



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

DIVISION OF  
INVESTMENT MANAGEMENT

August 31, 1993

VIA TELECOPIER AND U.S. MAIL

Mr. Seiji Tanaka  
Japan Securities Depository Center  
Daini-Shoken Kaikan Building  
1-1, Nihombashi-Kayaba-Cho  
2-Chome, Chuo-Ku, Tokyo 103  
Japan

Act	ICA-40
Section	
Rule	17f-5(c)(2)(iii)
Public	
Availability	8/31/93

RE: Japan Securities Depository Center ("JASDEC"); No-Action Request under Section 17(f) and Rule 17f-5(c)(2)(iii) of the Investment Company Act of 1940

Dear Mr. Tanaka:

Enclosed please find our response to JASDEC's request under Rule 17f-5(c)(2)(iii) of the Investment Company Act of 1940 to act as a foreign custodian for U.S. registered investment companies. In accordance with our standard practice, this response and your incoming letters will be publicly available as of today.

Again, I was pleased to have met you on your trip through the United States and I also enjoyed working with you on this project. If you have any further questions, please feel free to contact me at (202) 272-2072. Our fax number is (202) 504-2395.

Sincerely,

Robert B. Carroll  
Senior Special Counsel

# PUBLIC

AUG 31 1993

Our Ref. No. 93-333-CC  
Japan Securities  
Depository Center  
File No. 132-3

RESPONSE OF THE OFFICE OF CHIEF COUNSEL  
DIVISION OF INVESTMENT MANAGEMENT

Your letter of June 3, 1993, as supplemented by your letters of July 9 and August 11, 1993, requests our assurance that we would not recommend enforcement action to the Commission under Section 17(f) of the Investment Company Act of 1940 ("1940 Act") and Rule 17f-5(c)(2)(iii) thereunder if Japan Securities Depository Center ("JASDEC") acts as a foreign custodian for U.S. registered investment companies. 1/

You state that JASDEC is a non-profit, public interest corporation that was established in 1984 under the Law Concerning Central Depository and Book-Entry Delivery for Share Certificates and Other Securities (the "Law"). JASDEC's capital was contributed by securities companies, stock exchanges, securities finance companies, commercial banks, long-term credit banks, and trust banks.

JASDEC provides depository and book-entry transfer services with respect to certain "eligible securities." These are securities that have been designated by the Ministers of Finance and Justice and whose issuers have consented to having their securities deposited in the JASDEC system. The Ministers of Finance and Justice have designated securities that are listed on a Japanese securities exchange 2/ or that are registered or designated by the Japan Securities Dealers Association as over-

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1/ Section 17(f) of the 1940 Act provides that every registered management investment company shall maintain its securities and similar investments in the custody of (1) a bank meeting certain requirements, (2) a member of a national securities exchange, (3) the company itself, in accordance with Commission rules, or (4) a system for the central handling of securities pursuant to which all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery of such securities, in accordance with Commission rules. Rule 17f-5 provides an exemption from Section 17(f) to allow a registered management investment company to deposit foreign securities in the custody of an "eligible foreign custodian." Rule 17f-5(c)(2)(iii) defines the term "eligible foreign custodian" to include "a securities depository or clearing agency, incorporated or organized under the laws of a country other than the United States, which operates the central system for handling of securities or equivalent book-entries in that country."

2/ Japan has eight securities exchanges: Tokyo, Osaka, Nagoya, Kyoto, Hiroshima, Fukuoka, Niigata, and Sapporo.

the-counter securities. JASDEC has obtained the required consent of 2,562 issuers of such securities, representing 99.4% of the issuers approached. Presently, approximately 5% of all eligible securities are deposited in JASDEC. 3/ Except with respect to the system for Japanese government bonds, you state that JASDEC is the only central securities depository and the only central securities clearing agency in Japan. 4/

