

August 7, 2012  
SMBC Nikko Securities Inc.

**Release of the Investigation Report by the Investigation Committee and Formulation of  
Our Improvement Measures**

SMBC Nikko Securities Inc. (hereafter, "Nikko") express our deep regret in connection with the indictment against a former executive officer of Nikko filed with the Yokohama District Court on a charge of violating the Financial Instruments and Exchange Act (violation of restriction on insider trading). We hereby apologize to our customers and all related parties for concerns and inconveniences we have caused.

We have received an investigation report ("Investigation Report") from the Investigation Committee established upon the resolution of Nikko's board of directors meeting held on June 25, 2012 (the Investigation Committee is chaired by Tomoyoshi Arita, former Superintending Prosecutor of Fukuoka High Public Prosecutors Office, Attorney at law).

We have taken the incident with utmost seriousness, and today formulated improvement measures ("Improvement Measures") based on the Investigation Report. We will further enhance our internal controls through the steady implementation of the Improvement Measures, and do our best to recover the confidence of our customers and all related parties.

**Attachment:**

REPORT by the Investigation Committee (Summary)  
Measures by Nikko

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## English Translation

August 7, 2012

To: SMBC Nikko Securities Inc.

# REPORT (Summary)

Investigation Committee

Chairman Tomoyoshi Arita

Commissioner Osamu Sudo

Commissioner Michinori Ando

This material is an English translation of Japanese announcement made on August 7, 2012. Although the company intended to faithfully translate the Japanese document into English, the accuracy and correctness of this translation are not guaranteed and thus you are encouraged to refer to the original Japanese document.

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# I Overview of the investigation

## 1. Facts

- (1) On June 25, 2012, a former executive officer (“Target”) of SMBC Nikko Securities Inc. (“Nikko”) was arrested on the charge of violating Financial Instruments and Exchange Act (violation of restriction on insider trading) by Yokohama District Public Prosecutors’ Office, and was indicted to Yokohama District Court on July 15, 2012. The Target was also re-arrested on the charge of violating Financial Instruments and Exchange Act (violation of restriction on insider trading) by Yokohama District Public Prosecutors’ Office and was indicted to Yokohama District Court on August 5, 2012.

According to the press release and other sources, the facts constituting the offence charged for both of the indictments above were as follows:

- (i) The Target obtained knowledge about the facts related to the implementation of tender offer of shares of Company X, which was listed on the Tokyo Stock Exchange, colluded with an executive of a finance company (“Tippee”), and without statutory grounds for exemption, on February 22 and 23 of 2011, which was before the fact was made public, purchased 20 shares of Company X, with the total purchase price of 2,401,000 yen, under the name of a third person, at Tokyo Stock Exchange, through a securities company other than Nikko.
- (ii) The Target obtained knowledge about the facts related to the implementation of tender offer of shares of Company Y, which was listed on the Tokyo Stock Exchange, colluded with the Tippee, and without statutory grounds for exemption, from March 29, 2011 to September 2, which was before the fact was made public, purchased 247 shares of Company Y, with the total purchase price of 18,609,500 yen, under the name of a third person, at Tokyo Stock Exchange, through a securities company

other than Nikko.

- (iii) The Target obtained knowledge about the facts related to the implementation of tender offer of shares of Company Z, which was listed on the Tokyo Stock Exchange, colluded with the Tippee, and without statutory grounds for exemption, from June 1, 2011 to July 29, which was before the fact was made public, purchased 66,900 shares of Company Z, with the total purchase price of 43,256,900 yen, under the name of a third person, at Tokyo Stock Exchange, through a securities company other than Nikko (the three brands of shares above shall collectively be referred to as the “Shares”; the facts related to the implementation of the tender offer of the Shares shall be referred to as the “Information”; and the fact that the Target communicated the Information to the Tippee shall be referred to as the “Information Leakage”).
- (2) The Target has been seconded from Sumitomo Mitsui Banking Corporation (“SMBC”) to Nikko, but was removed from secondment as of May 22, 2012, and was punitively dismissed as of May 23, 2012, based on violation of internal rules (leak of client information) during Target’s tenure with SMBC.

## **2. Background and purpose of setting up the Investigation Committee**

Since the special investigation on September 28, 2011 by the Securities and Exchange Surveillance Commission regarding the Information Leakage, Nikko has voluntarily refrained from conducting its own internal investigation so as not to affect the investigations etc. by the relevant authorities, while, cooperating with their investigation etc., however, started its internal investigation from June 1, 2012, under the direction of Internal Administration Supervisor, Michinori Ando, within a scope that do not interfere with the investigation etc. of the relevant authorities, after reporting it to the relevant authorities. Four outside legal counsels that do not have any interest with Nikko, SMBC, Target or the Tippee, joined the said internal investigation. These four counsels later composed the

committee or its supporting staff.

