

Basic Guidelines on Disclosure Statements Inspection

I. Basic Concepts

1. Basic Concepts of Disclosure Statements Inspection

The disclosure system under the Financial Instruments and Exchange Act (hereinafter referred to as the “FIEA”) obligates Issuers, etc. of Securities to submit Securities Registration Statements and other disclosure documents in order to provide investors with materials needed to make investment judgments in the primary and secondary markets for securities. By making such materials available to public inspection, the disclosure system aims to achieve accurate, expeditious and fair disclosure of information pertaining to the business operations and financial standing of Issuers of Securities, and to thereby ensure full utilization of the functions of the securities market and the protection of investors.

Investigators engaging in Disclosure Statements Inspection based on the provisions of Article 26 of the FIEA and other laws and regulations shall conduct Disclosure Statements Inspection in line with the intent of the disclosure system as outlined above and to achieve the following purposes:

- [1] To ensure that accurate company information is supplied to the market in an expeditious and fair manner; and
- [2] To deter acts in violation of the disclosure regulations.

When an Issuer, etc. of Securities is recognized to have violated laws and regulations, findings pertaining to the violation of laws and regulations and a proposal for recommending the Prime Minister and the Commissioner of the Financial Services Agency (hereinafter referred to as the “FSA”) to issue an administrative monetary penalty payment order and to take other measures shall be submitted to the Securities and Exchange Surveillance Commission (hereinafter referred to as the “SESC”) for deliberation. Investigators shall endeavor through these activities to contribute to the realization of the SESC’s mission, which is to ensure fairness and transparency in markets and to protect investors.

2. Attitude of Investigators

Investigators shall be mindful of the abovementioned purposes of the disclosure system and the aims of the Disclosure Statements Inspection etc., and shall adopt the following attitude in the discharge of their duties:

(1) Maintaining Discipline and Dignity, and Preserving Confidentiality

In order to win the trust and confidence of the public as executors of Disclosure Statements Inspection administration, Investigators shall at

all times endeavor to maintain discipline and dignity, and shall not divulge confidential information that they have come to know in the discharge of their duties.

(2) Observance of Proper Procedures

Having gained a full understanding of the provisions of the FIEA and the purpose of the administrative monetary penalty system, Investigators shall, when ordering the production of reports and conducting inspections, be aware that they are in a position to exercise the authority granted under laws and regulations in the disposal of private enterprises and individuals, and shall at all times observe proper procedures in the exercise of such authority.

(3) Discovery through Efficient and Effective Investigation

Investigators shall constantly endeavor to collect and analyze necessary information. When in contact with Subjects of Inspection, Investigators shall at all times maintain a temperate and calm attitude, and shall carefully hear the explanations given by the parties concerned. Investigators shall endeavor to efficiently and effectively discover the facts of a case by obtaining useful materials and other means.

(4) Self-Improvement and Use of Capacities

Investigators shall gain an adequate understanding of laws, regulations and rules pertaining to finance, securities and accounting. Investigators shall maintain a wide perspective on developments in the financial and securities markets and accounting practices, and shall at all times pursue self-improvement. All Investigators shall endeavor to make the maximum use of their capacities in the discharge of their duties.

II. Procedures for the Conduct of Disclosure Statements Inspection

Issuance of orders for the production of reports against Subjects of Inspection and the conduct of Inspection constitutes the justified exercise of authorities granted under laws and regulations. However, these actions may place a heavy burden on Subjects of Inspection and can be carried out with the understanding and cooperation of Subjects. Transparency of procedures and predictability from the perspective of Subjects must be enhanced in order to encourage Subjects of Inspection to cooperate in the conduct of Investigations, and to thereby facilitate the smooth and effective conduct of Investigations. To achieve these objectives, standard procedures for the conduct of Inspections of listed companies have been developed, and are described below as a standard case of conduct of Disclosure Statements Inspection.

Due attention should be paid to avoiding mechanical and uniform application of the implementation procedures set forth in these Basic Guidelines. Furthermore, these procedures do not preclude the

implementation of flexible responses devised through consultation between Senior Investigators and the Director, Disclosure Statements Inspection Division in view of the circumstances of the case of Disclosure Statements Inspection on hand.

