

**Strategy & Policy 2023 - 2025**  
**and**  
**Monitoring Priorities for Securities Businesses**  
**(July 2023 - June 2024)**

IBA Japan, Executive Committee meeting

INOUE Toshitake

Secretary-General

Securities and Exchange Surveillance Commission

5th December, 2023

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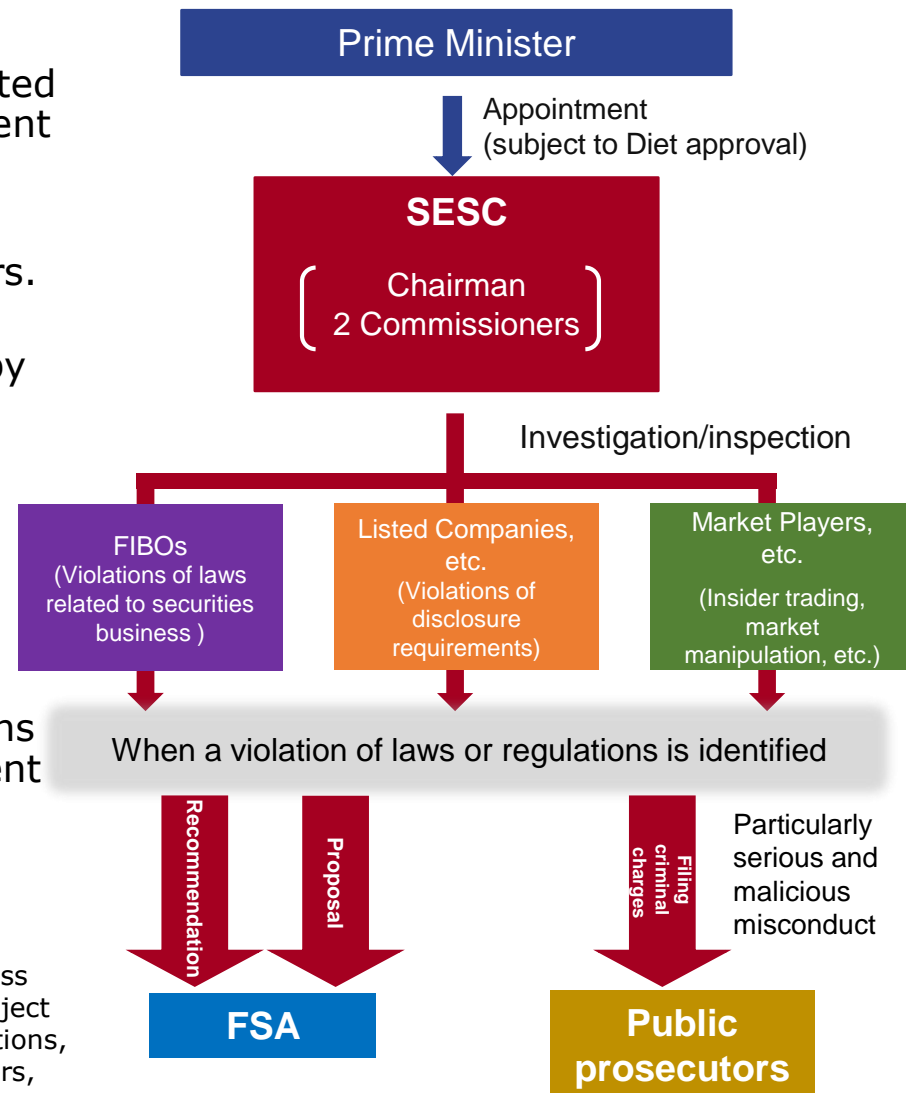
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# **I. Introduction of SESC**

# Organization and Objectives

- ◆ The SESC is a collegiate organization within the FSA, founded in 1992.
- ◆ A Chairman and two Commissioners are appointed by the Prime Minister and function as independent agents. (Term of office: 3 years)
- ◆ The SESC aims to ensure the fairness and transparency of markets and to protect investors.
  - Inspections of violations of laws and regulations related to securities business by Financial Instruments Business Operators (FIBOs)\*
  - Investigations of market misconduct, including insider trading and market manipulation
  - Inspections of violations in disclosure requirements by listed companies
  - Recommendations for administrative actions or administrative monetary penalty payment orders, policy proposal, or filing criminal charges based on the results of the above investigations or inspections

\* "FIBOs" stands for Financial Instruments Business Operators and includes any business operator subject to inspections, such as registered financial institutions, financial instruments intermediary service providers, and qualified institutional investors



## Introduction of SESC Chairman and Commissioners



**Commissioner  
KATO Sayuri**

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

**Chairman  
NAKAHARA Ryoichi**

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

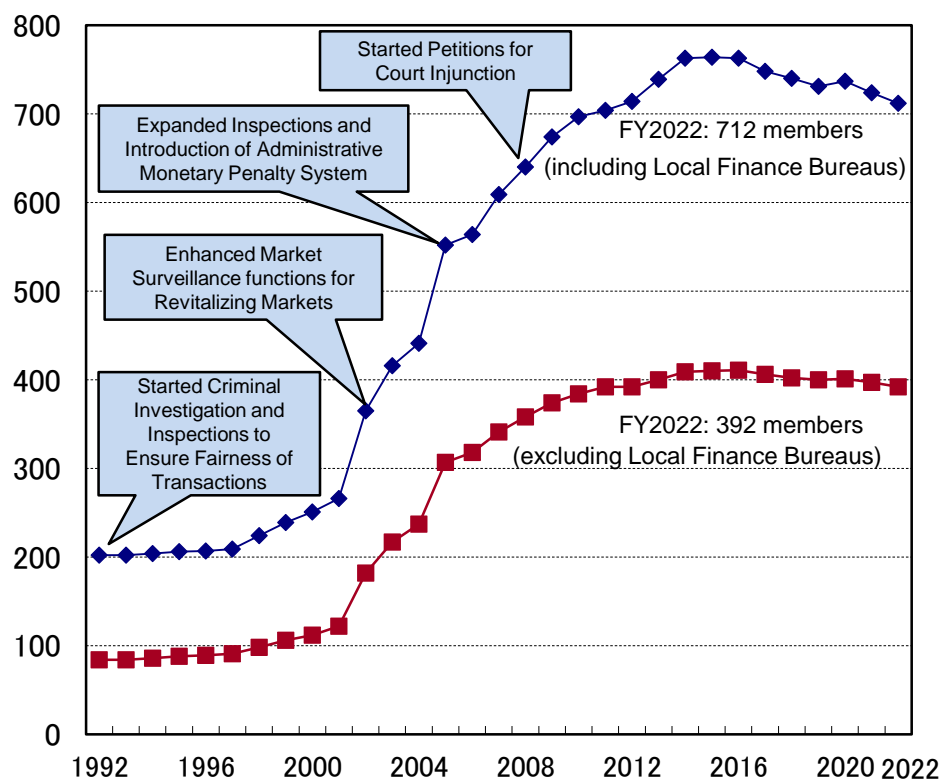
**Commissioner  
HASHIMOTO Takashi**

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

# Organizational Structure and Resources

- ◆ The Executive Bureau is composed of the following six divisions: Planning and Management Division, Market Surveillance Division, Securities Business Monitoring Division, Market Misconduct Investigation Division, Disclosure Inspection Division, and Criminal Investigation Division.
- ◆ In addition to the Executive Bureau in Tokyo, the SESC has staff members at the Local Finance Bureaus, which perform mainly inspections of FIBOs located in respective areas.
- ◆ There are 712 staff members in total (392 of which work for the Executive Bureau) as of March 31, 2023, the end of fiscal year 2022.

