

Guidelines on Administrative Investigation Procedures under the Antimonopoly Act (Draft)

MM DD, 2015
The Japan Fair Trade Commission

Introduction

With the view to further ensuring the appropriateness of administrative investigation procedures, the Japan Fair Trade Commission (“JFTC”) has recently decided to ensure that standard steps and points to note in implementing administrative investigation procedures are clarified in these Guidelines, taking the past practices into account and are made well known to personnel engaged in investigation of alleged antitrust cases. In addition, with the same view as above, in order to enhance the transparency of investigation procedures and promote smooth implementation of investigation, the JFTC has decided to formulate and publish these Guidelines so that their content is shared widely among the public.^(Note 1)

(Note 1) In line with the formulation and publication of these Guidelines, information material (“Overview of Administrative Investigation Procedures for Alleged Antitrust Cases” [by the JFTC, MM DD, 2015]; hereinafter referred to as the “Information Material for Business Enterprises, etc.”) about, among others, standard steps in implementing administrative investigation procedures for alleged antitrust cases that has been prepared for business enterprises and other parties taking into account the content of these Guidelines has been published.

I. General remarks

1. Purpose of the Antimonopoly Act and mission of the JFTC

The purpose of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947; hereinafter referred to as the “Antimonopoly Act”) is to promote fair and free competition and secure the interests of general consumers and thereby promote the democratic and wholesome development of the national economy by prohibiting private monopolization, unreasonable restraint of trade and unfair trade practices, etc. and eliminating unjust restrictions on business activity and taking other measures.

To achieve the purpose of the Antimonopoly Act, the JFTC was established and is expected to implement the Antimonopoly Act, which is the basic rules of the market, stringently and properly and take measures to recover fairness of competition quickly.

To clarify whether the Antimonopoly Act is violated or not and give an order to implement measures necessary to eliminate violations, the JFTC is authorized to investigate companies involved in an alleged violation^(Note 2) and, in its administrative investigation procedures^(Note 3), implements dispositions such as on-the-spot inspection, order to submit documents, keeping submitted documents at the JFTC, order to appear and to be interrogated, order to report, etc., based on the JFTC’s authority with indirect enforcement which uses punishment to indirectly guarantee performance of investigation. In addition to the above, the JFTC conducts

investigation by means of depositions, requests to report, etc. based on voluntary cooperation from parties subject to the investigation.

(Note2) “Companies involved in an alleged violation” include witnesses as well as parties concerned with a case such as companies (including sole proprietors) and trade associations suspected to be involved in an violation.

(Note 3) The JFTC’s administrative investigation procedures for alleged antitrust cases are classified into two categories: administrative investigation procedures (investigation procedures taken with the possibility of implementing administrative dispositions such as a cease and desist order, etc.) and compulsory investigation procedures (investigation procedures taken with the possibility of conducting a prosecution to seek criminal punishment.) Of the above two procedures, these Guidelines are designed to cover the JFTC’s administrative investigation procedures.

2. The JFTC’s case investigation system and responsibilities of supervisors

(1) In accordance with Article 47, Paragraph 2 of the Antimonopoly Act, the JFTC appoints its official as an investigator to investigate alleged antitrust cases. At the JFTC, the Investigation Bureau is in charge of investigating cases, and with support from an investigation manager, the Director General of the Investigation Bureau orders an investigation chief or senior investigation specialist to investigate cases. In a case that the investigation chief and senior investigation specialist are in charge of, they instruct and supervise investigators, etc. (meaning investigators and other officials engaged in investigation of cases; hereinafter the same).

(2) The Director General of the Investigation Bureau, the Deputy Director Generals, the Directors of the Investigation Divisions, the Senior Investigators (in the case of a regional office, the Investigation Supervisor) themselves are engaged in investigation in accordance with these Guidelines, and instruct and supervise their subordinate investigators, etc. so that such investigators, etc. conduct investigations in accordance with these Guidelines. In addition, if the Directors of the Investigation Divisions, the Senior Investigators, etc. receive, directly or through an agent, from a company involved in an alleged violation a request regarding investigation methods or other opinions on a case they are in charge of, they shall faithfully respond to such request and opinion, provided that they are not bound by such request and opinion.