1. Implementation Procedures

1-1 Collection and Analysis of Information

Investigators shall engage in collecting and routinely accumulating information from a broad range of sources, including disclosure documents submitted by Issuers of Securities, information available to related government agencies, information submitted to the SESC by Ordinary Investors, and Whistleblowing as protected under the Whistleblower Protection Act. Using expertise and methodologies developed over the years, Investigators shall analyze such information from various angles and examine whether implementation of Disclosure Statements Inspection is necessary.

Note: When an Issuer of Securities has made timely disclosure of amendments to past financial statements, or when an amendment report on the disclosure documents has been received, hearings shall be held with the Issuer as needed.

1-2 Disclosure Statements Inspection

(1) Order to Produce Reports or Materials

In order to gain an accurate understanding and to verify the appropriateness of the contents of disclosure documents that have been submitted or must be submitted by an Issuer of Securities, Investigators may order the Issuer, witnesses and others to produce reports and materials.

When ordering the production of materials, in principle and insofar as it does not hinder the execution of Inspection, the existing materials available to the Subject of Inspection shall be used. Due consideration shall be given to reducing the administrative burden on Subjects of Inspection, including allowing the delivery or submission of materials in electronic form.

When it is deemed that the Subject's person in charge is delaying the submission of materials without justification, a Senior Investigator shall inform the Subject's officer or other responsible persons of the matter and seek rectification.

(2) On-Site Inspection

In order to effectively gain an accurate understanding and to verify the appropriateness of the contents of disclosure documents that have been submitted or must be submitted by an Issuer of Securities, Investigators may conduct on-site inspections of the Issuer, witnesses and others after receiving the approval of the Head of the Disclosure Statements Inspections Section.

Investigators shall pay due attention to the following matters when conducting on-site inspections, and shall exercise due caution.

[1] Advance Notice

From the perspective of ensuring efficient Inspection, in general, advance notice will be given to the Subject of Inspection. However, from the perspective of ensuring effective discovery, on-site inspections may be conducted without prior notice when deemed necessary.

[2] Presentation of Identification Card and Explanation

At the start of on-site inspection, Investigators shall present to an officer or other responsible persons of the Subject of Inspection their identification cards and written notice of order to produce reports as stipulated under the provisions of laws and regulations. In principle, Investigators shall explain the following matters:

- (a) Authority for Inspection, purpose and the principal scope of Inspection;
- (b) Request for cooperation with Inspection;
- (c) Information pertaining to the Inspection will be appropriately managed;
- (d) Description of materials that must be submitted; and
- (e) Other necessary matters.

[3] Physical Inspection

When deemed necessary, Investigators may conduct physical inspection by directly entering into the offices where officers or employees are working, or by directly entering into document storage areas to extract and to view original materials. Due attention shall be paid to the following matters when conducting physical inspection:

- (a) One or more responsible persons from the Subject of Inspection shall be present at physical inspection; Due attention shall be paid to conducting physical inspection with precision and speed, and to avoiding the loss of documents and other accidents; and

- (b) Even when an officer or employee of the Subject of Inspection claims that a certain material constitutes personal property, if deemed necessary for accurate discovery, Investigators shall endeavor to conduct physical inspection with the consent of the party.

[4] Other Points of Caution

- (a) Requests made by Subjects of Inspection for the attendance of third parties at the time of Inspection shall not be accepted, unless a Senior Investigator judges that such attendance will not obstruct the smooth conduct of Inspection.
- (b) When deemed necessary for precise and efficient discovery, Investigators may borrow documents and other materials in physical form. When doing so, Investigators shall issue a written acknowledgement, shall appropriately manage the documents and other materials, and shall endeavor to return such documents and other materials at an early date.

3. Collection and Preservation of Evidence, and Precise Determination of Facts

[1] When matters raising suspicion of the inclusion of false statements on material issues in disclosure documents and other violations of laws and regulations are discovered during Disclosure Statements Inspection, Investigators shall collect and preserve the pertinent evidence and shall then seek full explanation on such matters from the Subject of Inspection. After carefully hearing and organizing the content of the opinions and claims of the Subject of Inspection, Investigators shall make a precise determination of the facts. Investigators shall seek the opinions of the Subject's auditors (meaning certified public accounts or auditing firm; the same shall apply hereinafter) as needed for the Disclosure Statements Inspection.