Later, following the Target's arrest, it was resolved at the board of directors meeting of Nikko on June 25, 2012, to establish an investigation committee with the purpose of conducting investigation of the facts, analyzing the cause, and making proposal etc. of the improvement measures in relation to the Matter, and the investigation committee ("Committee") was established on the same day ("The Arrest of Former Executive Officer and Establishment of the Investigation Committee"; Nikko's News Release dated June 25, 2012).

Therefore, the purpose of this investigation report is to identify measures Nikko should take as early as possible, and ensure that the information control in the future should be made appropriately, based on the fact that the Target was arrested and indicted as set forth above in 1-(1) above, but not to make reference to the existence or non-existence of facts relating to the said indictment.

### **3. Composition of the Investigation Committee**

Composition of the Investigation Committee is as follows:

Chairman	Tomoyoshi Arita (Attorney at law, former Superintending Prosecutor, Fukuoka High Public Prosecutors Office)
Commissioner	Osamu Sudo (Attorney at law)
Commissioner	Michinori Ando (Director and Internal Administration Supervisor of Nikko)

The Committee appointed two outside counsels (Michio Masaki and Hiroatsu Saga) as supporters and established a secretariat consisting of 12 executives and employees ("Executives and Employees") including six employees dedicating full time under the committee to support the investigation by the Committee.

## **II Method and scope of investigation**

## 1. Method of investigation

The Committee inspected and analyzed the records relating to the Target and Information Leakage and internal documents such as relevant rules etc. of Nikko during the period of October 1, 2009, when the Target was seconded to Nikko until September 30, 2011, when the Target effectively ceased to be involved in the operation of Nikko by being subject to the special investigation by the Securities and Exchange Surveillance Commission.

Also, after October 1, 2009, until June 25, 2012 when the Target was arrested, we conducted a survey (“Survey”) on 8794 people<sup>1</sup> who belonged to group companies of Sumitomo Mitsui Financial Group, Inc. including Nikko and SMBC as of July 5, 2012, the day on which the Survey was conducted, among the Executives and Employees who has ever belonged to Nikko, in order to understand the route of information conveyance and measures etc. in regards to the Information Leakage and whether there were other cases by other Executives and Employees similar to the Information Leakage (“Similar Cases”); established a hotline to report directly to the Committee and a dedicated hotline to report within Nikko; and sought information related to Information Leakage and Similar Cases<sup>2</sup>. In the Survey, the Committee requested that the Executives and Employees answered based on facts, as if it was his/her own problem and in good faith, and clearly stated Nikko’s policy that “punishment will be exempted or reduced for those cases declared voluntarily, but in those cases where it is unfortunately found that the declaration was false, the punishment will be severe. Direct hotline to the Committee was operated in a way that information which could specify the reporter was disclosed only to attorney Commissioners and attorney supporters, and clearly indicated reporters will not be treated unfavorably.

Also, we have interviewed total man-days of 80 people, such as management of Nikko and Executives and Employees who had business

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<sup>1</sup> With respect to four executives, the Committee directly interviewed the content of Survey; therefore, no additional internal survey was conducted.

<sup>2</sup> The direct hotline within Nikko was established by continuing the use of the internal hotline separately set up on May 1, 2012.

relationship with the Target, and also conducted interview and made inquiries to relevant department of SMBC.

One of the purposes of this Committee was to investigate the facts of the Matter, however, we excluded from our investigation the development and background of the Target getting involved in the Matter, and the collusion etc. with the Tippee, because authorities were conducting investigation.

## **2. Scope of Investigation**

- (1) Investigation of the facts related to the Information Leakage
- (2) Investigation of whether there was any Similar Case
- (3) Investigation of systems related to Information Management and the status of their operations

# **III Facts discovered by the investigation**

## **1. Facts related to the Information Leakage**

- (1) By what route the Target obtained the Information

The Information was reported at the regular meeting within the Investment Banking, which the Target was a member of, and it was possible for the Target to obtain the Information through such meetings and meeting materials in a manner not questionable in light of the internal rules on etc. The Target was not authorized to access electronic files of the materials of the meetings within the said Investment Banking.

- (2) Routes and Measures etc. of the Information Leakage

### **A. Target's statement to Nikko**

Before the Target was punitively dismissed at SMBC as of May 23, 2012, Executives and Employees of Nikko interviewed the Target multiple times.

The Target totally denied the Information Leakage by explaining “I did not disclose the information to the Tippee” at the said interview. Therefore, the route and measures etc. of the Information Leakage was not discovered at all at the said interview.