3. Attitude of JFTC officials engaged in investigation of alleged antitrust cases

JFTC officials engaged in investigation of alleged antitrust cases shall take note of the following matters when conducting their duties.

(1) Attitude toward investigation

JFTC officials engaged in investigation always keep the purpose of the Antimonopoly Act in mind and conduct investigation steadily with sober judgment and firm conviction to find

facts so that the JFTC's mission of enforcing the Antimonopoly Act stringently and properly is fully achieved.

(2) Maintaining discipline, dignity and confidentiality

JFTC officials engaged in investigation shall endeavor to maintain discipline and dignity at all times to secure the confidence and trust of the public and shall not divulge confidential information they acquire in the course of performing their duties.

(3) Compliance with due process

JFTC officials engaged in investigation must be aware that they are in a position of exercising legal authority over companies or their employees, etc. In investigating alleged violation cases, the officials give necessary explanation about procedures for relevant investigation in order to secure the understanding and cooperation of companies and their employees, etc. subject to the investigation. Further, the officials must always exercise the authority by due process of law, without promoting an attitude that may be recognized as intimidation, coercion or the like.

(4) Efficient and effective investigation and multi-faceted consideration

JFTC officials engaged in investigation shall sincerely listen to explanations given by parties concerned and endeavor to find the facts of relevant cases through efficient and effective investigation. In addition, to prove facts of violation, the officials shall endeavor to collect material evidence and adequate amount of other evidence related to relevant cases, take detailed depositions from parties concerned carefully and without any prejudice, and thoroughly consider factors, such as the reasonableness of the depositions and their consistency with objective facts, before judging their credibility.

II. Investigation procedures

1. On-the-spot inspection

(1) Grounds and legal nature

The JFTC has a right to enter a business office involved in an alleged violation or other necessary sites and to inspect conditions of business operation and property, books and documents, and other materials in accordance with Article 47, Paragraph 1, Item 4 of the Antimonopoly Act. Further, in accordance with the provisions of Item 3 of the same paragraph, the JFTC has a right to order the person who holds books and documents and other object to submit such objects which are deemed necessary for case investigation and a right to seize the same.

On-the-spot inspection and other dispositions under Article 47 of the Antimonopoly Act are not enforceable by force directly and physically if a party concerned refuses to accept such dispositions but they are indirectly enforceable in a sense that for administrative purposes, a party concerned is bound by the obligation to cooperate with the investigation and the performance of the obligation is guaranteed by punishment (Article 94 of the Antimonopoly Act). Thus, such dispositions are not of a nature that allows companies

involved in an alleged violation to, on their own discretion, to decide whether to cooperate with the investigation.

Note that in some cases, the JFTC conducts investigation by visiting a business office of a party concerned or other place to request the party to, for example, submit materials based on voluntary cooperation from the party, instead of conducting an indirectly enforceable on-the-spot inspection under Article 47 of the Antimonopoly Act.

(2) Procedures and explanations given for on-the-spot inspection

At the time of an on-the-spot inspection, the investigator shall present identification card such as a person in charge of the place subject to on-the-spot inspection and then deliver a notification (Section 20 of the Rules on Administrative Investigations by the Fair Trade Commission [Fair Trade Commission Rule No.5 of 2005; hereinafter referred to as the “Investigation Rules”]) that contains provisions that stipulate the on-the-spot inspection (Article 47 of the Antimonopoly Act), the case name, an outline of alleged facts, relevant laws and provisions, etc. and make a request for cooperation to ensure smooth implementation of inspection. Further, the investigator shall explain to the said personnel that if the party concerned refuses to cooperate with the inspection, punishment (Article 94 of the Antimonopoly Act) may be imposed. At the same time, the investigator shall deliver the Information Material for Business Enterprises, etc. in person.

