulations, etc.;
- (6) a written statement containing specific acts and measures to avoid conflicts of interests;
- (7) the minutes of the supervisory committee;
- (8) records of the process of important negotiation between an officer or employee of the credit rating firm and a person concerned with rating (limited to negotiation regarding credit rating acts);
- (9) documents or electronic records received from an investor or other user of credit rating (limited to documents or electronic records containing statements regarding grievances to credit rating acts); and
- (10) the general ledger.
- 315.2. A credit rating firm shall keep the books and records referred to in Article 315.1 for five years from the date of preparation.
- 315.3. In the case where more than one credit rating firms (limited to the case where such more than one credit rating firms are connected juridical persons and have the common representative in Japan or person provided in Article 297) perform an credit rating act as a business jointly, such more than one credit rating firms may prepare books and records jointly.

Article 316. — Business Report

316.1. A business report required to be submitted by a credit rating firm pursuant to the provisions of Article 66-38 of the Act shall be prepared pursuant to Form 28.

316.2. A credit rating firm shall prepare a business report under Article 316.1 in accordance with corporate accounting practices which is generally recognized as fair and reasonable.

Article 317. — Procedures, etc. for Approval of Deadline of Submission of Business Report

317.1 If a credit rating firm which is a foreign juridical person wishes to obtain an approval under the proviso to Article 18-4-2 of the Order, such credit rating firm shall file an application for approval stating the following matters with the Commissioner of the Financial Services Agency:

- (1) the name or trade name;
- (2) the registration date and registration number;
- (3) a period for which the credit rating firm which is a foreign juridical person wishes to obtain such approval for the submission of a business report;
- (4) the last day of a business year concerned which is covered by such business report; and
- (5) the reasons why such approval is required for the submission of such business report.

317.2 An application for approval under Article 317.1 shall be accompanied by the following documents:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) a written statement certifying that a representative of the credit rating firm which is a foreign juridical person stated in such approval application (including the representative in Japan provided in Article 66-28.1 of the Act and a person provided in Article 297) is an duly authorized person for the submission of such approval application; and
- (3) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such approval application and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

317.3. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 317.1 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in its home country, for such credit rating firm who is a foreign juridical person to submit a business report within three months after the end of such business year, grant an approval to such firm for the business report for a business year as from the business year in which the date of application fell (the immediately preceding business year if that date is within three months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding the submission of a business report for the immediately preceding business year)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 317.1 (5) for such application.

317.4. An approval under Article 317.3 shall be granted on the condition that a credit rating firm which is foreign juridical person under Article 317.3 provides documents containing the following matters to the Commissioner of the Financial Services Agency within three months after the end of each business year: *Provided*, That the entry of matters referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and orders as referred to in such written legal opinions.

Article 318. — Entries in Explanatory Documents

Matters prescribed by the Cabinet Office Order as provided in Article 66-39 of the Act shall be:

- (1) regarding the summary and organization of the credit rating firm:
 - (a) the name or trade name;
 - (b) the date of registration and the registration number;
 - (c) the summary of the organization;
 - (d) the name of each of 10 largest shareholders and the number, and the ratio of the number of voting rights attached to the shares of stock relative to voting rights held by all of its shareholders, of shares of stock held by each of such shareholders;
 - (e) the matters referred to in (2) to (5) of Article 66-28.1 of the Act;
- (2) the following matters regarding the business of the credit rating firm:
 - (a) the summary of the business conditions during the latest business year;
 - (b) the following matters as the indicators of the business conditions during the latest business year:
 - (i) sales (including the breakdown of considerations for services of credit rating acts and considerations for services other than credit rating acts);
 - (ii) if the credit rating firm receives fees more than 10/ 100 of sales related to credit rating business from one person concerned with rating (including the persons referred to in the items of Article 15-16.1 of the Order and the items of Article 15-16.2 of the Order), the name of such person concerned with rating;
 - (iii) statistics and regarding changes in credit standings of an financial instrument and juridical person (limited to credit standings the assessment for which credit rating is made) or other information;
 - (iv) information regarding the history of granted credit rating (limited to information for which at least one year has passed since the date of granting credit rating);
 - (v) the state of related business and other business;
 - (vi) the total number of rating analysts;
 - (c) general fee scheme between the credit rating firm and a person concerned with rating;