[2] When a Subject of Inspection has established a committee of outside experts with no interest in the Subject of Inspection (hereinafter referred to as "External Investigative Committee") to investigate accounting practices and treatments suspected of being inappropriate, the investigative materials and investigative results of the External Investigative Committee may be used as judgment materials in the determination of the facts. However, this applies only when the independence, neutrality, expertise, and the usefulness and objectiveness of the methods of investigation of the External Investigate Committee have been fully verified, and such a course of action is recognized to be reasonable.

[3] If an amendment report has not been submitted with regard to a disclosure document suspected of containing matters that are in violation of laws and regulations, the opinions and claims of the Subject of Inspection regarding the necessity of voluntary submission of amendment reports shall be fully heard. When an amendment report has been voluntarily submitted, the sequence of events leading to the submission and the validity of the contents of the amendment shall be verified.

4. Other Points of Caution

[1] Carrying and Presentation of Identification Cards

Investigators shall carry identification cards evidencing their identity, and shall present the same to Subjects of Inspection when conducting Inspection.

[2] Consideration to Subject's Operations

- (a) Before ordering the production of reports or materials or when conducting on-site inspections of banks and other financial institutions, auditors, persons who have provided information, counterparties in transactions with Subjects of Inspection, or public offices, Investigators shall fully examine the necessity of taking such actions.
- (b) Questioning or ordering the production of materials by officers and employees of Subjects of Inspection shall, in principle, be conducted during the normal working hours of the Subject of Inspection.
- (c) From the perspective of conducting precise and efficient discovery through Disclosure Statements Inspection while reducing the administrative burden on the Subject's persons in charge, Investigators shall review the scope and methods of submission of materials in a timely and appropriate manner.

[3] Submission of Representation by Subject of Inspection

When a representation has been made by the Subject of Inspection with regard to on-site inspection, and it is deemed that caution is required in the treatment of the representation, the Senior Investigator shall report the matter to the Chief Investigator without delay and receive instructions.

[4] Response to Trouble

When acts are observed that may constitute non-submission of reports or materials, submission of false reports or materials, refusal to submit to Inspection, obstruction of Inspection or avoidance of Inspection, the Senior Investigator shall endeavor to persuade the counterparties, while at the same time producing a detailed record of pertinent facts, and shall

report the matter to the Chief Investigator without delay and receive instructions.

[5] Response to Disaster

The Senior Investigator shall suspend Inspection when a Subject of Inspection has sustained damages resulting from a disaster and shall immediately report the matter to the Chief Investigator and receive instructions. The Senior Investigator shall give consideration to the safety of life and limb of employees of the Subject of Inspection, and shall endeavor to prevent the destruction of documents and other materials and the leakage of information.

[6] Discontinuation of Disclosure Statements Inspection

Under circumstances rendering the continuation of Inspection difficult, including extraordinary circumstances such as occurrence of disaster or failure of computer systems, as well as circumstances rendering appropriate discovery of facts pertaining to contents of disclosure documents difficult, the Senior Investigator may discontinue the Disclosure Statements Inspection in consideration of the overall efficiency of Inspection.

1-3 Conclusion of Disclosure Statements Inspection

(1) Recommendation

When, as a result of Disclosure Statements Inspection, entry of false information pertaining to material issues of disclosure documents or other violation of laws and regulations are recognized, a draft recommendation shall be prepared containing the findings pertaining to the violation of laws and regulations, therein recommending the Prime Minister and the Commissioner of the FSA to issue an administrative monetary penalty payment order and to take other measures, and shall be submitted to the SESC for its deliberation.

If adopted by the SESC, the recommendation shall be delivered by the Secretariat of the SESC to the FSA.

(2) Issuance of Notice of Conclusion of Disclosure Statements Inspection

With regard to cases in which orders have been issued to submitters of disclosure documents to produce reports and to submit to Inspection, when a decision has been made not to recommend the Prime Minister and the Commissioner of the FSA to issue an administrative monetary penalty payment order, a Notice of Conclusion of Disclosure Statements Inspection shall be issued in the name of the SESC to the responsible officer of the Subject of Inspection without delay following the decision of the SESC.

Note: Notice of Conclusion of Disclosure Statements Inspection shall not be issued in case of discontinuation of Disclosure Statements Inspection.