## Staff Number



\* "FIBOs" stands for Financial Instruments Business Operators and includes any business operator subject to inspections, such as registered financial institutions, financial instruments intermediary service providers, and qualified institutional investors

# Introduction of SESC

## Organization's History

Since its establishment in 1992, the SESC has expanded its administrative investigations beyond its investigation of criminal cases to strengthen its functions as a market surveillance organization

Jul. 1992

**SESC established within the Ministry of Finance**, consisting of two divisions: the Coordination and Inspection Division and the Criminal Investigation Division

Jun. 1998

SESC moved to the Financial Supervisory Agency

Jan. 2001

**SESC moved to the FSA**

in reorganization of Japanese central government ministries

Apr. and Jul. 2005

**Introduction of administrative monetary penalty system**

Addition of authority to inspect disclosure statements and to conduct investigations to impose administrative monetary penalties to the SESC

Sept. 2007

Addition of authority to conduct inspections on investment funds

Dec. 2008

Addition of authority to file petitions for court injunctions against violations by unregistered business operators

Jul. 2011

**SESC reorganized to its current structure of six divisions: Planning and Management, Market Surveillance, Securities Business Monitoring, Market Misconduct Investigation, Disclosure Inspection, and Criminal Investigation**

Aug. 2011

**Cross-Border Investigation Office was established** within the Market Misconduct Investigation Division to respond to market misconduct involving cross-border and transactions by institutional investors

Apr. 2014

Introduction of insider trading regulations for encouragement of transactions

Apr. 2015

Digital Forensic Solutions Office was established to preserve evidence on electromagnetic records (digital forensics)

Apr. 2018

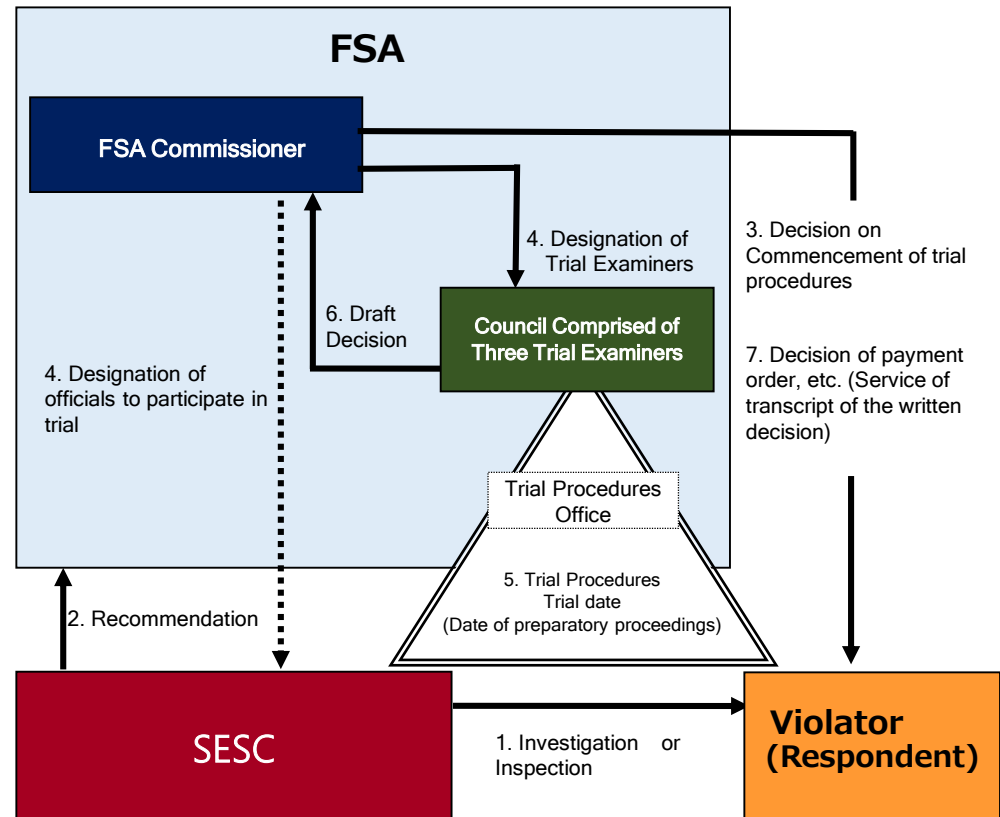
Addition of authority to conduct inspections on high speed trading business operators

Nov. 2021

Addition of authority to conduct inspections on financial service intermediaries that provide securities intermediary services

- ◆ The administrative monetary penalty system was introduced as an administrative measure to impose a financial burden on persons who violate certain provisions of the Financial Instruments and Exchange Act (FIEA).
- ◆ This measure is intended to achieve the administrative objective of preventing misconduct and ensuring effectiveness of the regulation.
- ◆ Subjects of the administrative monetary penalty include: false statements in securities registration statements and annual securities reports, spreading of rumors, use of fraudulent means, market manipulation, and insider trading.
- ◆ When the SESC identifies a violation as a result of an investigation of market misconduct or inspection of disclosure statements, the SESC will make a recommendation\* to the Prime Minister and the Commissioner of the FSA to issue an administrative monetary penalty payment order.

- Outline of Administrative Monetary Penalty System -



\*After receiving a recommendation from the SESC, the FSA commences an administrative trial procedure by trial examiners. Upon receiving a decision by the trial examiners, the Commissioner of the FSA decides whether to order payment of an administrative monetary penalty.



# Introduction of SESC

## Activities in Figures

| Category \ Fiscal Year  | 1992 to 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | Total        |
|---|--------------|------|------|------|------|------|--------------|
| Filed Criminal Charges  | 192          | 8    | 3    | 2    | 8    | 8    | <b>221</b>   |
| Recommendations:  | 1,028        | 54   | 49   | 29   | 20   | 26   | <b>1,206</b> |
| To Take <b>Administrative Actions Against Operators</b> (*1)  | 559          | 11   | 14   | 5    | 2    | 5    | <b>596</b>   |
| To Issue Orders to Pay <b>Administrative Monetary Penalties: Market Misconduct</b> (*2)                 | 364          | 33   | 29   | 14   | 12   | 14   | <b>466</b>   |
| To Issue Orders to Pay <b>Administrative Monetary Penalties: Disclosure Containing False Statements</b> | 101          | 10   | 6    | 10   | 5    | 7    | <b>139</b>   |
| For Order to Submit Revised Report, etc.  | 4            | 0    | 0    | 0    | 1    | 0    | <b>5</b>     |
| Announcements of Inspection Results of QII Business Operators   | 86           | 0    | 2    | 0    | 0    | 1    | <b>89</b>    |
| Petitions for Prohibition and Stay Order  | 20           | 2    | 3    | 1    | 1    | 2    | <b>29</b>    |
| Policy Proposals  | 24           | 2    | 0    | 0    | 0    | 1    | <b>27</b>    |