After the special investigation by the Securities Exchange Surveillance Commission on September 28, 2011, SMBC conducted an interview with the Target, but the Target was denying his involvement in insider trading.

B. Result of investigation through the Survey etc.

(a) Survey

As described in II-1 above, the Committee conducted a survey on all Executives and Employees of Nikko, 8,794 people in total, and obtained answers from the total of 8,755 Executives and Employees excluding 39 employees on leave.

Also, among the Executives and Employees above, we requested to a total of 1,828 Executives and Employees who were “Corporate Related Executives and Employees” under the Insider Trading Control Rules (mainly the Executives and Employees of departments that are likely to obtain corporate related information in the course of its work and Executives and Employees not belonging to such departments but who handles corporate related information in the course of its work) to provide information regarding the route and measures etc. of the Information Leakage.

As a result, we obtained answer from 1,825 people (response ratio 99.8%), but there was no information regarding route and measures etc. of the Information Leakage. Four<sup>3</sup> people provided answer that they have seen or heard the Target was leaking information outside by violating laws and rules, and internal rules, but after the

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<sup>3</sup> One person out of the four was not Corporate Related Executives and Employees but made a response spontaneously.

Committee conducted individual interviews, it was found nothing contributed to the understanding of routes and measures etc. of the Information Leakage.

(b) Hotline

As described in II-1 above, the Committee set up a direct hotline to the Committee and a hotline within the company, and sought information related to the Information Leakage.

As a result, there was one report to the hotline within the company, but when the Committee listened to the content of such report, it was not something that contributed to the understanding of routes and measures etc. of the Information Leakage.

C. Result of our investigation related to communication tools the Target used within the company

The result of our investigation related to the communication tools the Target used within the company is as follows:

(a) Target's emails sent/received in and out of the company

We investigated Target's emails sent/received in and out of the company <sup>4</sup> (15,216 mails investigated) during October 1, 2009 to September 30, 2011, but there was no email that leaked corporate related information and information that inferred corporate related information other than emails sent to people related to the deal within the company.

(b) Phone used by the Target

We investigated incoming/outgoing records of the land line used by

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<sup>4</sup> With respect to the emails sent/received in and out of the company in the past, as Nikko has kept such emails after December 1, 2010, only emails sent out of the company were investigated for the period until November 30, 2010.

the Target in Investment Banking (“Land Line”) and cell phone lent by Nikko (“Cell Phone Lent by the Company”) (5,300 records investigated), and the incoming/outgoing records of Blackberry lent by Nikko (0 record) during the period of October 1, 2009 and September 30, 2011. As a result, we found one outgoing record to the affiliate of the Tippee from the Land Line, one incoming record to the Land Line from the said company, ten outgoing record to the Tippee from the Cell Phone Lent by the Company (three of them were short mail)

D. Investigation result of trail related to Target’s activity

(a) Status of Target’s visiting outside

We confirmed Target’s calendar and daily report of company car <sup>5</sup> (recorded by the driver of the company car) during the period of October 1, 2009 and September 30, 2011, and 62 days on the calendar recorded Tippee’s affiliate’s name, three days on the daily report of company car recorded the location of Tippee’s home and affiliate of Tippee as destination.

Based on the size of the company, the affiliate of Tippee is unlikely to be a client of the Investment Banking of Nikko.

With respect to other destinations, names of individuals were recorded where it should normally be the case that the name of company was recorded, and number of visits to one of such person was 48 times. As such, we found that the Target was frequently meeting a person whose relationship with Nikko’s business was not clear.

(b) Business entertainments and gifts made by the Target.

We investigated Target’s calendar, application for providing business entertainments, applications for providing gifts and the status of

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<sup>5</sup> There was a report of company car only after April 1, 2010.

using and applying entertainment expenditures and expenses during the period of October 1, 2009 and September 30, 2011. As a result, we found 133 parties, 19 golfs, 20 gifts, but none of them were provided to the Tippee or affiliates of Tippee.

(c) Printing history of the personal computer used by Target

We investigated printing history of the personal computer used by Target during the period of October 1, 2009 and September 30, 2011 (investigated 2,430 printouts). As a result, we found that the Target has printed out price information of 79 brands of stock from Yahoo Finance (<http://finance.yahoo.co.jp/>), company overview and information related to financial results.

Although we did confirm that such print outs and information related to the said stocks were not sent by email, we were not able to investigate information sent by fax or by other methods because there were no records left.