With respect to JASDEC's central depository functions, you state that participants in JASDEC, 5/ whose customers wish to deposit their securities in the system, open an account with JASDEC, and JASDEC maintains an account book in each participant's name. Participants deposit their customers' share certificates with JASDEC for central holding in a vault of its Tokyo office which is operated by the Japan Securities Clearing Corporation ("JSSC") under a commission from JASDEC. 6/ To accomplish purchases, sales, or pledges of share certificates as collateral by customers, JASDEC transfers the ownership of the share certificates by book-entry, rather than delivering the certificates physically. 7/

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- 3/ You state that JASDEC does not expect ever to hold all eligible securities because most of these shares are held by affiliate companies of the issuers and are not traded. JASDEC holds approximately 13% to 14% of eligible securities that are traded. The remaining eligible securities and other non-eligible securities (those issued by privately held companies) are held in the vaults of various custodians, such as banks and securities companies.
- 4/ Japanese government bonds are centrally held and settled by the Bank of Japan ("BOJ"). Although JASDEC is authorized to provide services with respect to Japanese government bonds, it has decided against doing so because of BOJ's dominance in this area.
- 5/ Participants in the system include securities companies, banks, securities finance companies, and other persons designated by the Ministers of Finance and Justice. As of May 1993, JASDEC had 269 participants.
- 6/ JSSC, a subsidiary of the Tokyo Stock Exchange, processes share certificate deposits and withdrawals for the JASDEC system. We understand that, prior to the implementation of JASDEC's depository system, JSSC provided custodial and transfer services for the Tokyo Stock Exchange.
- 7/ We understand that a shareholder may instruct its participant to withdraw shares deposited in JASDEC on its behalf.

You state that JASDEC's operations are subject to joint oversight by the Ministers of Finance and Justice. In addition to approving JASDEC's business regulations and any amendments thereto, the ministries have the authority to order changes to such regulations to ensure reliable business operations. Prior to the beginning of each fiscal year, JASDEC submits a business plan and a budget to the ministries for approval. Under its periodic reporting obligations, JASDEC must submit, within three months of the end of each fiscal year, an annual report, a balance sheet, a statement of revenue and expenditures, and a list of assets. The ministries also require JASDEC to report new participant accounts, fees charged for new accounts, and fees charged for the depository, book-entry, custodial, and withdrawal services. The ministries are authorized to examine the books and records of JASDEC and to enforce the provisions of the Law. Further, you state that JASDEC and its participants are jointly and severally liable for missing share certificates regardless of fault. JASDEC has obtained insurance coverage for certain losses arising from the system.

On the basis of the facts and representations in your letters, we would not recommend that the Commission take enforcement action against JASDEC if, with respect to eligible securities, it acts as an eligible foreign custodian for U.S. registered investment companies. Because our position is based on the facts and representations in your letters, you should note that different facts or representations may require a different conclusion. Further, this response expresses the Division's position on enforcement action only and does not purport to express any legal conclusions on the issues presented.

*Barbara Chretien-Dar*  
Barbara Chretien-Dar  
Attorney

# JAPAN SECURITIES DEPOSITORY CENTER

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ACT JCA  
SECTION         
RULE 17f-5(c)(2)(iii)  
PUBLIC  
AVAILABILITY 8-31-93

June 3, 1993

Mr. Robert B. Carroll  
Senior Special Counsel  
Division of Investment Management  
United States Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549  
U. S. A.

Dear Mr. Carroll

Re: No-action Request under Section 17(f) and Rule 17f-5(c)(2)(iii)  
of the Investment Company Act of 1940

Japan Securities Depository Center( "JASDEC" ) is the only central securities depository in JAPAN. JASDEC respectfully requests assurance from you that the Division of Investment Management would not recommend that the United States Securities and Exchange Commission ( the "Commission" ) take any enforcement action under Section 17(f) of the United States Investment Company Act of 1940 ( the "1940 Act" ) or the Commission's Rule 17f-5 thereunder if JASDEC acts as a foreign custodian pursuant to sub-paragraph (c) (2) (iii) of Rule 17f-5 for the assets of investment companies registered under the 1940 Act.