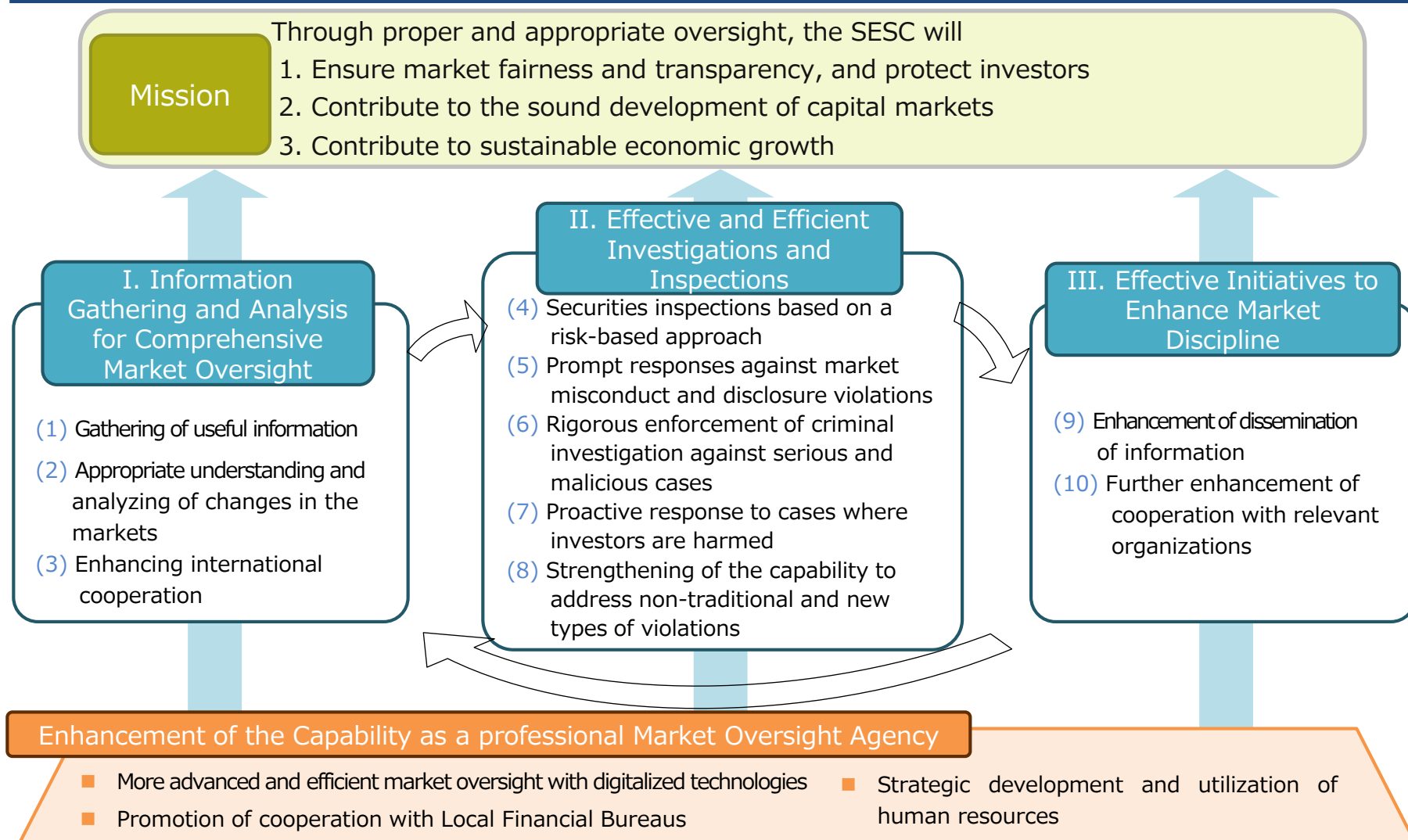
\*1: In line with the revision of the FIEA (enforced in Mar. 2016), the SESC began to make recommendations to take administrative actions against business operators, etc. engaging in specially permitted businesses for qualified institutional investors, etc. ("QII Business Operators") as well from FY2016.

\*2: Market misconduct - "Market Manipulation," "Insider Trading" and "Use of Fraudulent Means" - counts persons subject to orders to pay administrative monetary penalties.

## **II. Strategy & Policy 2023-2025**

# Strategy & Policy of the SESC 2023-2025

- For Trusted, Fair and Transparent Markets  
in Response to the Changing Times -



## II. Effective and Efficient Investigations and Inspections

### (4) Securities inspections based on a risk-based approach

- In collaboration with supervisory departments and Local Financial Bureaus, etc., the SESC will select financial instruments business operators for inspection based on risk assessment and endeavor to conduct verification and point out problems in a practical and meaningful manner. When any problem is found, the SESC will analyze the whole picture of the case, identify its root causes, and encourage voluntary improvement efforts to contribute to its prevention.

### (5) Prompt responses against market misconduct and disclosure violations

- The SESC will conduct prompt investigations and inspections so that it can swiftly make recommendations for an administrative monetary penalty payment order. The SESC will reveal the actual state of market misconduct and disclosure violations, and after ascertaining the whole picture of each case and searching for root causes, the SESC will have in-depth discussions with the related parties to prevent the occurrence and recurrence of violations.
- Regarding cross-border cases of legal violations and disclosure violations by global companies, the SESC will conduct investigations and inspections based on the characteristics of individual cases in collaboration with foreign authorities.

### (6) Rigorous enforcement of criminal investigation against serious and malicious cases

- Against serious and malicious violations, the SESC will take rigorous enforcement actions by exercising its powers of criminal investigation. In such instances, the SESC will cooperate with criminal investigators, prosecutors and foreign authorities in order to effectively reveal the facts, including who is to blame.

## II. Effective and Efficient Investigations and Inspections

### (7) Proactive response to cases where investors are harmed

- From the perspective of protecting diverse investors through ensuring customer-oriented business conduct, the SESC will proactively take action against cases where investors are harmed, by such activities as conducting securities inspections against financial instruments business operators' inappropriate selling and promotion of financial instruments or filing petitions with the courts to issue prohibition and stay orders against unregistered business operators with offices in and outside Japan and entities that conduct the public offering of securities without notification, etc.

### (8) Strengthening of the capability to address non-traditional and new types of violations

- The SESC will also take proactive actions against non-traditional and new types of violations that may threaten market fairness (such as legally-evasive large volume holding and purchase and new-type of usage of fraudulent means) in light of changes in the environment surrounding the markets, while continuously addressing types of violations seen in the past cases of making recommendations for administrative actions or filing criminal charges.