Note that if an investigator, etc. visits a business office of a party concerned or other place, and makes a request to submit materials after obtaining the consent of the party concerned, the investigator, etc. shall explain to the party concerned about the purpose of the relevant investigation and also explain that the investigation is not based on Article 47 of the Antimonopoly Act but based on voluntary cooperation from the party concerned, and then conduct investigation after obtaining the consent of the party concerned.

(3) Scope of on-the-spot inspection

On-the-spot inspection is conducted at a place that the investigator reasonably considers to be necessary for case investigation, regardless of the name of the place such as the sales department, accounting department, legal department, etc. of the company involved in an alleged violation. Thus, even a residence of an employee of the company involved in an alleged violation becomes subject to on-the-spot inspection if materials related to alleged violation are suspected to be present there and are reasonably considered to be necessary for case investigation.

(4) Procedures related to submission and seizure of materials

(i) An order to submit materials is given to the extent that the investigator reasonably considers such materials are necessary for case investigation. Thus, even goods that are generally considered highly private, such as personal belongings (day planner, mobile phone, etc.) are ordered to be submitted if such goods are suspected to contain information useful to prove an alleged violation and are reasonably considered necessary for case investigation. In addition, in the case of giving an order to submit,

the originals of relevant materials are ordered to be submitted on an as-is basis.

(ii) When an order to submit materials is given and the materials are seized, a list of the articles of them to be submitted shall be attached to a written submission order, etc. (Section 9 of the Investigation Rules). Such list shall contain the titles, etc. of accounting books, documents, and other materials with the materials specified by describing the location where they were present, the person who held them, manager, etc. In the case of seizure, each item to be seized shall be shown to personnel such as a person in charge of the place to be inspected and all the materials shall be checked against descriptions in the list.

(iii) Although it is not recognized as a right of companies concerned to copy materials to be submitted on the day of on-the-spot inspection, materials that are deemed to be necessary for their daily business activities shall be allowed to be copied as long as it does not affect the smooth implementation of such on-the-spot inspection. In addition, upon the request of a company concerned, it is allowed to peruse and copy submitted (seized) materials at a place designated by the JFTC on or after the day following that of the on-the-spot inspection with schedule adjusted (Section 18 of the Investigation Rules).

Note that not only a copier owned by a company concerned but also a digital camera, scanner or other electronic devices may be used for copying.

(5) Presence of an attorney during on-the-spot inspection

During an on-the-spot inspection, the investigator shall have personnel such as a person in charge of the place subject to an on-the-spot inspection be present and, upon the request of the company subject to the inspection, shall allow an attorney to be present as long as it does not affect the smooth implementation of the on-the-spot inspection. However, such presence of an attorney is not recognized as the right of companies concerned and therefore, the investigator need not delay the start of an on-the-spot inspection until an attorney arrives.

2. Deposition

(1) Grounds and legal nature

Depositions are classified into voluntary ones and interrogations based on authority with indirect enforcement; voluntary depositions are taken with voluntary cooperation from parties subject to deposition; and in the case of interrogations, in accordance with Article 47, Paragraph 1, Item 1 of the Antimonopoly Act, an order to appear is issued to parties subject to deposition before a deposition is taken from them. As for interrogations, a party subject to deposition who fails to appear or make statements or makes false statements may be subject to punishment (Article 94 of the Antimonopoly Act).

(2) Procedures and explanations given for deposition

(i) Voluntary deposition

(a) As for voluntary depositions, the investigator, etc. confirms the schedule of a party

subject to deposition, directly or through the company concerned or a representative, makes clear that a voluntary deposition is based on voluntary cooperation and then takes a deposition after obtaining the consent of the party subject to deposition.