- (3) the state of implementation of business management system of the credit rating firm (including the summary of the following matters):
 - (a) in the case where a person in charge of rating consecutively is involved in the process to grant credit rating to matters in which the same person concerned with rating has an interest, measures to be taken to carry out the business fairly and truthfully from the position independent from such person concerned with rating;
 - (b) measures to implement the system to ensure the appropriateness of credit rating business (which means measures provided in Article 306.1 (4));
 - (c) measures to ensure compliance with laws and regulations, etc.;
 - (d) the following measures for making policies for control of quality of the process of granting credit rating and the performance thereof:
 - (i) policies for employment and training of a rating analyst;
 - (ii) assignment of rating analysts;
 - (iii) measures to be taken to ensure sufficient quality in respect of information used for granting a credit rating;
 - (iv) measures to implement functions to verify appropriately the reasonableness and effectiveness of rating granting policies, etc.;
 - (v) measures to publish, when an important change has been made for rating granting policies, etc., the extent of credit rating to be judged whether updating is necessary or not based on rating granting policies, etc. after the change and a period required to be updated among credit rating ratings granted based on such rating granting policies, etc. without delay, and to make necessary updating within such period;
 - (vi) measures to verify that it is possible to grant a credit rating appropriately for the assessment of credit standings of assets securitized instruments (limited to the case where the designing of such assets securitized instruments is extremely different from the designing of assets securitized instruments for which credit rating have been granted in the past);
 - (vii) measures to be taken to perform verification and updating of granted credit ratings appropriately and continuously;
 - (e) the types of specific acts and the summary of measures to avoid conflicts of interests;
 - (f) in the case where a rating analyst who has ceased to be an officer or employee of the credit rating firm has become an officer or its equivalent of a person concerned with rating, measures to verify the reasonableness of credit rating granted to matters in which such person concerned with rating has an interest;
 - (g) measures to prevent an act related to related business or other business from making improper influence on credit rating acts;
 - (h) in the case where credit rating is made for assessment on credit standings of assets securitized instruments, measures taken to enable a third party to verify the reasonableness of such credit rating from an independent position;
 - (i) measures that the determination policies for remuneration, etc. of an officer and employee of the credit rating firm will not constitute a failure of fair and accurate performance of credit rating business;
 - (j) measures taken to prevent a person in charge of rating from participating to negotiation regarding fees for such credit rating;
 - (k) measures taken to control, and keeping secret, information obtained in the course of credit rating business appropriately;
 - (l) measures to settle grievances to the credit rating firm appropriately and smoothly;
 - (m) policies for management of, and names of and methods to appoint, members of the supervisory committee;
 - (n) code of conduct that the credit rating firm and its officer and employee shall comply;
- (4) the summary of rating policies, etc.;
- (5) the following methods regarding the state of a connected juridical person and subsidiary juridical person of the credit rating firm:
 - (a) the structure of the group of the credit rating firm and its connected juridical person and subsidiary juridical person; and
 - (b) the name or trade name, the location of the principal business office or other type of office and the type of main business of a connected juridical person and subsidiary juridical person.

Article 319. — Method to Make Explanatory Documents Available for Public Inspection

319.1. A credit rating firm shall keep a copy of explanatory documents at all business offices or other type of offices and make the explanatory documents available for public inspection and publish the explanatory documents to enable investors and users of credit rating to access to the explanatory documents by means of using the Internet and other means any time easily.

319.2. In the case where more than one credit rating firms (limited to the case where such more than one credit rating firms are connected juridical persons and have the common representative in Japan or person provided in Article 297) perform credit rating acts as a business jointly, such more than one credit rating firms shall prepare and publish explanatory documents jointly.

Article 320. — Procedures, etc. for Approval of Period to Making Explanatory Documents Available for Public Inspection

320.1. A credit rating firm which is a foreign juridical person shall, when it wishes to obtain an approval pursuant to the proviso to Article 18-4-3 of the Order, file with the Commissioner of the Financial Services Agency an application for approval containing:

- (1) the name or trade name;
- (2) the registration date and registration number;
- (3) the period for which the credit rating firm which is a foreign juridical person wishes to obtain such approval regarding making explanatory documents available for public inspection;
- (4) the day on which the business year for such explanatory documents ends; and
- (5) reasons why such approval is required regarding making such explanatory documents available for public inspection.