## 1. General

JASDEC was established as a public-interest corporation pursuant to the Law Concerning Central Depository and Book-Entry Delivery for Share Certificates and Other Securities( "the Law" ) in December 1984 under a permit granted by the Minister of Finance and the Minister of Justice pursuant to Article 34 of the Civil Code.

JASDEC was designated as a depository by the Minister of Finance and the Minister of Justice pursuant to the Law in May 1985.

JASDEC has a Board of Directors composed of eleven directors.

JASDEC is a non-profit organization (zaidan hojin), not a joint stock company.

Its capital stands at ¥3 billion (\$27 million at ¥110 to the dollar), and was contributed by securities companies, stock exchanges, securities finance companies, commercial banks, long-term credit banks, and trust banks -- covering all of the major financial-service institutions of Japan.

## 2. Purpose and Business of JASDEC

The purpose and the business of JASDEC are prescribed in the Law and the Act of Endowment.

"With a view to rationalizing the custody and delivery of share certificates and other securities, JASDEC shall facilitate securities trading by properly and accurately executing businesses delegated to JASDEC by the Law, and thereby contribute to the development of the economy."

And the actual businesses which JASDEC is engaged in are:

- (1) Services relating to the custody of securities;
- (2) Services relating to the transfer of securities;
- (3) Other services which a depository system is expected to provide as may be prescribed by the Law, and
- (4) Businesses considered necessary for JASDEC to achieve its purpose.

## 3 Eligible Securities

The Law stipulates that JASDEC may handle share certificates which are specifically designated by the Minister of Finance and the Minister of Justice and that JASDEC must obtain the consent of the issuing companies of such share certificates.

On October 24, 1990, the Minister of Finance and the Minister of Justice designated the share certificates listed on a stock exchange and those registered with, or designated by the Japan Securities Dealers Association as over-the-counter securities. In the ensuing months, JASDEC sought the consent of the companies issuing these stocks, and as of the end of March 1993, out of the 2576 companies approached, the 2562 or 99.4% had given their consent.

The number of share certificates listed on any stock exchange stood at 347,060 million and the number of share certificates registered with the Japan Securities Dealers Association stood at 5,857 million, so the total is 352,917 million shares as of the end of March 1993.

Meanwhile, the number of share certificates held in custody by JASDEC stood at 14,108 million. (We could not classify the number into two groups (listed and

OTC))

Therefore 4.0% of share certificates (listed and OTC) are deposited with JASDEC as central depository.

4 The depository, central custodial and book-transfer services

(1) Deposit of share certificates

Customers including shareholders wishing to utilize this system deposit their share certificates with JASDEC through their accounts opened with a participant of the system, such as a securities company or bank, etc. On application from such participants, JASDEC opens an account and maintains an account book in their name.

Those eligible to participate in the system are securities companies, banks, securities finance companies, and other persons designated by the Minister of Finance and the Minister of Justice.

(2) Centralized custody of share certificates

Share certificates, which the holder deposits with a participant, are deposited with JASDEC with the consent or under the instructions of the holder, and then transferred in the name of JASDEC to be centrally held by JASDEC.

When a customer instructs a securities company or bank (participant) to that effect, the share certificates deposited with JASDEC are delivered to the said customer.

(3) Book-entry transfer of share certificates traded or pledged as collateral

When a customer purchases, sells, or pledges as collateral, share certificates deposited with JASDEC, such transactions are processed by transferring the ownership of such share certificates between the accounts of the participants concerned by JASDEC or between those of the customers concerned maintained by such participants, instead of physically delivering the stocks.

5. Participant

Institutions eligible to act as participants in the system include securities companies, banks, securities finance companies, the Norin-Chukin Bank, the Shoko-Chukin Bank, Credit Associations, National Federation of Credit Associations, Labor Credit Associations, National Federation of Labor Credit Associations, Credit Cooperatives and The National Federation of Credit Cooperatives, Insurance Companies, Stock Exchanges, and the Japan Securities Clearing Corporation.

Upon request from a participant, JASDEC establishes an account on the participant's behalf.