(b) When taking a voluntary deposition, the investigator, etc. initially explains to a party subject to deposition that the deposition is taken on a voluntary basis and that even in the case of voluntary depositions, the party needs to testify facts based on his/her experience and recognition so that the actual situation of the case can be clarified and the purpose of the Act can be achieved. In addition, the investigator, etc. explains as necessary that if the party does not cooperate to give a voluntary deposition, an interrogation procedure may be initiated.

(ii) Interrogation

(a) If in accordance with Article 47 of the Antimonopoly Act, an interrogation is conducted by issuing an order to appear to a party subject to deposition, the interrogation shall be conducted by sending a written order to appear to the party (Section 9 of the Investigation Rules). The written order to appear shall contain provisions that stipulate the interrogation, the date and time and place of appearance, and punishment imposed if the party disobeys the order.

(b) When conducting an interrogation, the investigator, etc. initially explains to a party subject to deposition about the legal nature of interrogation (the fact that interrogation is based on Article 47 of the Antimonopoly Act) and that if the party refuses to make statements or makes false statements, punishment (Article 94 of the Antimonopoly Act) may be imposed.

(iii) At the time of advance notification of voluntary deposition or issuance of an order to appear for interrogation, the investigator, etc., directly or through the company concerned or a representative, informs a party subject to deposition of the location of the webpage where the Information Material for Business Enterprises, etc. is posted, and if the party subject to deposition does not check the content of such material in advance, the investigator, etc. delivers the Information Material for Business Enterprises, etc. to the party in person when the initial deposition session is commenced for the party.

(iv) When taking a deposition, the investigator, etc. beforehand and as necessary explains to a party subject to deposition that written deposition records may be subject to perusing and copying in procedures for hearing pertaining under Article 49 of the Antimonopoly Act and also explains about the intent and purpose, etc. of the viewing and copying system (including the fact that use for other than the intended purpose is not permitted.)^(Note 4).

(Note 4) If there is a possibility that based on the content of deposition records, etc. viewed or copied in procedures for hearing pertaining, a company concerned may treat employees of the company unfavorably by, for example, imposing disciplinary action against them or take actions such as pursuing retaliation against another company, such treatments and actions fall under “likely to infringe on the interests of a third party or unless there are any other justifiable grounds” (Article 52

of the Antimonopoly Act) and the JFTC has a right to refuse a request for perusing and copying. As seen above, if companies concerned peruse and copy deposition records and use them for purposes other than use in procedures for hearing pertaining or preparation for litigation for rescinding a cease and desist order, etc., such companies are deemed to have used them for other than the intended purpose. Therefore, an application form for viewing and copying contains a sentence stating that the applicant will not use deposition records for other than the intended purpose.

(3) Points to note in deposition

- (i) When taking a deposition, the investigator, etc. shall not use intimidation, coercion or other means that may cause any suspicion about voluntariness of deposition. In addition, the investigator, etc. shall not induce a deposition without good reason by, for example, implying to the party concerned such deposition as the investigator, etc. expects or desires, promise to provide benefits in exchange for a certain deposition or otherwise use means that may undermine the credibility of deposition.
- (ii) Presence of third parties including an attorney during deposition (excluding an interpreter arranged by the investigator, etc.), audio / video recording of the process of taking depositions, issuing of copies of deposition records to a party concerned when deposition records are taken, and note taking by a party concerned during a deposition create a concern that the JFTC's fact-finding ability could be impaired and therefore are not permitted.

(4) Length of deposition and break times

- (i) As a general rule, deposition time shall not span more than 8 hours (excluding breaks) per day and if deposition time exceeds 8 hours per day, the consent of the party subject to deposition shall be obtained. In addition, unless there is an unavoidable reason, continuation of deposition until late at night must be avoided.
- (ii) If deposition time continues for long hours, a break for a party subject to deposition must be taken appropriately and timely.