320.2. The following documents shall be attached to an application for approval under Article 320.1:

- (1) the articles of incorporation or a written statement equivalent thereto;
- (2) a written statement certifying that the representative of the credit rating firm which is a foreign juridical person (including the representative in Japan provided in Article 66-28.1 of the Act and a person provided in Article 297) stated in such application for approval is duly authorized regarding the filing of such application for approval; and
- (3) written legal opinions by legal experts on the truth and accuracy of matters regarding laws and regulations or practices stated in such application for approval and the texts of the relevant articles and clauses of the relevant laws and regulations referred to in such written legal opinions.

320.3. The Commissioner of the Financial Services Agency shall, if there has been an application for approval under Article 320.1 and he finds that it is practically impossible, in view of the laws, regulations or practices prevailing in its home country, for such credit rating firm which is a foreign juridical person to keep explanatory documents and make them available for public disclosure and publish them by means of using the Internet or other means by the date on which four months have passed since the end of the business year, grant an approval to such firm for the explanatory documents for business years as from the business year in which the date of application fell (the immediately preceding business year if that date is within four months after the commencement of the business year (or within the period for which such approval has been granted if such approval has been granted regarding making the explanatory documents available for public inspection for the immediately preceding business year)) through the business year immediately preceding the business year in which falls the date on which there is any extinction of, or change in, the reasons provided in Article 320.1 (5) for such application.

320.4. An approval under Article 320.3 shall be granted on the condition that the credit rating firm which is a foreign juridical person under Article 320.3 provides documents containing the following matters to the Commissioner of the Financial Services Agency within four months after the end of each business year: *Provided*, That the entry of the matter referred to in (2) may be omitted if such matters are the same as matters stated in documents provided within five years before such documents are provided:

- (1) the statement that there was no extinction of, or change in, the reasons for the application of such approval during the business year; and
- (2) written legal opinions regarding matters referred to in (1) by legal experts and the texts of the relevant articles and clauses of the relevant laws and regulations as referred to in such written legal opinions.

Section 3. Supervision

Article 321. — Notification of Cessation of Business, etc.

321.1. In notifying pursuant to the provisions of Article 66-40.1 of the Act, such person shall file with the Commissioner of the Financial Services Agency a notification containing the matter provided in each of the following items according to the classification of the case referred to in such item:

- (1) the case of falling under Article 66-40.1 (1) of the Act (excluding the case referred to in (2))

- and (3)) — the date of and reason for the cessation;
 - (2) the case of falling under Article 66-40.1 (1) of the Act (limited to the case of causing succession of the whole of the credit rating business as a result of demerger) — the following matters:
 - (a) the name or trade name of a succeeding person;
 - (b) the date of, and reasons for, the demerger;
 - (3) the case of falling under Article 66-40.1 (1) of the Act (limited to the case of assignment of the whole of the credit rating business) — the following matters:
 - (a) the name or trade name of an acquiring person by assignment;
 - (b) the date of, and reasons for, the assignment.
 - (4) the case of falling under Article 66-40.1 (2) of the Act — the following matters:
 - (a) the name or trade name of the counterparty of the merger;
 - (b) the date of, and reasons for, the merger;
 - (c) the method of the merger;
 - (5) the case of falling under Article 66-40.1 (3) of the Act — the following matters:
 - (a) the date on which petition for commencement of bankruptcy proceedings has been filed;
 - (b) the date of the ruling of the commencement of bankruptcy proceedings has been made;
 - (6) the case of falling under Article 66-40.1 (4) of the Act — the date of, and reasons for, the dissolution.
- 321.2. The documents referred to in each of the following items shall be attached to a notification under Article 321.1 according to the classification of such item:
- (1) the case of falling under Article 66-40.1 (2) of the Act — a written statement containing the details of a contract of merger and procedures for merger;
 - (2) the case of falling under Article 66-40.1 (3) of the Act — a copy of the judgment of the ruling of the commencement of bankruptcy proceedings or a written statement containing the details of the ruling of the commencement of bankruptcy proceedings.

Article 322. — Public Notice, etc. of Cessation of Business, etc.

322.1 A public notice pursuant to the provisions of Article 66-40.3 of the Act shall be made by an official gazette or a daily news paper which carries current events.

322.2 A notification provided in Article 66-40.4 of the Act shall state:

- (1) the name or trade name;
- (2) the date of registration and registration number;
- (3) a cause of notification; and
- (4) the expected date of occurrence of the cause of notification.

Article 323. — Public Notice to Person Whose Place of Residence is Unknown

A public notice pursuant to the provisions of Article 66-42.3 of the Act shall be made by an official gazette.

Article 324. — Public Notice of Supervisory Dispositions

A public notice pursuant to the provisions of Article 66-43 of the Act shall be made by an official gazette.