As of the end of May 1993, a total of 269 participants have opened their accounts with JASDEC. Participants are as follows.

securities companies .....	2 1 3
Japanese securities companies.....	1 7 2
foreign securities companies .....	4 1
banks .....	3 7
Japanese banks .....	1 6
Japanese trust banks .....	7
foreign banks .....	6
foreign trust banks .....	8
financial institutions other than banks .....	2
insurance companies .....	5
securities finance companies .....	3
eight stock exchanges and JSC .....	9

6. Beneficial shareholders

- (1) JASDEC is supposed to notify issuing companies the names and addresses of their beneficial shareholders as of their date of record, the class and the number of shares owned by such shareholders on the basis of reports submitted to JASDEC by its participants.

The issuing companies are to draw up a list of their beneficial shareholders on the basis of notifications sent to them by JASDEC, and the entries thus made in the list of beneficial shareholders have the same effect as that of the list of shareholders with respect to the stock certificates deposited with JASDEC. Therefore, persons whose names appear on the list of beneficial shareholders are presumed to be beneficial shareholders, entitling them to exercise their shareholder rights with the issuing companies.

- (2) Under the Law, JASDEC may demand that the issuing companies transfer share certificates in its custody to JASDEC. Such demand must be filed within a reasonable time from the date of deposit of share certificates concerned. Therefore, stock certificates which are placed in the custody of JASDEC are transferred to it as their nominee.
- (3) While JASDEC will thus become the nominee of stock certificates placed in its



custody for the purpose of shareholders list, the rights it can exercise as a shareholder are restricted to procedural matters such as the receipt of new share certificates issued following a stock consolidation or a stock split, filing an application with the issuing company for a consolidation of small-denomination share certificates into larger-denomination ones, an application for the issuance of a public peremptory notice in case share certificates were lost, or filing a declaration of non-holding of physical stock certificates, etc.

#### 7. Other Clearing Agents in Japan

JASDEC is the only legally designated securities certificate depository/clearing agency in Japan. JASDEC presently holds and transfers by book-entry Japanese domestic stock (listed and OTC).

Participants, with contracts with the Bank of Japan, already settle Japanese government bonds via the BOJ Net system.

#### 8. Protection

- (1) Under the depository system of Japan, JASDEC and its participants with a ledger of customer accounts are primarily held liable to compensate, jointly and severally, for missing stock certificates regardless of their fault or no-fault. Thus, JASDEC is held liable to compensate for losses of stock certificate even when the loss is blamable on an illegal act of a third party or on causes beyond its control (force majeure) with a view to ensuring the protection of the interest of customers utilizing the services provided by, and in reliance of, JASDEC. And this constitutes a major feature of the depository system of Japan.
- (2) Cases where JASDEC is liable, in the first instance, to compensate for a loss are very limited. Nevertheless, JASDEC has entered into a property-casualty insurance agreement with an insurance company to provide for contingencies. An outline of the property-casualty insurance agreement JASDEC has entered is as follows:

##### A. Scope of coverage

- all risks. However, losses caused by willful or gross negligence of JASDEC or its employees, by a fault on the part of a trustee are not covered by the insurance. When the trustee has an insurance covering the stock certificates, the coverage of the insurance taken out by JASDEC will become effective only after the insurance of the trustee has been paid.

B. Ceilings on compensation

- The maximum amount of compensation payable ¥3 billion (per case).

9 . Regulatory Authorities

As a public-interest corporation (juridical person), the activities of JASDEC are subject to the oversight of competent ministers -- the Minister of Justice and the Minister of Finance. Prior to the start of each fiscal year, JASDEC draws up a business plan and a budget for the 12-month fiscal year and submits them to the competent ministers for their approval before executing them. Within three months from the end of the preceeding fiscal year, JASDEC is required to submit to the competent ministers an annual report, balance sheet, a statement of income covering the immediately preceding fiscal year. In addition, the relevant ministries investigate from time to time books and records of JASDEC to ensure the appropriateness of its business activities.