(d) Interview of Executives and Employees of Nikko

We interviewed forty-nine people who were interviewed or asked to provide materials in the course of special investigation by the Securities and Exchange Surveillance Commission in September 2011 (among them, Executives and Employees of Investment Banking , where the Target was the executive officer in charge, were 25 people, and Corporate Business (formerly Corporate Business) were eight people.), and 12 people other than such 49 people who had been a general manager at Corporate Business. We also interviewed 19 people who are related to the management etc. of Nikko.

As a result, it was confirmed that, communication of corporate related information to Target within the Investment Banking and Corporate Business were all made at business related meetings or by emails etc. Also, most of them answered that they have not

sensed suspiciousness, or do not know, and we investigated directly for other answers, but we found no information related to the routes and measures etc. of the leakage by the Target.

## **2. The Target**

### **(1) Content of the Target's task at Nikko**

After being seconded to Nikko, the Target was in charge of the entire business of Investment Banking, without taking charge of individual matters, to perform the role of coordinator between SMBC and Nikko.

When the Committee interviewed Executives and Employees of Nikko, many of them explained that the Target was sufficiently performing his role as the coordinator with SMBC, on joint matters between Nikko and SMBC that the Target was involved. Also, within his role of coordination of banks and securities, the Target was coordinating with SMBC other than that coordination of individual cases, such as seconding twenty-five talented people after negotiating with SMBC etc.

### **(2) Troubles during his days at SMBC which was discovered after Target's secondment and the background of such discovery**

After the Target was seconded to Nikko, and before the discovery of this case, there were complaints to SMBC from two customers, the customers during the days Target worked for SMBC. SMBC conducted internal investigations such as interviewing the Target and confirming internal approval document for lending, but could not find any evidence that proved Target conducted any wrong doing.

## **3. How corporate related information was managed**

At Nikko, Securities Trading Supervisory Operation is the department which controls the enhancement and reinforcement of the arrangements to prevent insider trading. The Securities Trading Supervisory Operation promotes the development and reinforcement of the arrangements to

control corporate related information, develops the arrangements to control management of transactions by Executives and Employees and to prevent client unfair trading.

According to the press release etc. the first leakage among the Information Leakage was the leak of information related to the shares of company X in December 2010. The arrangements to manage corporate related information at the time was to establish Insider Trading Control Rule, provided definition, report, method of controlling information, restrictions on communications, prohibited acts and sales control etc. posted the said rule to the intranet and made it widely known to all of the Executives and Employees through trainings etc. and prevented unfair trading and insider trading using corporate related information.

Also, after January 2011, enhancement of monitoring and management by Securities Trading Supervisory Operation, addition of self-audit items at each departments, establishment of meetings to enhance the management of corporate related information, and implementation (or plan of implementation) of improvement plans such as stating the punishments clearly etc.

#### **4. Arrangements to supervise the activities of Executives including the Target**

##### **(1) Calendar management by secretary**

At Nikko, all executives have secretary, appointments of each executive are handled by the secretary in charge as a general matter, and the secretary in charge manages the calendars of each executives. However, the Target, according to his strong preference, took appointment by himself and not through his secretary and managed calendar by himself, as a general matter. Many of Target's schedules were decided just before the appointment time, and the details of appointments were sometimes not entered into the calendar, therefore, the secretary in charge could not know of Target's schedule in advance. The secretary in charge requested to Target for improvement several times, but because

his task was unique, and that he was seconded from SMBC, it could not have been requested strongly, and it was not improved.

(2) Management of other matters

- A. The Operations Planning Department, the department in charge of controlling information security, is monitoring the content of emails extracted based on the preset key words and the address to which they were sent, for the purpose of preventing information leakage. The target of such monitoring includes all outgoing emails of all Executives and Employees including the Target.
- B. Office of Statutory Auditors and the Compliance Unit monitors whether executives including the Target uses entertainment allowance in accordance with the internal rules.
- C. After May 2011, the Compliance monitors emails to SMBC from those seconded from SMBC including the Target, in light of compliance of firewall rules.
- D. Internal Audit verifies the status of management of corporate related information, but executives including the Target are exempted from the scope of such audit, and are not verified.

**5. Education and training system for insider trading and similar regulation**

(1) Education and training system at Nikko

Nikko implements continuous trainings to Executives and Employees on the subject of appropriate management of corporate related information and prevention of insider trading etc., and make them aware of the social responsibility as market intermediary, and try hard to keep everyone informed about the laws and regulations, and the internal rules.