In addition, as a general rule, no restriction shall be imposed on activities of a party subject to deposition. However, for example, in the case of taking depositions from multiple parties concerned at times of the same day that are close to each other, if there is a possibility that a party subject to deposition may contact another party concerned and make arrangement to tell the same story, etc. the investigator, etc. shall accompany the party subject to deposition.

Further, as long as it does not affect the deposition, the investigator, etc. shall not prevent a party subject to deposition from contacting outside parties such as an attorney or taking notes based on his/her memory during breaks, such as mealtimes, and shall properly ensure such break so that the party subject to deposition may consult with outside parties such as an attorney if necessary.

- (iii) When taking a deposition, the investigator, etc. shall record the length of deposition and break times.

- (5) Procedures for preparing deposition records and affixing signatures and seals
- (i) When a party subject to deposition makes a voluntary statement, the investigator, etc. shall prepare deposition records, if he/she deems it necessary to do so. In addition, when interrogating a party subject to deposition in accordance with Article 47 of the Antimonopoly Act, the investigator must prepare interrogation records.
 - (ii) To prove the facts of violation, the investigator, etc. shall accurately record the content of depositions given by a party concerned that are related to the relevant case and are deemed necessary, and shall prepare deposition records or interrogation records, taking into comprehensive consideration various material evidence and depositions, etc. he/she has collected and taken so far. It is not necessary to record depositions given by a party concerned word by word, as in the case of shorthand notes.
 - (iii) When preparing deposition records or interrogation records, the investigator, etc. shall read out the records to the party subject to deposition or have the party read the records and ask the party whether it contains any error in the records. If the party says that there is no error, the investigator, etc. shall have the party affix his/her signature and seal on the records to complete them. If the party subject to deposition makes a request to add, delete or change the records of the deposition he/she gave, the investigator, etc. shall confirm the intent of the party properly and then record the content as the party so requests or modify relevant portions and have the party affix his/her signature and seal on the records. In addition, if the party refuses to affix his/her signature and seal despite the party saying that there is no error, the investigator, etc. shall write down such fact in the records. (Sections 11 and 13 of the Investigation Rules)

3. Order to report

(1) Grounds and legal nature

In accordance with Article 47, Paragraph 1, Item 1 of the Antimonopoly Act, the JFTC has a right to demand companies involved in an alleged violation to report information necessary for case investigation. If a company involved in an alleged violation disobeys this demand and fails to make a report or makes a false report, punishment (Article 94 of the Antimonopoly Act) may be imposed.

Note that the JFTC may request a party concerned to make a report based on voluntary cooperation from the party, rather than issuing an indirectly enforceable order to report under Article 47 of the Antimonopoly Act.

(2) Procedures for an order to report

If the JFTC demands a report from a company involved in an alleged violation in accordance with Article 47 of the Antimonopoly Act, it shall do that by serving a writ of report (Section 9 of the Investigation Rules). A written order to report shall be attached with a report (response) form and contain provisions that stipulate the order to report, the reporting deadline, and punishment imposed if the company disobeys the order.

Note that if the JFTC requests a party concerned to make a report based on voluntary cooperation from the party, it shall take measures such as sending the party a report

request sheet containing the reporting deadline, attached with a report (response) form.

4. Objection to disposition made by the investigator and complaint about voluntary deposition

If a person who has been subjected to an on-the-spot inspection, interrogation or other dispositions made by the investigator in accordance with Article 47 of the Antimonopoly Act is dissatisfied with the relevant disposition, the person may make a motion for objection to the JFTC within one week of receipt the disposition by a document stating the grounds. (Section 22 of the Investigation Rules).

In addition, if a party subject to voluntary deposition or other parties argue that the language and behavior of the investigator, etc. went against “II. 2. Deposition” of these Guidelines during the deposition process, such party may make a complaint in writing to the JFTC within one week of the date of deposition.

The investigator, etc. should always exercise his/her authority according to proper procedures, and is required not to behave in a manner that may cause an objection or complaint. However, should an objection or complaint be made in connection with the investigator, etc., he/she shall faithfully respond to examination of such objection or complaint.