As aforesaid, JASDEC is the only central securities clearing agency and depositary in Japan. Therefore, JASDEC respectfully requests assurance from you that the Division of Investment Management would not recommend that the Commission take any enforcement action under Section 17(f) of the 1940 Act or Rule 17f-5 if JASDEC acts as a foreign custodian pursuant to sub-paragraph (c) (2) (iii) of Rule 17f-5 for the assets of investment companies registered under the 1940 Act.

If you will have any further questions or if you will ask any materials, please let me know at any time, we would be happy to provide further information as soon as possible.

Yours sincerely,



Seiji Tanaka

Senior Managing Director

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Mr. Robert B. Carroll  
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Division of Investment Management  
United States Securities and Exchange Commission  
450, Fifth Street, N.W.  
Washington, D.C. 20549  
U. S. A.

July 9, 1993

RE: No-Action Request under Section 17(f) and Rule 17f-5(c) (2) (iii) of  
the Investment Act of 1940

Dear Mr. Carroll:

Thank you very much for your letter of June 28, 1993 requesting further questions regarding the above matter. I am pleased to answer your questions as follows.

Answer to Question No. 1

(1) The figure of 4% as the ratio of the share certificates deposited with JASDEC to the total number of eligible shares has increased to 4.8% as of the end of June. The number of the share certificates deposited with JASDEC now stands at more than 17 billion. Only 20 months have passed since the commencement of our depository business, and the ratio is still in the low level. The other 96% certificates are still held in the vaults of banks, securities companies, insurance companies, trust banks, etc. We are anticipating that this ratio will grow steadily as the depository system strikes its roots deeper in Japan.

But, even if this ratio grows in the future, we don't expect it will ever reach 100% eventually, because it is hardly possible to take in the whole number of eligible shares existing in Japan. In the Japanese corporate culture, most eligible shares are fixedly held by affiliate companies of the issuers. This practice has been maintained in order to keep the corporate management stable, and these kinds of shares will not be traded in the market. Since only marketable shares could be deposited with us, the following shares can be deposited, i. e., the shares deposited by securities companies on behalf of their customers, those deposited by banks working as the standing agents of foreign investors, those entrusted with trust banks by customers, etc. I would roughly estimate the total number of the above mentioned shares should stand somewhere between 120 billion and 130 billion shares. So the current ratio of the shares deposited with JASDEC to the total marketable eligible shares would be 13 to 14%.

(2) The non-eligible shares are those issued by privately held companies. They are not traded in the Japanese stock market, and are held physical certificates at the vault of custody agents, such as banks, securities companies and agencies.

(3) Bank of Japan ( "BOJ" ) has been providing the central depository and clearing service only for the Japanese Government Bonds. Even if JASDEC is the only central depository organization designated under the Law ( "Law Concerning Central Depository and Book-Entry Delivery for Share Certificates and Other Securities" ), BOJ can do such business by a contract with the users. JASDEC is legally allowed to provide its service concerning the Japanese Government Bonds, too, but since BOJ has been long dominant in this area of business, JASDEC decided not to provide this service.

Answer to Question No. 2

The share certificates deposited with JASDEC are physically held in the vault of its Tokyo regional office. JASDEC has commissioned the business of its Tokyo regional office to the Japan Securities Clearing Corporation ( "JSCC" ), and those of the other regional offices to the seven regional stock exchanges. Any share certificate placed in any regional office shall be moved to the Tokyo office. Therefore, the actual vault is the one maintained by the JSCC. All share certificates deposited with JASDEC are held in this vault.

Answer to Question No. 3

(1) One of the most unique characters of the Japanese depository system is that the issuers shall maintain the "list of beneficial shareholders", as well as the "list of shareholders". The former lists are compiled based on the notices issued by JASDEC, for the identification of the real shareholders existing behind the name of JASDEC in the latter list. The list of beneficial shareholders have the same effect as the list of shareholders under the Law, hence the beneficial shareholders can exercise their rights as shareholders.

(2) As stated above, the notices given by JASDEC to the issuers are only related to the shares deposited with JASDEC.