### **III. Monitoring Priorities for Securities Businesses (July 2023 - June 2024)**

**(Note) The content of this part is excerpted and partly summarized from the tentative translation of the said document that has been already published.**

# 1. Structure of Monitoring Priorities for Securities Businesses

## **1 Environment surrounding Financial Instruments Business Operators (FIBOs) , etc.**

- (1) Environment surrounding FIBOs
- (2) Changes to regulatory frameworks for FIBOs
- (3) Findings through the securities business monitoring over the past business year

## **2 Industry-wide monitoring priorities**

- Industry-wide (Type I , II Financial Investment Business and Investment Management Business) monitoring priorities [Common monitoring priorities]

## **3 Monitoring priorities by FIBOs' size and business type**

- Main monitoring priorities by FIBOs' size (major, semi-major, regional) and business type (Type I , II Financial Investment Business, Foreign Exchange and Investment Management Business)

## **4 Approach to the securities businesses monitoring**

- Continuing efforts to select inspection targets based on risk, cooperation with relevant organizations

## **5 Dissemination of inspection results and other initiatives**

# 1. (1) Environment surrounding FIBOs

## ● Customer-oriented business conduct

The "Basic Policy on Economic and Fiscal Management and Reform 2023," formulated in June 2023, states that the government will implement the "Doubling Asset-based Income Plan" through such means as fundamentally expanding and perpetuating the NISA program, establishing a public organization for financial and economic education, and promoting customer-oriented business conduct, and will formulate a policy plan on fundamental reform of the asset management business, etc. within this year. In order to facilitate households' stable asset building, it is important to achieve a virtuous cycle of funds wherein the fruits of growth of the Japanese economy and companies are distributed to households. For that purpose, FIBOs are continuously required to properly ensure customer-oriented business conduct at each stage of the composition, sale, management, etc. of financial instruments and fulfill their expected roles sufficiently.

## ● Advancement of digitalization

As the business environment significantly changes along with progress in digitalization and other factors, FIBOs are developing sustainable business models through such means as partnering with other securities and financial companies and providing services that meet the changing market environment and customer needs.

## ● Increased risk of cyber-attack damage

As warnings have been repeatedly issued to financial institutions (FIs) to call for enhanced cybersecurity measures under the initiative of top management amid the increasing risk of cyberattacks, FIBOs are continuously required to strengthen their system risk management, including cybersecurity.

## ● Importance of anti-money laundering and combating the financing of terrorism (AML/CFT)

As Japan follows up on the results of the FATF 4th Mutual Evaluation and looks ahead to the 5th Mutual Evaluation, FIBOs are continuously required to take AML/CFT measures.



# 1. (2) Changes to regulatory frameworks for FIBOs (i)

## **(i) Measures for ensuring customer-oriented business conduct**

Based on the recommendations in the Interim Report of the "Customer-Oriented Business Conduct Task Force" of the Working Group on Capital Market Regulations under the Financial System Council (Dec 9, 2022), there are moves toward a regulatory framework for ensuring customer-oriented business conduct that takes into consideration the best interests of customers, etc. and enhancing the provision of information to customers (Proposed revision of FIEA was enacted on Nov 20, 2023).

In addition, the Japan Securities Dealers Association revised its Self-Regulatory Guidelines to ensure appropriate solicitation and sale of complex structured bonds, etc. to customers (July 1, 2023).

## **(ii) Response to the progress in digitalization, etc.**

Based on the recommendations of the Interim Report of the Working Group on Capital Market Regulations under the Financial System Council (June 22, 2022) and the Second Interim Report (Dec 21, 2022), there are moves toward developing a regulatory framework, such as prohibiting type II FIBOs that provide social lending, etc. from publicly offering funds that do not guarantee the delivery of investment reports, and applying sale and solicitation regulations under the Financial Instruments and Exchange Act to token rights based on specified joint real estate venture contracts. (Proposed revision of FIEA was enacted on Nov 20.2023).

# 1. (2) Changes to regulatory frameworks for FIBOs (ii)

## **(iii) Development of provisions concerning ESG investment trusts**

As the issue of "greenwashing" has been pointed out globally in recent years, the Comprehensive Guidelines for Supervision of FIBOs, etc. were partially amended to specify in detail matters to be verified regarding ESG information disclosure for publicly offered investment trusts (Mar 31, 2023 Amended Guidelines for Supervision).

## **(iv) Clarification of trustee responsibilities of investment management business operators**

Based on the recommendations of the Interim Report to the Working Group on Capital Market Regulations of the Financial System Council (June 22, 2022), for the purpose of clarifying trustee responsibilities of investment management business operators with regard to investment trusts that are virtually managed by external managers, such as in the form of fund of funds, the Investment Trusts Association revised its rules to specify matters to be observed and noted (published on Apr 20, 2023, applied from Apr 20, 2024).

# 1. (3) Findings through securities business monitoring over the past business year

| Category  | Main matters  |
|---|---|
| <ul style="list-style-type: none"> <li>Type I FIBOs</li> <li>Registered financial institutions</li> <li>Independent financial advisors</li> </ul> | <ul style="list-style-type: none"> <li>◆ Inappropriate solicitation and sale that conflicted with the principle of suitability at a securities company</li> <li>◆ Engaging in problematic conduct in terms of investor protection, which eventually led to business operations that conflicted with the principle of suitability at a securities company</li> <li>◆ Inappropriate solicitation so that a financial instruments intermediary service provider as an outsourcee of an FIBO sold financial instruments</li> <li>◆ Market manipulation in relation to block trades at a large securities company</li> <li>◆ Deficient trade screening and inappropriate business operation conducted in collaboration with banks, etc.</li> </ul> |
| <ul style="list-style-type: none"> <li>Investment management business operators</li> </ul>  | <ul style="list-style-type: none"> <li>◆ Cases of investment management business operators who use outsourcing without properly managing and administering their investment assets</li> <li>◆ Violations of the duty of diligence, such as inappropriate property surveys or property earnings management and deficiencies in the conflict-of-interest control system</li> </ul>  |
| <ul style="list-style-type: none"> <li>Investment advisors/agencies</li> </ul>  | <ul style="list-style-type: none"> <li>◆ Acts in violation of laws and regulations such as posting false information to solicit an investment advisory contract</li> </ul>  |
| <ul style="list-style-type: none"> <li>Type II FIBOs</li> </ul>   | <ul style="list-style-type: none"> <li>◆ A situation where some Type II FIBOs post false information and solicit customers to obtain equity of the fund</li> </ul>  |
| <ul style="list-style-type: none"> <li>Unregistered Business Operators</li> </ul>   | <ul style="list-style-type: none"> <li>◆ Conducting over-the-counter derivatives transactions or making public offering of foreign bonds without registration as FIBOs</li> </ul>   |

## 2. Industry-wide monitoring priorities (i)

### **(i) Internal control environments with a focus on appropriate investment solicitation based on the principle of suitability, and appropriate sales operations based on customer-oriented business conduct**

- With regard to the sale of complex and highly-risky products, examining whether FIBOs develop and appropriately implement internal rules concerning customer targeting and explanation, whether they appropriately monitor compliance with such internal rules and whether their actual sales operations are consistent with their policies on the principle of customer-oriented business conduct

### **(ii) Business model changes along with progress in digitalization, etc., and the development of internal control environments in response to such changes**

- Examining the impacts of FIBO's business model changes, such as the expansion of non-face-to-face sales and the provision of new products and services, on their business management, and verifying that they have appropriate internal control environments in response to these changes
- As for those FIBOs whose business models remain dependent on traditional face-to-face sales, examining the sustainability of such business models and the financial and other business impacts of the changing market conditions and customer needs