Related Clauses (Excerpts)

Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of April 14, 1947))

(Compulsory disposition for investigation)

Article 47

(1) In order to conduct the necessary investigation with regard to a case, the Fair Trade Commission may take the following measures:

(i) Order persons concerned with a case or witness to appear to be interrogated, or collect their opinions or reports

(ii) Order expert witnesses to appear to give expert opinions

(iii) Order persons holding books and documents and other object to submit such objects, or keep such submitted objects at the Fair Trade Commission

(iv) Enter any business office of the persons concerned with a case or other necessary sites, and inspect conditions of business operation and property, books and documents, and other materials

(2) If the Fair Trade Commission finds it to be appropriate, it may designate a staff member of the Fair Trade Commission as an investigator pursuant to Cabinet Order, and cause the staff member to take the measures set forth in the preceding paragraph.

(3) If the Fair Trade Commission causes a staff member to conduct an on-site inspection pursuant to the provisions of the preceding paragraph, the Fair Trade Commission shall instruct the staff member to carry an identification card and to present it to the persons concerned.

(4) The authority to take measures pursuant to the provisions of paragraph (1) must not be construed as being granted for criminal investigation.

(Hearing pertaining to Cease and Desist Orders)

Article 49

If the Fair Trade Commission seeks to issue an order pursuant to the provisions of Article 7, paragraph (1) or (2) (including when they are applied mutatis mutandis pursuant to Article 8-2, paragraph (2) and Article 20, paragraph (2)); Article 8-2, paragraph (1) or (3); Article 17-2; or Article 20, paragraph (1) (hereinafter referred to as a “cease and desist order”), it shall conduct a hearing of opinions with the would-be addressee of the cease and desist order.

(Inspection and copy of evidence)

Article 52

(1) The party concerned may, between the time when notice of a hearing is given pursuant to Article 50, paragraph (1) and the time when the hearing is concluded, submit a request to the Fair Trade Commission to inspect or copy the evidence proving the facts found by the Fair Trade Commission with respect to the case for hearing (as for copy, only limited to a copy prescribed by the Rules of the Fair Trade Commission as one that was submitted by the said party concerned or its employees or that records the statements of the said party concerned or its employees; hereinafter the same applies in this Article). In such a case, the Fair Trade Commission may not refuse to allow the person to inspect or copy the evidence unless this is likely to infringe on the interests of a third party or unless there are any other justifiable grounds.

(2) The preceding provisions shall not prevent the party concerned from further requesting inspection or copy of the evidence, which becomes necessary in the course of the procedures for hearing.

(3) The Fair Trade Commission may designate the date, time and place for inspection or copy set forth in the preceding two paragraphs.

(Crimes such as obstructing an inspection)

Article 94

A person who falls under any of the following items is punished by imprisonment with work for not more than one year or by a fine of not more than three million yen:

(i) A person concerned with a case or any witness who, in violation of the measures taken against him/her pursuant to the provisions of Article 47, paragraph (1), item (i) or paragraph (2), has failed to appear or to make a statement, or has made a false statement, or failed to submit a report, or submitted a false report

(ii) An expert witness who, in violation of the measures taken with regard to him/her pursuant to the provisions of Article 47, paragraph (1), item (ii) or paragraph (2), has failed to appear or to give an expert opinion, or submitted a false expert opinion

(iii) A holder of the materials who, in violation of the objects taken with regard to him/her pursuant to the provisions of Article 47, paragraph (1), item (iii) or paragraph (2), has failed to submit the objects

(iv) A person who has refused, obstructed or evaded the inspection pursuant to the provisions of Article 47, paragraph (1), item (iv) or paragraph (2)

Rules on Administrative Investigations by the Fair Trade Commission (Fair Trade Commission Rule No.5 of 2005)

(Measures Taken by Investigator)

Section 9

(1) The investigator shall, when taking the measures as provided for in Section 47 (1) of the Act pursuant to the provision of Section 47 (2) of the Act, take measures by serving the document indicated in each of following paragraphs, according to the classification indicated in each of the paragraphs.

