

# A summary of rules and guidelines (proposal) Attachment 6

## regarding Reduction System for Cooperation in Investigation

### Background

In order to reveal the truth of the cases more efficiently and effectively, and eliminate and deter violations, by increasing the enterprises' incentives for cooperating in investigations by the Japan Fair Trade Commission (JFTC), the system of applying the reduction rates according to the degree of contribution to revealing the truth of the case by cooperation of an enterprise in addition to the rate according to the order of the application for the Leniency Program ("Reduction System for Cooperation in Investigation") was introduced.

【The act No.45 of 2019 for amending the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade was promulgated in June 2019】

The Investigation Start Date	The order of the application for the Leniency Program	The Leniency Program	The Reduction System for Cooperation in Investigation
Before	First	Immunity	Up to 40%
	Second	50% → 20%	
	Third~Fifth	30% → 10%	
	After Sixth	nonapplication → 5%	
After	Up to 3 (Up to 5 including applicants which apply before the investigation start date)	30% → 10%	Up to 20%
	Other than the above	nonapplication → 5%	

### The point of rules (proposal)

- Enterprises may apply for a conference by 10 days (excluding Holidays of Administrative Organs) from the date when they receive the notice of the application for the Leniency Program (the notice of Clause 5).
- Eight specifics contributing to revealing the truth of the case are provided (Goods or Services Subject to the Violation, Description of the Violation, Participants in the Violation etc.).
- The method of the application for the Leniency Program is changed from "facsimile" to "e-mail". (\*)

(\*) The order of the application for the Leniency Program depends on the order of receipt of e-mail with the report regarding the leniency Program reaches the JFTC.

Note that, depending on the settings of the e-mail system or the operational rules of e-mail of the enterprise that applies for the Leniency Program, it may take some time for the e-mail to reach the JFTC, or it may not reach. Moreover, if the e-mail contains viruses, the JFTC cannot receive it. Therefore, the JFTC will make a notice on its website that it is recommended the enterprise should contact the Senior Officer for Leniency Program by telephone to confirm the receipt of the e-mail, when the enterprise sends the e-mail.

- Other necessary provisions are enacted.

# A summary of rules and guidelines (proposal) regarding Reduction System for Cooperation in Investigation

## The point of guidelines (proposal)

### 【Conference and Agreement】

- Enterprises have to include intent to accept request of the JFTC as the content of cooperation which they explain at a conference.
- Facts (etc.) which enterprises find at the additional reporting request of the JFTC would be recognized ascertaining of new facts (etc.)
- There are two types of agreement: the Agreement on Specified Rate and the Agreement on the Upper and Lower Limit. The JFTC ordinarily seeks the Agreement on the Upper and Lower Limit with an enterprise.

### 【Evaluation Methods】

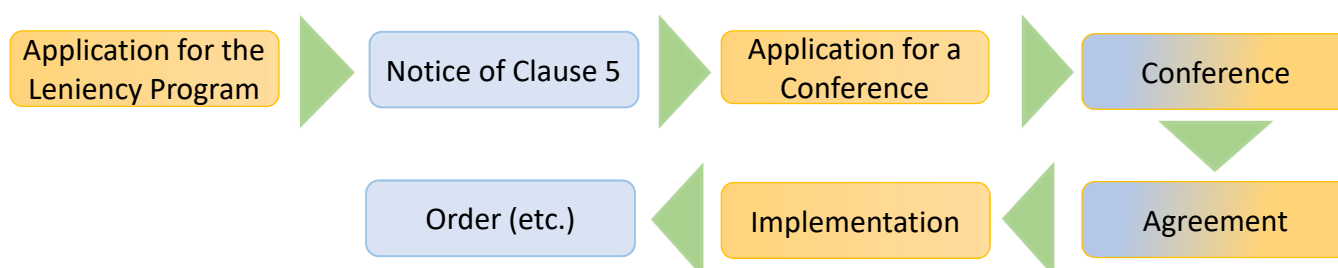
- In order to evaluate the degree of contribution to revealing the truth of the case, the following factors will be taken into consideration in light of the progress status of revealing the truth of the case (\*): Whether or not the content of the report (etc.) provided by enterprises:
  - (i) is detailed and concrete
  - (ii) includes all the relevant materials “contributing to revealing the truth of the case” as stipulated in the JFTC’s rules
  - (iii) is corroborated by materials submitted by the enterprise
- (\*) The JFTC will consider the progress status of revealing the truth of the case such as whether or not report (etc.) are provided as far as the enterprise can ascertain according to the degree of involvement of the violation which shall be evaluated by facts (etc.) collected by the other enterprises (etc.), regarding to the specific “contributing to revealing the truth of the case” which is necessary to fact finding of relevant violation case.

### 【Reduction Rates】

- Reduction rates are determined according to number of satisfying above factors.

Before the Investigation Start Date	After the Investigation Start Date	Degree of Contribution to Revealing the Truth of the Case
40%	20%	High (Satisfying all factors)
20%	10%	Medium (Satisfying two factors)
10%	5%	Low (Satisfying one factor)

## Process



The JFTC shall closely communicate with enterprises through the investigation period.