Article 325. — Remarks on Application

In exercising the authority provided in Articles 66-41, 66-42.1, 66-42.2 or 66-45.1 of the Act, the Commissioner of the Financial Services Agency shall take care for not involving in concrete details of individual credit rating or method of credit assessment.

CHAPTER V
MISCELLANEOUS PROVISIONS

Article 326. — Travel Expense or Other Reimburse of Expenses to Witnesses, etc.

326.1. A witness or appraiser shall, pursuant to the provisions of Article 191 of the Act, be paid travel expenses equivalent to travel expenses paid to a second rank official under remuneration list of administrative officers (1) provided in Article 6.1 (1) (a) of the Law on Remuneration of Regular Service Officials (Law No. 95 of 1950) pursuant to the provisions of the Law on Travel Expense for National Government Officials, etc. (Law No. 114 of 1950).

326.2. An appraiser may, if the Commissioner of the Financial Service Agency, etc. deems necessary, receive reasonable expense in addition to travel expense under Article 326.1.

Article 327. — Governmental Office, etc. with Which Application, etc. shall be Filed

327.1. In the case where an association performs registration administration provided in Article 64-7.1 of the Act pursuant to the provisions of Article 64-7.1 of the Act (including the *mutatis muntadis* application under Article 66-25 of the Act) or Article 64-7.2 of the Act, an application, etc. for registration shall be filed with such association (in the case where a financial instruments intermediary firm files, an association of which any of belonging financial instruments firm, etc. is a member).

327.2. In filing with the director-general of a local finance bureau or the director of Fukuoka Finance Branch an application for registration provided in Article 5, 46 or 257, the applicant for registration under Article 29, 33-2 or 66 of the Act shall file such application for registration and one copy thereof and one set of documents under Article 5, 46 or 257 through the director of any finance office or the chief of Otaru Sub-Branch Office or Kitami Sub-Branch Office if the principal business office, etc. of such applicant for registration is located within the jurisdiction of any of them.

327.3. In filing with the director-general of a local finance bureau, etc. an application, notification or documents (excluding an application for registration under Article 64-3 of the Act (including the *mutatis mutandis* application under Article 66-25 of the Act) and notification pursuant to the provisions of Article 252, 253 and 292) provided in the laws, orders or this Cabinet Office Ordinance, the financial instruments firm, etc., the on-exchange trading permit firm, filing person of business subject to special provisions or financial instruments intermediary firm shall file such documents and one copy thereof through the director of any finance office or the chief of Otaru Sub-Branch Office or Kitami Sub-Branch Office if the location of the principal business office, etc. of such financial instruments firm, etc., the address of the representative in Japan of such on-exchange trading permit firm, the location of the filing person of business subject to special provisions or the location of the principal business office, etc. of such financial instruments intermediary firm is within the jurisdiction of any of them.

327.4. A notification filed by a director or executive officer (in the case of a foreign juridical person, a representative in Japan, director or executive officer or a person equivalent thereto (limited to a person who performs the duties related to financial instruments business)) of a financial instruments firm (limited to a person who carries out the first-type financial instruments business or investment management business) pursuant to the provisions of Article 31 and a notification under Article 204, 241, 243 or 286 shall be filed in accordance with Article 327.3.

Article 328. — Typical Process Time-Frame

328.1. The Commissioner of the Financial Services Agency, etc. shall endeavor to make a disposition for an application of the registration, application, permit, license or confirmation referred to in each of the following items within the period provided in such item since the day on which such application has arrived at the office:

- (1) registration under Articles 29, 33-2, 66 and 66-27 of the Act, approval under Article 30.1 of the Act and permit under Article 60.1 of the Act — two months; or
- (2) registration of change under Articles 31.4 of the Act, approval under Article 31.6 of the Act, permit under Article 59.1 and approval under Article 35.4, the proviso to Article 44-3.1, the proviso to Article 44-3.2, Article 49-4.2 and Article 56-4.3, Article 54-4.4 of the Act and Article 15-13 (3) of the Order and confirmation under the proviso to Article 39-3 of the Act (including the *mutatis mutandis* application under Article 66-15 of the Act) — one month.

328.2. The following periods shall be excluded from counting of the period provided in Article 328.1:

- (1) period required for the modification of the application;
- (2) period required for making changes in the contents of the application by the applicant; or
- (3) period required for the addition of information by the applicant as deemed necessary for the examination of such application.

Supplementary Provisions

Translation omitted.