(3) JASDEC itself does not maintain the list of beneficial shareholders, because such needs has been eliminated by the "direct system" adopted in this country.

This "direct system" is one of the features that distinguishes the Japanese central depository system from that of other major countries. Under this system, the issuers are linked directly with their beneficial shareholders by means of the list of beneficial shareholders. There exist two kinds of mechanisms in the world, through which beneficial shareholders can exercise their rights represented by share certificates placed in the custody of the depository.

One of them is the direct system under which beneficial shareholders can exercise their rights directly with the issuers without going through an intermediary ( a depository organization or its participants ), and the other is the indirect system under which they exercise their rights through an intermediary. Other countries follow the indirect system, while Japan follows the direct system, largely due to the fact that Japanese corporations have long developed the mechanism of directly grasping and managing the status of their shareholders.

Answer to Question No. 4

Under the Law, JASDEC is empowered to demand the issuers to reregister the share certificates in its custody to JASDEC within a reasonable time from the date of the deposit. As a matter of practice, such reregistrations are made in order, as share certificates come into deposit and get accumulated. The reason why the Law has granted JASDEC so is to enable shareholders to exercise their beneficial rights by reregistering the shares to the nominee, the JASDEC, who acts on behalf of the beneficial shareholders as to the procedural matters as explained in my letter of June 3, 1993.

Answer to Question No. 5

The Law states both the Ministry of Finance and the Ministry of Justice shall be the competent authority of JASDEC. The Law, however, states nothing about the distinction between the two Ministries concerning the regulatory responsibility and power. Therefore, both Ministries stand on a completely equal basis in terms of the areas and the power of regulation.

Practically, when JASDEC needs to seek any approval under the Law, it never fails to apply to both Ministries at the same time. Further more, the instructions JASDEC has received from the Ministries have never differed between the two Ministries.

I hope this has sufficiently answered your questions. For your information, I would like to advise you of a new development which has taken place in connection with the international acknowledgment of JASDEC. In an effort to have JASDEC approved by overseas regulators, we have just lately received the approval from the SFA, the U.K. self-regulatory organisation, as the attached copy of the letter self-explains.

If you have any further questions, I would be happy to answer them.

Sincerely yours,



Seiji Tanaka  
Senior Managing Director

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Mr. Thomas S. Harman  
Associate Director ( Chief Counsel )  
Division of Investment Management  
United States Securities and Exchange Commission  
450, Fifth Street, N.W.  
Washington, D.C. 20549  
U. S. A.

August 11, 1993

RE: No-Action Request under Section 17(f) and Rule 17f-5(c) (2) (iii) of  
the Investment Act of 1940

Dear Mr. Harman:

Thank you for your letter of July 22, 1993, advising us of the necessity of further discussion on the regulation side. Your letter did not duly reach me, which was actually mis-transmitted to the Korean depository and finally reached me only the 3rd August. I regret that I could not respond to your letter much more quickly.

In this letter, I would like to discuss how the "Law Concerning Central Depository and Book-Entry Delivery for Share Certificates and Other Securities" ( the "Law" ) has been implemented and the joint jurisdiction of the Minister of Finance and Minister of Justice ( the "Ministers" ) works under the Law.

Both Ministers have equal regulatory power as the competent authority and they always act together in harmony as I stated in my former letter. Hence, the regulatory powers described below are equally shared by two ministers.

## 1. Power to Designate

The Ministers are empowered by the Law to designate the followings.

### (1) To designate a depository

A depository can never carry out its business without designation. In order to be designated, an applicant depository must meet the following requirements given by the Law:

- (i) the applicant shall be a corporation formed under Article 34 of the Civil Code ( i.e.; a non-profit corporation );
- (ii) the applicant must not have a record of having its designation been revoked;
- (iii) the applicant must not contain among its directors any person who has been adjudged incompetent or quasi-incompetent or any person who has been adjudged bankrupt and has not been reinstated, and;

- (iv) the applicant must not contain among its directors any person who has been sentenced to imprisonment or to a fine under the Law.

