

## Issues in the Financial Instruments and Exchange Act

1. The key points of the Financial Instruments and Exchange Act (enacted and promulgated in June 2006 and became effective in September 2007)

(1) Title of the Act: Securities and Exchange Act → Financial Instruments and Exchange Act

(2) Purpose of the Act: contributing to the sound development of the national economy and protection of investors aiming at fair price formation of Financial Instruments, etc. through the full utilization of functions of the capital market

(3) Cross-sectional regulation with a greater flexibility

(Extended scope of regulation)

- Regulated entities: funds (public offering of holdings of collective investment schemes / management of collective investment schemes)
- Instruments/transaction: derivative transactions (the scope has extended broadly to the derivative transactions whose underlying assets are financial products)

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(Requirement)

- Business registration/notification
- Code of conduct regulation (obligation to explain to customers, etc.)
  - ← different treatment of professional investors and general investors

(4) Enhancement of a disclosure system

- Quarterly securities report
- Internal control report

( • Amendments to the Certified Public Accountants Act in 2007)

(5) Reviewing the Tender Offer (TOB) system (became effective after December 2006)

2. Current status/Assessment of Implementation

(1) Status of Business Registration/Notification (as of end-March 2009)

approximately 8,000 business operators (approximately 4,300 of them are funds)

(2) Facilitating understanding of and Reviewing code of conduct regulation, etc.

(a) Q&A and other measures to facilitate understanding of the regulation

- Q&A, such as "Our Answers to Your Questions about the Financial Instruments and Exchange Act" published in February 2008
- Q&A published by the Japan Securities Dealers Association, etc.

(b) Reviewing the Act and regulations

- Reviewing the procedure for switching the status between professional and general investors
- Granting an exemption from the requirement of a delivery of documents to the customers prior to conclusion of contracts (in the case of underwriting and tender offer)
- Simplification of both the mandatory (or summary) prospectus for investment funds and the procedures for an electronic delivery of on-demand prospectus for investment funds.

(c) Current assessment and future challenges

(3) Enhancement of disclosure regulation

(a) Q&A

- Q&A concerning the internal control system (published in October 2007 and added in June 2006 and in April 2009)

(b) Current assessment and future challenges

(4) Takeover Rules

Current assessment and future challenges

- Status of introduction/abolishment of takeover defense measures

From June 2008 to May 2009      Introduction: 22 companies\*

Abolishment: 19 companies

\* From June 2007 to May 2008, 211 companies introduced takeover defense measures.

- Future challenges

3. Amendments to the Financial Instruments and Exchange Act in Subsequent Years

(1) Amendments in 2008 -Enhancement of Competitiveness-

- Diversification of financial instruments traded in stock exchanges (creation of a market for professional investors, diversification of Exchange-Traded Funds)
- Relaxing of firewall regulations and improvement of control systems for conflicts of interest
- Expansion of an administrative monetary penalty system to enhance user protection

(2) Amendments in 2009 -Reliance and Vigor-

- Introducing a regulation for Credit Rating Agencies -response to the financial crisis-
- Creating an Alternative Dispute Resolution system in the financial field for user protection
- Allowing mutual entry between financial instruments exchanges and commodity exchanges for enhancement of competitiveness
- Reviewing the definition of secondary distribution of securities -cross-sectional regulation with greater flexibility-

#### 4. Future Challenges

##### (1) Measures based on lessons learned from the Financial crisis

- Actions of G20 and FSF, etc. and international cooperation (funds regulation and a treatment of Credit Default Swap and other Over-the-Counter derivatives)
- Overcoming the vulnerabilities in our financial system/institutions (Necessary to continuously take measures to strengthen competitiveness)

##### (2) Enhanced user protection and cross-sectional regulation with greater flexibility

##### (3) Discussions of corporate governance for listed Companies, etc.

##### (4) Better regulation and continuous review of regulations