## 2. Industry-wide monitoring priorities (ii)

### **(iii) Sufficiency of cybersecurity measures (including countermeasures against unauthorized access in online trading), and system risk management (including management of system development and operation and management of trustees) in response to progress in digitalization**

- In light of the increasing risk of cyber-attack damage and the progress of digitalization, examining cybersecurity measures

### **(iv) Firm establishment of internal control environments for AML/CFT**

- Examining AML/CFT measures in light of the follow-up status of the results of the FATF Fourth Mutual Evaluation of Japan and the Fifth Mutual Evaluation of Japan, which is expected to take place in 2025 or later

### **(v) Implementation of measures to improve or prevent the recurrence of matters pointed out in internal audits or SRO examinations**

- Over the past business year, confirming cases in which responses based on the results of internal audits were insufficient and improvements were not implemented for issues pointed out in audits by SROs
- Examining matters pointed out through internal audits and audits by SROs, because of early and effective improvements encouraging the development of FIBOs' business operation environments and important for conducting proper business operations

- ◆ In addition to the above, flexibly examining other themes in accordance with changes in the environment surrounding FIBOs, such as the implementation of the "Doubling Asset-based Income Plan" and fundamental reform of the asset management business, etc.

### 3. Monitoring priorities by FIBOs' size and business type (i)

| FIBOs' size and business type   | Priorities   |
|---|--|
| ( 1 ) Major securities business groups:<br>Japanese securities companies with global operations | <ul style="list-style-type: none"><li>➤ Considering the business environments surrounding each major securities business group, verifying that they have appropriate control environments for governance and risk management that support global business operations, and that they are working to build sustainable business models</li><li>➤ Given that deficiencies have been found in their business operation, including trade screening, verifying that they have appropriate internal control environments, including those for detecting and preventing market misconduct</li><li>➤ If necessary, swiftly inspecting relevant sales offices to examine actual sales practices there</li><li>➤ (Three mega banking groups' securities companies) Verifying that they have appropriate control environments for managing customer information in line with their promotion of bank-securities business relationships</li></ul> |
| ( 2 ) Foreign securities firms  | <ul style="list-style-type: none"><li>➤ Verifying that the foreign securities firms have appropriate internal control environments in response to the overseas outsourcing of back-office operations as part of their group strategies, and that they have appropriate control environments for system risk management.</li><li>➤ Verifying that they have appropriate control environments for managing sales of financial instruments to Japanese financial institutions and other investors</li></ul>   |

### 3. Monitoring priorities by FIBOs' size and business type (ii)

| FIBOs' size and business type  | Priorities   |
|--|--|
| (3) Online securities firms  | <ul style="list-style-type: none"> <li>➤ Given the recent increasing risk of cyberattacks, verifying that the online securities firms have appropriate control environments for system risk management, including cybersecurity measures</li> <li>➤ Verifying that they have appropriate management of outsourcing contractors, in line with their business model of using financial instruments intermediary service providers to expand face-to-face sales activities</li> <li>➤ Verifying that they have appropriate internal control environments, including effective trade management that can deal with rapid increases in newly opened accounts and transaction volume</li> </ul>        |
| (4) Semi-major/regional securities firms (including regional bank-affiliated securities companies) | <ul style="list-style-type: none"> <li>➤ Amid the severe business environment, such as the outflow of customers' assets through aging as well as the impact of intensifying fee competition and digitalization, examining whether they are following the principle of suitability, given the SESC's inspections, recognized them to engage in inappropriate investment solicitation and other problematic practices in terms of investor protection</li> <li>➤ Verifying the effectiveness of internal control environments at those securities firms whose major shareholders or business management systems have changed, from the viewpoint of their business models or governance</li> </ul> |
| (5) Foreign currency margin transactions business operators  | <ul style="list-style-type: none"> <li>➤ Given the recent increasing risk of cyberattacks, verifying that they have appropriate control environments for system risk management, including cybersecurity measures</li> <li>➤ Verifying that they comply with relevant advertising regulations and have appropriate internal control environments for sales and solicitation</li> </ul>   |

### 3. Monitoring priorities by FIBOs' size and business type (iii)

| FIBOs' size and business type  | Priorities   |
|--|--|
| (6) Investment management business operators   | <ul style="list-style-type: none"> <li>➤ Verifying their actual investment practices and control environments for managing investment (including those outsourced) and conflicts-of-interest</li> </ul>  |
| (7) Investment advisors/agencies   | <ul style="list-style-type: none"> <li>➤ Verifying that they are free from problematic practices in terms of investor protection, such as misleading advertisement and solicitation through false explanation</li> </ul>   |
| (8) Type II FIBOs, and business operators, etc. engaging in specially permitted businesses for qualified institutional investors | <ul style="list-style-type: none"> <li>➤ Focusing on funds claiming high returns and the existence of investment projects</li> </ul>   |
| (9) Financial instruments intermediary service providers and other securities businesses subject to monitoring                   | <ul style="list-style-type: none"> <li>➤ Considering that some online securities firms are expanding face-to-face sales activities in cooperation with independent financial advisors, verifying that their investment solicitation is conducted appropriately and managed sufficiently by their entrusting FIBOs</li> <li>➤ Monitoring registered financial institutions in light of their business characteristics</li> </ul>  |
| (10) Unregistered business operators   | <ul style="list-style-type: none"> <li>➤ Proactively exercising its investigative authority to file a petition with the court for a prohibition and stay order against their illegal conduct</li> <li>➤ Enhancing information dissemination, including the public disclosure of their and their representatives' names and illegal conduct, as well as the issuance of alerts and messages to investors regarding transactions with unregistered business operators</li> <li>➤ Proactively coordinating with relevant JFSA divisions, Local Finance Bureaus (LFBs), investigative authorities and the Consumer Affairs Agency</li> </ul> |



## 4. Approach to the securities business monitoring

- The SESC will continue to select FIBOs for inspection based on risk assessment.
- The SESC will continue to be proactive in ascertaining their actual situation through inspections mainly for the following cases. Also, the SESC will conduct inspections in a flexible manner, including by narrowing down items for verification as necessary.
  - i. an FIBO has breached a relevant law and/or regulation or has concerning business operations, which necessitates prompt in-depth verification;
  - ii. an FIBO offers a financial instrument with an unclear risk profile, which necessitates examination of its solicitation activities;
  - iii. an FIBO's actual business operations cannot be fully comprehended through monitoring-based information analyses alone (including where it has been long since the last time the FIBO was inspected); or
  - iv. an FIBO poses a possible serious problem in terms of investor protection (e.g., inadequate segregation of customer assets).
- In its inspections, the SESC will endeavor to conduct verification and point out problems in a practically meaningful manner.
- The SESC and LFBs will work closely from the planning stage of monitoring and inspection, including information sharing and exchange of opinions, and conduct joint inspection as needed.
- The SESC will continue close collaboration with SROs, share detected matters and awareness in a timely manner, and thereby conduct its securities business monitoring effectively and efficiently.