Especially for all executives including executive officers, Management

Planning & Administration, Compliance, Securities Trading Supervising Operation and Compliance – Products & Corporate Business has implemented trainings on subjects of Nikko's Compliance arrangements, audit guide, inspection manual, insider trading regulation, preventative measures on negative effects, information privacy. The contents of the CLS training (e learning) for all Executives and Employees taking place during the fiscal year 2009 and 2010 which the Target also participated, was: that violation of insider trading rule results in criminal sanction (imprisonment, fine, forfeiture of assets), charges, social punishment; showed the actual number of advisory and indictment for each fiscal year, and that the Securities and Exchange Surveillance Commission and stock markets were thoroughly investigating; that the content was to make the participants to recognize that that insider trading was a crime easily detected and easy to prove, and that it would not work out in a way not to be detected. Other training materials also contained explanations of past detection.

(2) Education and training system at SMBC

SMBC also regularly implements trainings on prevention of insider trading. The status of Target's training immediately before being seconded by Nikko was as follows.

From July to August 2009, the regular compliance workshop on the subject of "prevention of insider trading" was implemented at all Branch Offices. At the time, the Target was a General Manager of one of the Corporate Business Offices, and participated in such workshop on August 28, 2009. The content of such training was to educate that insider trading was a crime and that it was a crime that would inevitably be discovered, and explain the general meaning of important information and management of corporate related information, and rules for managing information, based on the specific cases such as cases where advisory was issued by the Securities and Exchange Surveillance Commission. After the training, an examination with a pass/fail threshold based on the level of understanding was implemented, and "Covenants regarding prevention of insider trading" was collected. Also, Middle

Market Banking Unit implemented a workshop at office targeting compliance officers, and it was also implemented, at the Sales and Advisory where the Target belonged, on August 25, 2009, which was immediately before the above workshop. The target of such workshop was compliance officers, but such officers conveyed the content of such workshop at each department and offices.

#### **6. Whether there was any organizational involvement and Similar Cases (leak of information by someone other than the Target)**

The Committee implemented the (i) Survey; (ii) confirmation of whether there was any information leakage by email with 45 brand of shares that were the subject of tender offer bid cases handled by Nikko after October 2009 and 18 brand stocks that were the subject of public stock offering cases (441,417 emails extracted by search terms of brand names of shares etc. and 227,019 outgoing emails of relevant persons); (iii) collection of information through hotlines. Facts that suggests organizational involvement by Nikko or facts of Similar Cases by other Executives and Employees were not confirmed by these investigations.

### **IV Analysis of the cause of Information Leakage**

#### **1. The perspective for analysis of cause**

In this case, the Target communicated the corporate relevant information that he obtained in the course of his work to its counterpart by not using communication tools that were subject to check by the company, and that counterpart violated the insider trading regulation. As such, the case depends largely on the Target's sense of compliance. Therefore, we will analyze, whether there was sufficient education and training system (III-5) at Nikko to develop and maintain a solid sense of ethical and legal compliance for a person involved in securities business (2-(1)).

Next, in this Matter, Nikko was under its parent SMBC, and under its business strategy of coordination of bank and security under the lead of

SMBC, wholesale division was insufficient but expanding in the wake of acquisition at Nikko, and it was searching for a way to develop a good relation that realizes the efficient cooperation of operation and integration of bank and securities, and was in the early stage. Such special circumstance could have also been one of the reasons for the cause. The Target was seconded from SMBC to Nikko during such days, and was expected to act freely as a coordinator between SMBC and Nikko. Therefore, the Target's task included variety of coordination function in order to promote the coordination of bank and securities. Therefore, it was difficult to understand the content of his task unambiguously. Also, there were people within Nikko who thought the Target was seconded from SMBC to supervise Nikko. Therefore, it is possible that the Target may not have understood and learnt the pride as the person who leads the market, which is the important environmental factor to deter violation of insider trading. Therefore, the Target did not voluntarily grow such sense of compliance as a person involved in the securities business, and may have committed such a bold conduct. Therefore, we will analyze the status of management, and also the effect of such Target's special status on this Matter.

In addition, the executive have broad discretion, and it is difficult to decide whether such discretion is appropriately used from the outside. Therefore, we can think that such executive's action with such broad discretion must be transparent to a certain range of people in order to prevent wrongful act (for example, former U.S. Supreme Court judge Louis Brandeis said "sunlight is said to be the best of disinfectants"). Therefore, we will analyze whether there was an action monitoring system that secures transparency for not only actions within the business hour of such executive, but also actions that could be regarded as conduct related to work (2-(2)).

Also, supposing the existence of an executive who performs such role in such circumstance indispensable, we will analyze the adequacy of electing the Target as such executive.

Also, we could have dismissed the Target from the said task, depending on the handling at the time when the trouble related to the Target was

discovered, and if done so, maybe we could have decreased the scope of information leakage. Therefore, we will also analyze on such point (2-(3)).