(3) Publication of Results of Inspection

To promote fairness in the execution of administrative functions and to contribute to the protection of investors through ensuring transparency of administrative operation by the SESC, whenever a recommendation is issued for the issuance of an administrative monetary penalty payment order as a result of Disclosure Statements Inspection, a summary of the recommendation shall be made public through the SESC website and other means after the conclusion of Inspection.

2. Management of Information

(1) Points of Caution regarding Management of Information

Investigators shall appropriately manage information pertaining to Disclosure Statements Inspection pursuant to laws and regulations including the Act on the Protection of Personal Information Held by Administrative Organs and provisions concerning the management of general administrative documents. Special attention shall be paid to the following matters:

- (a) Confidential information obtained in the course of Disclosure Statements Inspection shall not be divulged;
- (b) Information pertaining to Disclosure Statements Inspection shall not be used for any purpose other than ensuring appropriate disclosure and deterring acts in violation of the disclosure regulations (This prohibition shall not apply to use of such information for justifiable purposes as defined by law and regulations.); and
- (c) In particular, special care shall be taken in handling information pertaining to the confidential matters of Subjects of Inspection.

2. Review by Senior Document Managers and Others

Senior Document Managers and Senior Investigators shall determine whether Investigators are appropriately managing information, including the abovementioned points, and shall take appropriate measures as needed.

Note: “Senior Document Managers and Others” means Senior Document Managers and Document Managers as defined in the Document Management Regulations of the FSA.

(3) Management of Information Pertaining to Disclosure Statements Inspection

At the start of on-site inspection, the Senior Investigator shall explain the following matter to and obtain the consent of the responsible person of the Subject of Inspection. That is, information pertaining to Disclosure Statements Inspection (meaning the contents of all questioning, indications and requests made by Investigators in the course of Disclosure Statements Inspection, all other exchanges between Investigators and the officers and employees of the Subject of Inspection, and the Notice of Conclusion of Inspection; the same shall apply hereinafter) constitutes information relating to all aspects of Disclosure Statements Inspection and the specific methods of Inspection, and contains highly confidential information obtained from third parties in the course of Disclosure Statements Inspection, and therefore must be appropriately managed.

3. Cooperation with Related Departments and Bureaus

- (1) Appropriate cooperation shall be promoted with the FSA and Local Finance Bureaus (including the Fukuoka Local Finance Branch Bureau and the Okinawa General Bureau) from the perspective of ensuring appropriate disclosure by Issuers of Securities.
- (2) Appropriate cooperation shall be promoted with the Certified Public Accountants and Auditing Oversight Board, while duly respecting the respective independence of the Certified Public Accountants and Auditing Oversight Board and the SESC.
- (3) Appropriate cooperation shall be promoted with financial instruments exchanges from the perspective of ensuring fairness and transparency in markets.

III. Others

1. Related Provisions of the FIEA

With regard to order for the production of reports and materials against Tender Offeror and Inspection on such person pursuant to Article 27-22, paragraph (1) of the FIEA; order for the production of reports and materials against Tender Offeror and Inspection on such person pursuant to Article 27-22, paragraph (1) as applied mutatis mutandis pursuant to Article 27-22-2, paragraph (2) of the FIEA; order for the production of reports and materials against submitters of Position Statement and

Inspection on such person pursuant to Article 27-22, paragraph (2) of the FIEA; order for the production of reports and materials against submitters of Reports of Possession of Large Volume and Inspection on such person pursuant to Article 27-30, paragraph (1) of the FIEA; order for the production of reports and materials against companies that are Issuers of Share Certificates, etc. related to Reports of Possession of Large Volume pursuant to Article 27-30, paragraph (2) of the FIEA; order for the production of reports and materials against a Provider, etc. of Specified Information and Inspection on such person pursuant to Article 27-35 of the FIEA; Investigation pursuant to Article 177 of the FIEA (after the enforcement of Act for the Partial Revision of the Financial Instruments and Exchange Act (law No. 86 of 2012)); and order for the production of reports and materials against auditors pursuant to Article 193-2, paragraph (6) of the FIEA, Inspections shall be undertaken in view of the circumstances of the case and in line with the Basic Concepts set forth in these Guidelines.

2. Effective Date

Basic Guidelines on Disclosure Statements Inspection shall come into force as from August 30, 2013.