# 5. Dissemination of inspection results and other initiatives

- Encouraging voluntary improvement efforts by inspected FIBOs by sharing inspection results also with their audit-related staff and outside directors
- Endeavoring to provide information about its perspectives in a specific and straightforward manner, including through the "Overview of Securities Monitoring and Case Studies"

## SESC Website

<https://www.fsa.go.jp/sesc/english/>



SESC X  
@SESC\_JAPAN



## Main Contents



### Casebook of Administrative Monetary Penalties (Market Misconduct) and Casebook of Inspection of Disclosure Statements

[URL] <https://www.fsa.go.jp/sesc/jirei/index.html> (Japanese Version Only)

[Overview] Contains past cases of recommendations for administrative monetary penalty payment order and others made by the SESC to enhance the transparency of market oversight administration and encourage market participants to become self-disciplined



### Securities Monitoring Overview and Case Studies

[URL] <https://www.fsa.go.jp/sesc/kensa/shitekijirei.html> (Japanese Version Only)

[Overview] Contains problems etc. identified through monitoring of financial instruments business operators.



### Monitoring Priorities for Securities Businesses (July 2023 – June 2024)

[URL] [https://www.fsa.go.jp/sesc/news/c\\_2023/2023/20230801-2/01.pdf](https://www.fsa.go.jp/sesc/news/c_2023/2023/20230801-2/01.pdf) (in Japanese)

[https://www.fsa.go.jp/sesc/news/c\\_2023/2023/20230801-2/02.pdf](https://www.fsa.go.jp/sesc/news/c_2023/2023/20230801-2/02.pdf) (in Japanese)

[Overview] Contains the basic action policy and monitoring priorities for financial instruments business operators for business year 2023.



### Annual Report

[URL] <https://www.fsa.go.jp/sesc/english/reports/re2021.pdf>

[Overview] Summary of the SESC's activities over the year (Published every year under the provision of the Act for Establishment of the FSA)



### Message to the market

[URL] <https://www.fsa.go.jp/sesc/message/index.html> (Japanese Version Only)

[Overview] Provides the SESC's recent initiatives and messages to the market to raise awareness

## 6. "Overview and Examples of Securities Monitoring" (Business year 2022)

- On August 1, 2023, the SESC published "Overview of Securities Monitoring and Case Studies," which summarizes problems identified through the monitoring of securities businesses of FIBOs and investigations of unregistered businesses.

※ 【URL】 <https://www.fsa.go.jp/sesc/kensa/shitekijirei.html> (Japanese only)

【Major cases in Business year 2022 (July 2022 - June 2023)】

FIBOs : 15 cases in total, including 7 cases where recommendations were implemented

Unregistered operators : 2 cases for which court filings were carried out



- The SESC expects that this will lead to:
  - Voluntary efforts to enhance and strengthen FIBOs' internal control environments, etc.  
(Note) In order to further promote voluntary initiatives, the names of the business operators, against whom the SESC issued recommendations, have been listed since 2022.
  - Prevention of damage to investors caused by fraudulent investment solicitation, etc. by unregistered business operators

## 7. Examples of recommendations for administrative actions (i)

# Recommendation for administrative disciplinary action against SMBC Nikko Securities Inc. (Type I FIBO) (Sep 28, 2022)

### (i) Market manipulation cases

- Purchase of 10 listed stocks for the purpose of maintaining closing prices, etc. at levels desirable for the company in "block offer" transactions※<sup>1</sup> (illegal stabilization).

※<sup>1</sup> A transaction where a securities company first purchases shares in off-auction trading (outside regular trading hours) and then resells them to multiple individual investors when major shareholders sell their shares.

- There were also deficiencies in the market surveillance system that overlooked illegal transactions and the business operation system concerning block offers.

### (ii) Cases of breach of banking and securities firewall regulations

- Non-public information on multiple corporate clients was received from SMBC against the client's intention and shared internally (breach of the Banking and Securities Firewall Regulations※<sup>2</sup>)

※<sup>2</sup> A regulation under the FIEA that prohibits banks and securities companies within a financial group from sharing non-public information except with the consent of customers.

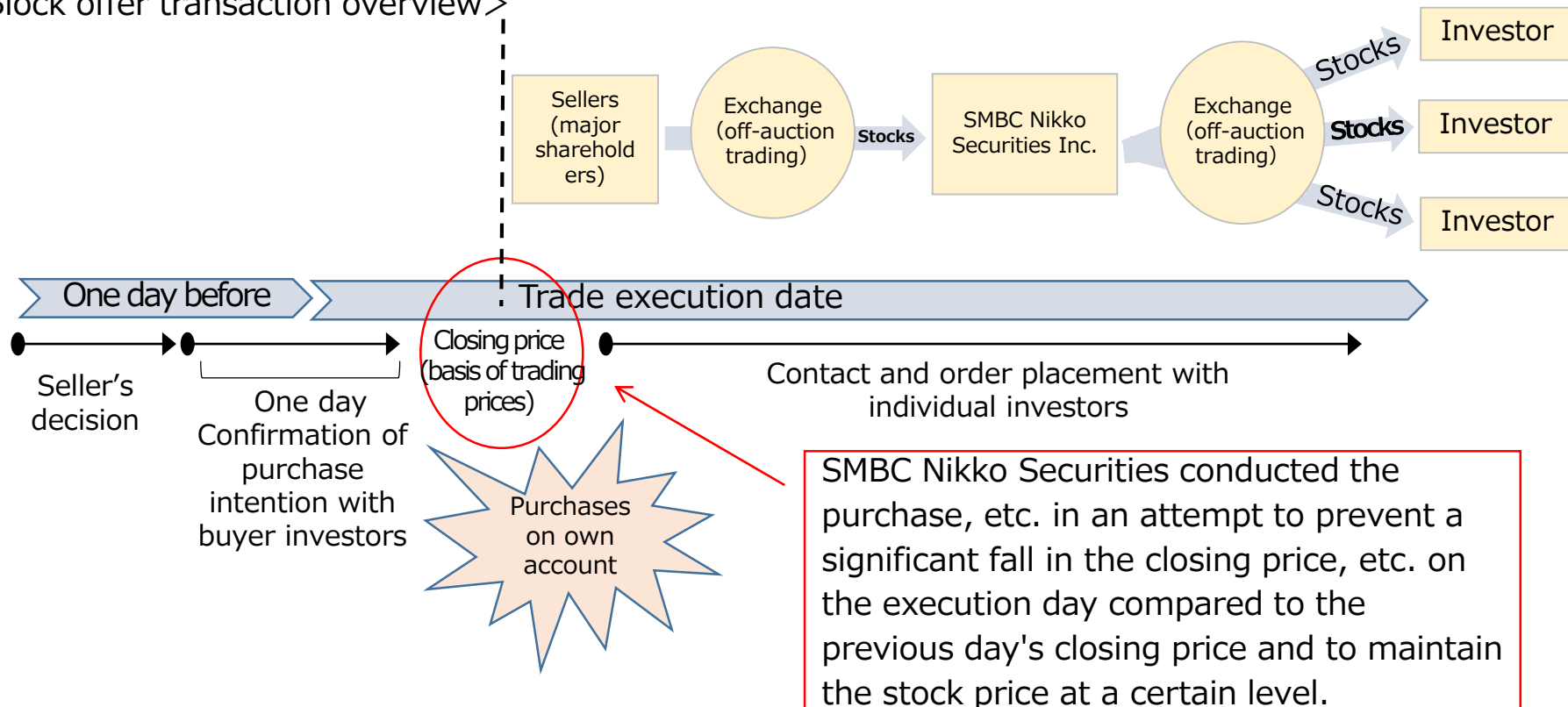
(Note) In response to this recommendation, the FSA took administrative actions in October 2022, including issuing a business suspension orders and business improvement order to SMBC Nikko Securities Inc. and a business improvement order to Sumitomo Mitsui Financial Group.