Practically, JASDEC is the sole entity that has been designated by the Ministers as the depository.

- (2) To designate eligible securities

The securities that the depository may handle must be designated as eligible securities. As discussed in my former letter, designated as eligible securities are so far the shares listed on any Japanese stock exchange and those registered with Japan Securities Dealers Association ( the self-regulatory organization regarding the OTC market ). For designation, securities are required to have sufficient liquidity equivalent to that of listed securities.

- (3) To designate eligible participants of the depository.

Only designated institutions are eligible to participate in JASDEC. Details of participants were discussed in my last letter.

## 2. Power to Authorize

The Ministers can authorize a depository to commission part of its business to a third party. The Ministers does such authorization from the respect of efficiency since the depository business can contain some specialized work that requires highly technical skill. However it is restricted to only part of business, not all of the business, that can be commissioned to a third party, from the reason that such commissioning may cause evasion from the governmental supervision intended by the Law. The Law has imposed various obligations on a depository, and violation thereof is to cause criminal offense.

Practically, JASDEC has commissioned its work of processing deposit and withdrawal of share certificates to the Japan Securities Clearing Corporation, a subsidiary of Tokyo Stock Exchange, which has long experience and expertise in that area since before the Law was created.

## 3. Power to Approve

JASDEC must obtain approval from the Ministers in connection with the following matters.

- (1) Establishment of, and amendment to, its Business Regulations. Further, the Ministers may order changes to the Business Regulations, when they recognize such Regulations are no longer appropriate for the purpose of conducting proper and reliable business by JASDEC;
- (2) Establishment of business plan and budget prior to the commencement of the concerned business year, and any change thereto; and
- (3) Election or dismissal of its directors. Further, the competent ministers may even order dismissal of any of its directors if such a director has violated any provisions of the Law or any provisions of ordinances or any governmental

action under the Law or any provisions of the Business Regulations. Such an order may be issued when any of the directors shall cause JASDEC not to meet the requirements set out by the Law.

#### 4. Power to Order for Governance

The Ministers may, when they deem it necessary to enforce the provisions of the Law, issue to JASDEC such orders as shall be necessary to perform their duties of supervision. Amongst the regulatory powers possessed by the Ministers in connection with assuring the reliability of a depository, this power is the most fundamental and most directly linked to the governance of a depository. Any restriction shall not apply to this power throughout the framework of the Law as long as the order is necessary in light of the purpose of the Law.

#### 5. Power to Inspect

The Ministers may, when they deem it necessary to secure the proper operation of business by JASDEC, order JASDEC to submit any information or material relating to its business. The Ministers may also cause any of their officials to enter the office of JASDEC to inspect the state of its business or assets, account book, documents, or any other things and address questions to any related person.

#### 6. Reporting

(1) JASDEC must report to the Ministers any change in its name, address or location of office(s) in advance.

(2) JASDEC must submit to the Ministers its annual report, balance sheet, statement of revenue and expenditure, and list of assets within three months of the end of each fiscal year.

(3) Besides the above legally required reporting obligations, JASDEC has been instructed by the Ministers to report on the following matters related to the Business Regulations:

- (i) Grant of opening a new account of a participant;
- (ii) Decision of the amount of fee for opening an account;
- (iii) Approval of a special participant;
- (iv) Decision of the amount of commission fees to be charged for deposit, book-entry delivery, withdrawal, and custody of securities, etc., and;
- (v) Establishment of a new rule or taking of an action, pursuant to the Business Regulations, to tackle issues that are out of the scope of the Business Regulations.

These reporting facilitates the supervision by the Ministers of the daily conduct of business by JASDEC. With those information, the Ministers can make judgement regarding the necessity of issuing of any order stated above.



These are the overview of the regulatory power possessed by the Minister of Finance and Minister of Justice. If there still remain any matter unclear, please do not hesitate to contact me.

With best regards,

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Seiji Tanaka".

Seiji Tanaka  
Senior Managing Director