(i) In the case of ordering persons concerned with a case or witnesses to appear for interrogating them; a writ of appearance

(ii) In the case of hearing to present their opinions or collecting reports from the persons indicated in the preceding Paragraph; a writ of report

(iii) In the case of ordering experts to appear for giving expert testimony; a writ of expert testimony

(iv) In the case of ordering persons holding accounting books, documents, and other materials to submit the said materials; a writ of submission

(2) The documents described in the preceding Subsection shall include the following matters, and each leaf of the documents shall bear a seal stamped across both it and the contiguous leaf.

(i) Title of the case

(ii) Name of the party to be served

(iii) Requested matters

(iv) In the case of a writ of appearance or a writ of submission, date and place of appearance and submission

(v) Penal provisions of the Act in the event of default

(3) A writ of submission shall include the materials to be ordered to submit or shall attach the list of the articles of them.

(Record of Interrogation)

Section 11

(1) The investigator shall, when having interrogated persons concerned with a case or witnesses in accordance with the provision of Section 47 (1) (i) of the Act pursuant to the provision of Section 47 (2) of the Act, prepare the record of interrogation, read it to the deponent or have the deponent peruse it, and ask the deponent if there is no mistake in the record. If the deponent makes a motion for any addition or deletion, the deponent's statement shall be entered in the record.

(2) When the deponent makes a motion that there is no mistake in the record stipulated in the preceding Subsection, the investigator may ask to sign and seal the record.

(3) In the case of the preceding Subsection, when the deponent is unable to sign, another person shall sign on behalf of the deponent. When the deponent is unable to seal, the deponent shall be fingerprinted. However, where another person signs on behalf of the deponent, the said person shall state the reason in the record and sign and seal it.

(4) In the case of Subsection 2, where the deponent refuses to sign and seal the record, that effect shall be entered in the record.

(Record of Statement)

Section 13

(1) In the case where a person concerned with a case or a witness makes a voluntary statement, when the staff member of the Commission deems it necessary, a record of statement that shall record the statement shall be prepared.

(2) The provisions of the preceding two Sections shall be applied to the record stipulated in the preceding Subsection.

(Peruse and Copy of the Materials to be Ordered to Submit)

Section 18

(1) A person, who was ordered to submit accounting books, documents, and other materials in accordance with the provision of Section 47 (1) (iii) of the Act, may peruse or copy the said materials. However, where perusing and copying the materials may be to provide a particular trouble in the investigation of a case, the foregoing shall not apply.

(2) In the case of perusing or copying pursuant to the provision of the preceding Subsection, the investigator shall designate the date and time, place, and method with taking into consideration the opinion of person who was ordered to submit the said materials.

(Notice of Alleged Fact and Others)

Section 20

The investigator shall, when carrying out an inspection in accordance with the provision of Section 47 (1) (iv) of the Act pursuant to the provision of Section 47 (2) of the Act, make available the document stating the following matters for concerned persons.

(i) Title of a case

(ii) Main point of the alleged fact violating the provision of the Act

(iii) Applicable provisions of the Act

(Motion for Objection Against Measures Taken by Investigator)

Section 22

(1) Any person, who was subject to the measures as provided for in any paragraphs of Section 47 (1) of the Act, which was taken by the investigator pursuant to the provision of Section 47 (2) of the Act, may make a motion for objection to the Commission within one week from the day subject to the measure by a document stating the grounds, when being dissatisfied with the said measure.

(2) The Commission shall, when recognizing that there are grounds for the motion for objection, order the investigator to withdraw, cancel, or change the measure against which the motion for objection was made, and notify thereof to the petitioner.

(3) The Commission shall, when having rejected the motion for objection, notify thereof to the petitioner. In this case, the reasons for the rejection shall be given.