## Market manipulation cases in "block offer" transactions

### 【Block offer transactions】

A transaction where a securities company first purchases shares in off-auction trading (outside regular trading hours) and then resells them to multiple individual investors when major shareholders sell their shares.

### <Block offer transaction overview>

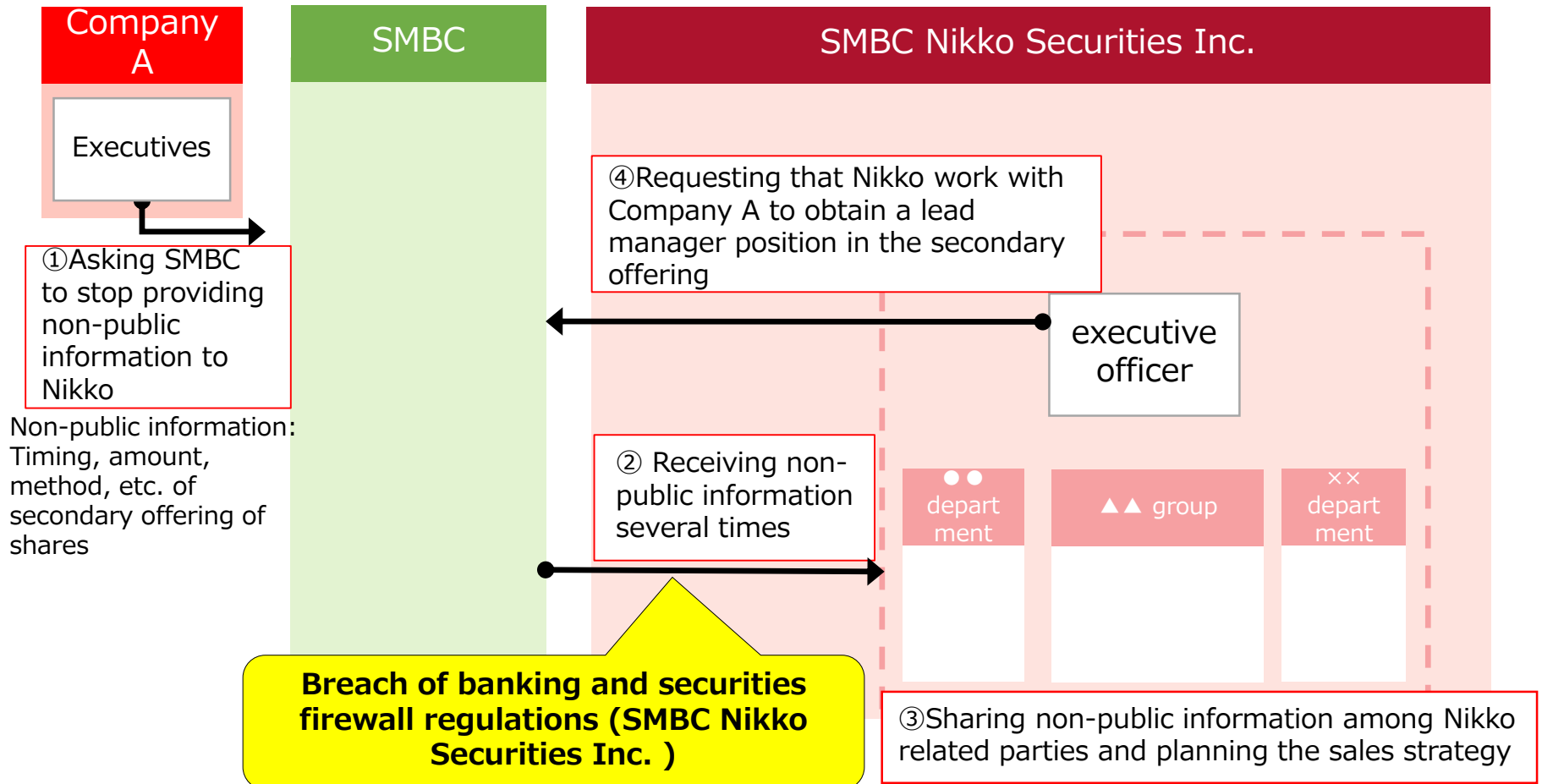


# (Reference) Examples of Cases Violating the Bank Securities Firewall Regulations

※ The SESC confirmed two other cases of breach of firewall rules.

## 【Summary of the case】

SMBC Nikko Securities Inc. received and internally shared non-public information from Sumitomo Mitsui Banking Corporation (SMBC) concerning the secondary offering of shares in Company A, even though Company A had asked SMBC to stop providing such information.



## 7. Examples of recommendations for administrative actions (ii)

### Recommendation for administrative disciplinary action against Chibagin Securities Co., Ltd. (Type I FIBOs), The Chiba Bank, and The Musashino Bank (Registered FIs) (June 9, 2023)

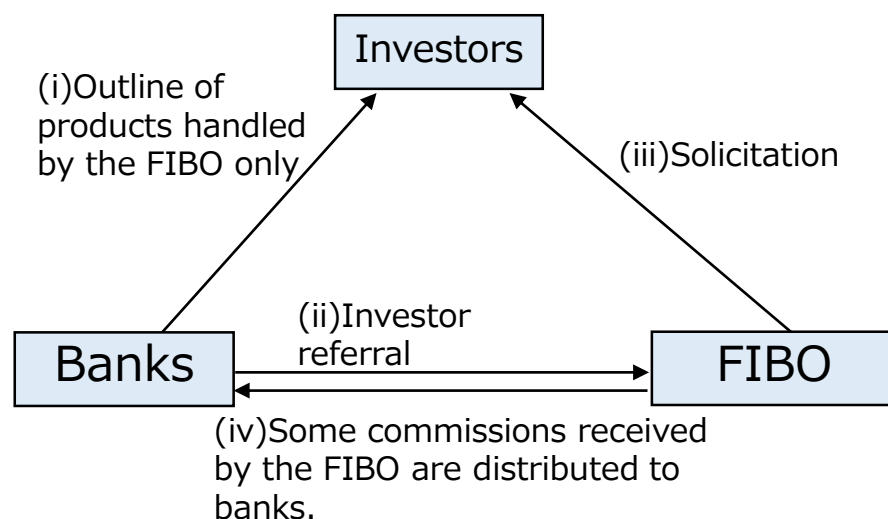
#### **[Chibagin Securities Co.]**

- I. The FIBO solicited a large number of investors for structured bonds on a long-term and continuous basis without understanding investor attributes in a timely and appropriate manner (breach of the principle of suitability).
- II. It concluded of a contract for financial instruments transaction without providing at least three investors with an explanation, in light of investor attributes, in a manner and to the extent necessary for such investors to understand the transaction, when soliciting structured bonds (breach of accountability)