The occurrence of the Matter largely depends on the sense of ethical and legal compliance of the individual. But with respect to the issue of the system, in relation to the route the Target obtained information, the system of management of corporate related information known in the course of duty and other important information (III-3) also becomes an issue, and in relation to the leakage route by the Target, the system to supervise not only the action of executive within the business hour but also the action as seen from the outside as relating to the task of such executive (III-4) becomes an issue. Therefore, we will analyze whether there was any problem with respect to the management system of the former and its operation (2-(4)).

## **2. Analysis of the cause of Information Leakage**

### **(1) Analysis of the education and training on the Target**

- A. As described in III-5 above, Nikko continuously implemented training to Executives and Employees on subject such as appropriate management of corporate related information and insider trading etc., and the Target has also participated.

In addition, SMBC also implemented workshop on subject of insider trading for all of the Branch Offices, and implemented an examination to test the level of understanding, collected “Covenants regarding prevention of insider trading” from all Executives and Employees. The Target also participated in the workshop that used specific cases of insider trading samples, and submitted the covenant above.

- B. However, these trainings at Nikko did not include contents based on the cultural difference between bank and securities company. Specifically, the contents did not take into account the difference that the bank promotes business by sharing information while securities

company limits sharing of information as much as possible, and that bank transactions are mainly bilateral transaction but transactions at securities company might affect the market.

It seems as if, it was not possible to make the Target understand and learn the pride as the person who leads the market, which is the important environmental factor to deter violation of insider trading. We may think that Target's consciousness of the uniqueness of the securities business was not developed, was one of the cause of the Matter.

- (2) Analysis of the status of management and effect of the uniqueness of his status at the time
  - A. After joining SMBC in October 2009, under the management strategy of cooperation of bank and securities, Nikko promoted its development of corporate sales. However, because there was no system for the mutual communication between both organization at the time of acquisition of Nikko by SMBC, based on the needs of both companies, a person to coordinate both companies by referring SMBC's corporate customer to Nikko, and to actualize both company's efficient business cooperation and integration was necessary. Such person had to not only be knowledgeable of SMBC's corporate sales but also was able to put influence over SMBC's relevant department handling corporate sales. It was decided that the Target was appropriate for such task and seconded to Nikko. The Target was actually valued for performing such expected role.
  - B. However, on the other hand, the role of Target was as such, and the Target met the expectation and performed variety of coordination function, and acted freely. Therefore, especially for Nikko's employees including bosses and those junior to him, it was difficult to understand the content of Target's task, and appeared to be broad from the outside. In addition, there were also people within Nikko who viewed that the Target was seconded from SMBC with the role

to supervise Nikko.

As the Target had such unique status, his unique actions, as described in III-4 above, different from that of other Nikko Executives and Employees were not questioned.

Environment involving such status and role of the Target is considered to be one of the causes of such bold action as seen in the Matter.

(3) Analysis of how to handle the Target in relation to human resources

- A. SMBC recommended to Nikko the Target as executive officer and Senior Deputy Head of Investment Banking, and Nikko resolved at the board of directors meeting of the new company after given notice of the Target's name, resume and post. Nikko accepted a person recommended by its parent SMBC to the post designated by following the regular procedure. At the time, based on the information SMBC had about the Target as the electing party, it seems as if there were no issue with respect to the process of selection and acceptance at that time. However, Nikko was not able to interview in advance with the person recommended by SMBC.
- B. Also, after the Target was seconded to Nikko, there were two complaints from the outside to SMBC with respect to the transactions etc. that Target was in charge of while working at SMBC and SMBC did investigate such complaint, but because no wrongful fact was found, the information was not shared with Nikko.

If the information regarding complaints etc. related to the Target was shared, Nikko may have enhanced supervision on the Target, and this working as a balance, might have been able to prevent information leakage by the Target.

(4) Analysis regarding management system of relevant information and other important information

- A. As described in III-3 above, Nikko has established certain arrangements for managing corporate related information at the time the Information Leakage took place, and has enhanced the arrangement for managing corporate related information and other information.

Under such circumstance, the Target, as described in III-1-(1) above, was able to obtain, as the Senior Deputy Head of the Investment Banking, in the course of performing his task, by measures not problematic in light of the internal rules.

- B. Also, as described in III-1-(2) above, because we did not find the trace of communication to the Tippee of the Information using the communication tools subject to check at Nikko, the route of Information Leakage is not discovered.

- C. Also, as described in III-3 above, there were various process and mechanism established as the management system of the corporate related Information at the time, but it was ultimately dependent on the relevant person's sense of compliance, therefore, in the case where a person who is able to obtain corporate related information in the course of his task abuses his status, and intentionally leak the corporate related information to outside by not using the communication tool subject to monitoring at Nikko, we must say that there is certain limit to prevent this.

