

1. Investigations of Criminal Offenses and Filing of Complaints

1) Outline

1. Authority to investigate criminal offenses

The authority to investigate criminal offences on securities transactions is given to the SESC under the Securities and Exchange Law (SEL), the Law on Foreign Securities Firms (LFSF) and the Financial Futures Trading Law (FFTL). The SESC's scope of investigations under that authority is not limited to securities companies, but reaches all parties involved in securities transactions, including the investors themselves. With the SEL being applied similarly, the SESC is also given the authority to investigate criminal offences under the Personal Identity Verification Law (PIVL) placed in force in January 2003.

Noncompulsory investigations conducted by the SESC on criminal offenses include making inquiries about suspects of criminal acts or related parties (hereinafter referenced jointly as "suspects"), inspection of materials in the possession of or left behind by suspects, and confiscation of materials supplied by suspects on a voluntary basis or left behind by them (Article 210 of the SEL, Article 53 of the LFSF, Article 106 of the FFTL and Article 18 of the PIVL). Compulsory investigations conducted by the SESC with warrants from judges include visiting and searching the premises of suspects and seizing related evidence (Article 211 of the SEL, Article 53 of the LFSF, Article 107 of the FFTL and Article 18 of the PIVL).

2. Scope of criminal offenses and others

Criminal offenses are defined as hampering fair securities trading, and their scope is prescribed under government ordinances (Article 45 of the SEL Enforcement Order, Article 23 of the LFSF Enforcement Order and Article 14 of the FFTL Enforcement Order). Main offenses include securities companies providing benefits to select clients to compensate for their trading losses, debt-issuing companies submitting securities reports containing false information, the spreading of rumors, manipulation of prices and insider trading.

Criminal offenses subject to investigation under the PIVL include customer acts of covering up their real names and addresses when the securities company verifies their identity.

SESC investigators report the results of criminal investigations to the SESC (Article 223 of the SEL, Article 53 of the LFSF, Article 119 of the FFTL and Article 18 of the PIVL). When convinced of a suspect's guilt, the SESC files a complaint with public prosecutors and sends the evidence it gathered in its probe, including materials left behind by the suspect and seized materials (Article 226 of the SEL, Article 53 of the LFSF, Article 122 of the FFTL and Article 18 of the PIVL).

2) Investigations of criminal offenses and filing of complaints

1. Investigations of criminal offenses

In the 2002 SESC year, the SESC conducted compulsory investigations into four cases of transactions in connection with price manipulations at the Osaka Securities Exchange (OSE) by searching the home and related offices of the suspect and others, and also conducted necessary noncompulsory investigations into the cases.

2. Filing of complaints

Based on the results of the investigations, the SESC filed a total of 10 complaints involving 22 people with public prosecutors on charges of violation of the SEL, with five complaints involving seven people on charges of insider trading, one complaint involving one person on the act of spreading rumors and deceit regarding the transactions in question, one complaint involving 2 people on the act of deceit, and three complaints involving 12 people on submitting securities reports containing false information. The outline of these complaints is explained below.

(1) Crayfish Case (Inside Trading)

The suspect gained knowledge of Hikari Tsushin Inc.'s decision to make a takeover bid for

shares of Crayfish Co. The suspect then bought Crayfish shares before the announcement of the takeover bid to make a profit.

(2) Nanaboshi Case (Case 2: Submission of Financial Statements Containing False Information)

Five executives of Nanaboshi Co., including the chairman, conspired to dress up the company's securities statements for the business year through March 1998 and the business year through March 1999 by counting nonexistent sales from fictitious construction contracts. The five submitted the statements containing such false financial information to financial authorities.

(Note) In the SESC 2001 year, the SESC filed a complaint with prosecutors against the company and the five executives on charges of submitting similar securities statements for the business year through March 2000 and the business year through March 2001.

(3) Dream Technologies Case (Spreading of Rumors and the Act of Deceit)

The suspect attempted to reap profit from trading of Dream Technologies Corp. shares by manipulating the stock's price. The suspect recommended buying of the shares in e-mails sent to subscribers to the suspect's mail magazine. The act constituted spreading of rumors and deceit in stock trading.

(4) MTCI Case (Case 1: Submission of Securities Statement Containing False Information)

For the business year through May 1999, the chairman of MTCI Co., Ltd. prepared a securities statement that included a balance sheet in which money already used for investment was described as being still deposited in an account, although such money was fictitious. In October 1999, the chairman submitted the statement to relevant financial authorities as the document was required for the company's public stock offering.

(5) **MTCI Case (Case 2: Deceit)**

Prior to a planned capital increase through public stock offering in October 1999, the chairman of MTCI Co., Ltd. attempted to gain proceeds from the share sale by making a false statement about the company during seminars. The act constituted deceit intended to collect payments from general investors on their share purchases.

(6) **Nichimen Infinity Case (Case 1: Insider Trading)**

When a securities company concluded an agent contract with Nichimen Corp. on its takeover bid plan, a division chief at the securities company gained knowledge that the target of Nichimen's takeover bid was Nichimen Infinity Inc. before the trading house announced the plan. To profit, the division chief bought shares of Nichimen Infinity before the announcement of the takeover bid.

(7) **Mikasa Coca-Cola Bottling Case (Case 2: Insider Trading)**

The two suspects gained knowledge of Coca-Cola West Japan Co.'s plan to make a takeover bid for shares of Mikasa Coca-Cola Bottling Co. The suspects conspired to profit by buying shares of Mikasa Coca-Cola Bottling before Coca-Cola West's announcement of the plan.

(8) **Mikasa Coca-Cola Bottling Case (Case 3: Insider Trading)**

The suspect gained knowledge about Coca-Cola West Japan Co.'s plan to make a takeover bid for shares of Mikasa Coca-Cola Bottling from the chief of Mikasa Coca-Cola Bottling Co.'s general and personnel affairs division. To profit, the suspect bought shares of Mikasa Coca-Cola Bottling before Coca-Cola West's announcement of the plan.

The two suspects conspired to profit by buying shares of Mikasa Coca-Cola Bottling before Coca-Cola West's announcement of the plan.

(9) **KB Case (Submission of Securities Statement Containing False Information)**

Three executives of KB Co., including the chairman, conspired to pad the company's securities statements for four consecutive years between the business year through March 1998 and the business year through March 2001 by counting fictitious sales into the statements, and submitted them to financial authorities.

(10) **Nichimen Infinity Case (Case 2: Insider Trading)**

When a securities company concluded an agent contract with Nichimen Corp. on its takeover bid plan, a deputy chief of the corporate merger division at the securities company gained knowledge that the target of Nichimen's takeover bid was Nichimen Infinity Inc. before the trading house announced the plan. To profit, the deputy division chief bought shares of Nichimen Infinity before the announcement of the takeover bid.