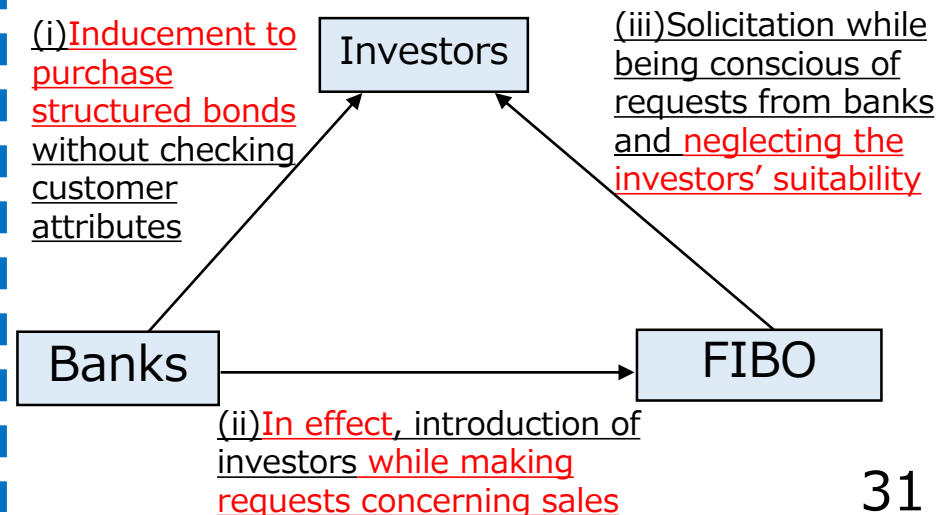
#### **[Chiba Bank, Musashino Bank]**

Under the circumstances where an appropriate control environment for conducting financial instruments intermediary service has not been developed, there were problems in terms of investor protection, such as inducing investors to purchase structured bonds without confirming investor attributes, resulting in business operations that violate the principle of suitability of Chibagin Securities.

#### **[Originally envisioned business scheme]**



#### **[Inappropriate inducement/solicitation identified in the inspection]**

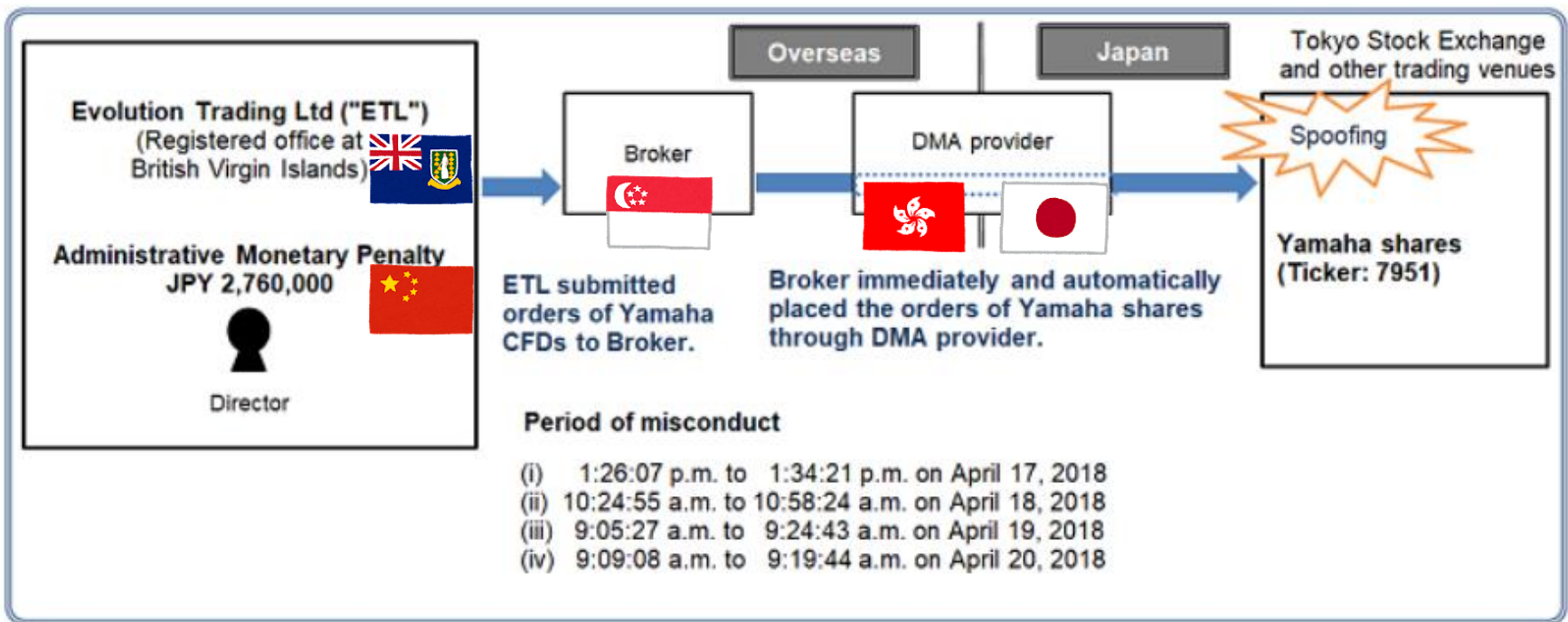


## 7. Examples of recommendations for administrative actions (iii)

### Recommendation for Administrative Monetary Penalty Payment Order for Market Manipulation in shares of Yamaha Corporation by Evolution Trading Ltd (Nov 5, 2021)

#### <Summary of the case>

- Evolution Trading Ltd, a foreign company, engaged in market manipulation by executing an over-the-counter derivatives transaction (CFD transaction) underlying Yamaha shares, placing an order in the market that the company did not intend to execute, and then executing the CFD transaction at a price favorable to the company on the other side of the market.  
(Note) No relationship is recognized between the Evolution Trading Ltd and a Japanese FIBO with a trade name similar to that of the Evolution Trading Ltd.
- The investigation of the case was **supported by the national financial authorities of the British Virgin Islands, China, Singapore and Hong Kong.**





## 8. Towards enhanced trade surveillance management by securities companies

- Securities companies are supposed to conduct trade surveillance, complying with the trade surveillance rules of the Japan Securities Dealers Association, and, where necessary, to take measures (including issuing warnings and suspending new transactions) against **their clients/customers who might be or could have been engaged in market misconduct, especially market manipulation.**
- The inquiries into securities companies about how they responded to those against whom SESC recommended the issuance of administrative monetary penalty payment order revealed that some companies promptly suspended new transactions based on the results of trade surveillance, whereas several other companies never suspended new transactions even after issuing warnings persistently on a considerable number of occasions.

⇒ **The operation of securities companies regarding whether to suspend new transactions and how to do so differs significantly from one to another.**



At a consultation meeting with the Japan Securities Dealers Association (January 2023), the SESC requested securities companies to **voluntarily review their trade surveillance management, including suspension of new transactions, and enhance the effectiveness of their trade surveillance** in view of better responding to clients/customers based on trade surveillance.