- D. At the time of the Information Leakage, monitoring of outbound mail by Securities Trading Supervisory Operation (monitoring related to communication of corporate related information) was not implemented. It seems possible that if such monitoring system was implemented, it would have worked as certain diversion, and may have prevented information leakage by the Target. Provided, however, after February 2012, emails extracted by certain key words, among all Executives and Employees' outbound emails are monitored by Securities Trading Supervisory Operation

## **V Measures to prevent recurrence**

### **1. Enhancement of training to those seconded from SMBC**

There is a large cultural difference between the securities company that establish information wall for the handling of corporate related information, and the bank that promotes business by sharing information. Therefore, when seconding from SMBC to Nikko, it is important to saturate how securities company handles corporate related information. Therefore, when seconding a person from SMBC to Nikko, it is advisable to continuously implement training etc. such as importance of the management of corporate related information and tasks etc. related to the culture of securities company, including at the time of joining the company.

### **2. Enhancement of supervision of action towards executives**

The Target has been acting as the cooperating role at the time when it was just after the establishment of the Wholesale Business Unit; and we can think that executives has been in an environment that are permitted to act relatively freely than normal employees because they are required to act from a broader perspective.

However, it has been discovered that the Target has visited the Tippee and Tippee's affiliate for about 62 times, therefore, if Target's action was more severely supervised, it may have acted as a diversion, and may have prevented the information leakage by the Target, or may have been able to detect the Matter at issue earlier.

Therefore, it is our view that constructing arrangements that enables monitoring of executive's daily action leads to prevention of reoccurrence.

Also, at this time, the Internal Audit does not include executives within their

scope of audit, therefore, it is advisable that the Internal Audit conduct audit on executives including the status of management of corporate related information.

### **3. Sharing of human resources information**

After the Target was seconded to Nikko, complaints were reported from Target's customers at the time he worked for SMBC, and SMBC conducted investigation of the complaint, but no wrongful fact was discovered, and therefore, the information was not shared with Nikko. If the information was shared with Nikko, Nikko might have been able to enhance the supervision on the Target, and have prevented information leakage by the Target, or might have discovered the Matter earlier.

Therefore, when the person seconded is being investigated for wrongful fact, it is advisable that the human resource departments of SMBC and Nikko share the wrongful fact information of the seconded person.

### **4. Maintenance and improvement of the arrangement to manage corporate related information**

In this Matter, it is strongly suspected that the corporate related information was leaked intentionally, and no trace of using communication tools subject to monitoring within Nikko to leak the information has been confirmed at this point. Also, it is not confirmed that the insufficiency of the then arrangement to manage corporate related information resulted directly to the occurrence of the Matter. Therefore, we think it is important to start by a steady implementation of the business improvement plan submitted on May 18, 2012, following receipt by Nikko of the administrative penalty on April 20, 2012, and maintain the approach of enhancing and improving the arrangement for management.

Also, regular development of the sense related to the handling of corporate related information is effective to prevent the leakage of corporate related information.

## Measures by Nikko

### 1. Improvement measures based on the Matter

Based on the recommendation by the Investigation Committee with respect to the Matter, SMBC Nikko Securities Inc. ("Nikko") implements its improvement measures as follows. As for the status of the implementation, we will establish a new committee, chaired by the President & CEO and consists of Internal Administration Supervisor and related directors, which will verify the progress and effectiveness of the improvement measures.

**(1) Making executives and employees who have no experience in the securities business thoroughly aware of the importance of compliance including control over undisclosed corporate information ("Corporate Information").**

- i. Prohibition in principle of the appointment of a person who has no experience in the securities business to an executive director or an executive officer of a unit which obtains and handles Corporate Information ("Private Side"). (Scheduled from September 2012)

We will not appoint, as a general rule, a person who has no experience in the securities business to an executive director or an executive officer of a unit of the Private Side \* directly from outside Nikko. We will first appoint such person to a unit which does not obtain and handle Corporate Information for a period of at least three months, in order to make them familiar with information management rules which are unique to securities companies. Meanwhile, people who are considered to have adequate knowledge and are mindful of compliance requirements to perform business of securities company, such as people who have experience of securities business, are excluded from this rule.

- \* Executive Directors and Executive Officers under the control of Capital Markets Unit (including the Head, same hereafter), Corporate Business & Investment Banking Unit, Financial & Public Sector Business Unit, Institutional Business Unit, Representative Managing Director of Osaka, and Representative Managing Director of Nagoya.

- ii. Enhancement of follow-up trainings for mid-career executives and employees. (Scheduled from September 2012)

We will provide mid-career executives and employees with follow-up trainings for the thorough awareness of importance of compliance, including the control of Corporate Information which is unique to securities companies on a continuous basis in addition to enhancement of initial trainings.

**(2) Clarification of procedures for appointing a mid-career person (including seconded person) to an executive officer and above**

- i. Interviews with directors (Scheduled from August 2012)

When appointing a mid-career person to an executive director or an executive officer, management of Nikko will interview such candidates and evaluate his/her appropriateness, even if he/she is seconded from Sumitomo Mitsui Banking Corporation ("SMBC") or other affiliates.

- ii. Prior check on profiles (Scheduled from August 2012)

In case a candidate of an executive director or an executive officer is seconded from SMBC or other affiliates, we share the information about his/her profile and negative information with human resources division of those affiliates more closely than ever when we check his/her profile, although we have been checking career of candidate when we appointed executives.

**(3) Monitoring over activities of executives**

- i. Monitoring over executives (executive directors and executive officers) by internal audit division (Scheduled from September 2012)

Currently, Statutory Auditors audit executive directors and executive officers by interviewing them, checking their major corporate decisions and use of social expenses and receiving from executives the

confirmation letters with respect to the appropriateness of business execution, etc. In addition, we expand the scope of internal audit to executive directors and executive officers and internal audit division will conduct audit over executive directors and executive officers with respect to the management of Corporate Information and other aspects. We also audit the appropriateness for the enhancement of the function to monitor the activities of executives described in ii.

- ii. Enhancement of the function to monitor activities of directors. (Scheduled from October 2012)

We consolidate all secretaries to directors into one division instead of the current organization where each secretary works under the director himself/herself. Secretaries will report activities of the directors to the head of the division regularly using check lists or other tools through their daily secretarial works and report extraordinary events to the head when they have any difficulty in grasping the activities of the directors. Upon such extraordinary report, the head of the division will conduct monitoring, such as checking the activities of the directors in cooperation with the Director in charge of Compliance or other related divisions.

**(4) Sharing negative information with respect to seconded executives and employees** (Scheduled from August 2012)

We share information with respect to seconded management and employees on a semi-annually basis if there are any concerns, in addition to the ordinary information sharing. Further, if a seconded executive or employee from SMBC or other affiliates is under investigation for inappropriate activities by those affiliates, we share such negative information with the Human Resources Department of SMBC whenever necessary so that we can prevent expand of wrongdoing.

**(5) Further enhancement of awareness of compliance in order to prevent insider trading.**

- i. Clarification of our policy to claim damages caused by employees who are found to be involved in insider trading. (Scheduled from August 2012)

This material is an English translation of Japanese announcement made on August 7, 2012. Although the company intended to faithfully translate the Japanese document into English, the accuracy and correctness of this translation are not guaranteed and thus you are encouraged to refer to the original Japanese document.

To make all executives and employees thoroughly aware of importance of compliance, we amend internal rules and clarify our policy that we shall claim damages caused by executives and employees who are found to be involved in insider trading with specific examples. We also explain simply and make executives and employees aware that, if they are involved in insider trading, they will be (a) exposed, (b) dismissed, and (c) charged with compensation for damages. We enhance their awareness of importance of compliance by the process above.

ii. Clarification of Prohibition of trying to obtain unnecessary Corporate Information. (Scheduled from August 2012)

We amend internal rules and clarify our policy that we prohibit executives and employees from trying to obtain Corporate Information which is unnecessary to their business.

We also state clearly on the internal rules that executives and employees should immediately report to internal control managers, etc. when they are unreasonably asked to provide Corporate Information or other information which is closely connected with Corporate Information by a person inside or outside of the company. Compliance unit will check the situation based on the report and, if necessary, deal it appropriately by making them stop providing information, or refuse businesses, etc.

**(6) Adding recording function to mobile phones provided by the company** (Scheduled date is under consideration)

To enhance monitoring function, we are planning to add recording functions to mobile phones provided by the company to executives and employees in sales unit of Public Side\*. At the same time, we thoroughly make executives and employees aware again that using private mobile phones for business purpose is strictly prohibited.

\*We defined Units which may obtain Corporate Information in the course of business as Private Side and other units as Public Side.

## 2. Description of the self-disciplinary actions

Shigenobu Aikyo	Chairman	30% cut of compensation for four months
Eiji Watanabe	President & CEO	30% cut of compensation for four months
Naoyuki Kawamoto	Executive Deputy President	25%cut of compensation for four months
Two other executives		10% to 20% cut of compensation for three months

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