

Investigation of Business Practices between Financial Institutions and Corporations (Overview)

June 21, 2006
Japan Fair Trade Commission

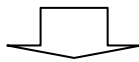
I. Purposes and Method of Investigation

<Purposes>

Thus far the JFTC has announced the concept in the Antimonopoly Act concerning financial institution's abuse of dominant bargaining position to borrower corporations:

- Published "Investigation on Business Practices between Financial Institutions and Corporations" (hereinafter referred to as the Previous Investigation) in July 2001.
- Published "Unfair Trade Practices Associated with Relaxation of Controls over Classification of Business Categories and Expansion of Scope of Business for Financial Institutions" (hereinafter referred to as the Guidelines) in December 2004.

There is concern that, however, such abuse would still continue, even recently.



We followed up the Previous Investigation on business between financial institutions and borrower corporations.

<Method>

Questionnaire and interviews with financial institutions and borrower corporations

II. Investigation

- For various requests from financial institutions in relation to financing, 30.3% of borrower corporations feel it difficult to refuse (41.9% in the Previous Investigation).
- The ratio of borrower corporations that agreed to various requests from financial institutions against their will has generally decreased from the ratio in the Previous Investigation, but the ratio has increased for some types of regrets.
- Among the borrower corporations that agreed to requests against their will, 59.8% did so for fear of difficulty in subsequent financing.



- More than 20% of financial institutions do not know the Previous Investigation or Guidelines. 40% or more of financial institutions know about both but have not taken any action

- Requests to Borrower Corporations by Financial Institutions against the backstage of Financing
Still violation of the Antimonopoly Act easily occurs in business between financial institutions and borrower corporations. Financial institutions need to pay sufficient attention in making various requests.
Some requests from financial institutions have not improved about the matters pointed out in the Previous Investigation. Financial Institutions need to make further improvement.
- Compliance by financial industry institutions
The whole industry must improve compliance efforts such as re-dissemination of Guidelines in organizations.
Individual financial institutions: Dissemination of Guidelines and assurance of compliance effectiveness such as stronger check system

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Concept of the Antimonopoly Act about various requests from financial institutions to borrower corporations

If a financial institution in a dominant bargaining position in the business takes any of the following actions against borrower corporations, this will be in violation of the Antimonopoly Act.

A. Setting and changing unfavorable business conditions in relation to financing

- To have the borrower corporation accept higher interest than specified in the agreement or have the borrower repay before the deadline specified in the agreement by suggesting, although there is no justifiable reason attributable to the borrower, unfavorable conditions for subsequent financing if the borrower does not agree etc.
- To have the borrower corporation additionally pledge more security than necessary for preservative attachment.
- To force the borrower corporation to take out a short-term loan over the end of the fiscal year or to maintain a certain rate of borrowing share by suggesting that the borrower will have difficulty in subsequent financing if it does not agree to the request

B. Request for purchasing financial products or services the financial institution provides

- To have the borrower accept opening an account of time deposit or increase of its deposit in excess of the limit required for preservative attachment at the time of financing or refuse the account closure and refund although there is no agreement to pledge the deposit
- To request that the borrower corporation purchases the financial institutions' financial products or services such as firm banking, derivatives and bond trustee management by suggesting unfavorable conditions for financing if the borrower does not agree

C. Forcing business with affiliates

- To request that the borrower, at the time of financing, purchase insurance or other financial products provided by the financial institution's affiliates by suggesting unfavorable conditions for financing if the borrower does not agree
- To request that the borrower purchases financial services such as corporate bond underwriting, entrusting of corporate pension management by suggesting unfavorable conditions for financing if the borrower does not agree
- To force continuous business with the financial institution's affiliates at the time of financing

D. Restriction of business with competitors

- To request that the borrower would not borrow from other financial institutions by suggesting unfavorable lease conditions if the borrower takes out loans from other financial institutions
- To finance under the condition that the borrower restricts business with competitors of the financial institution's affiliates

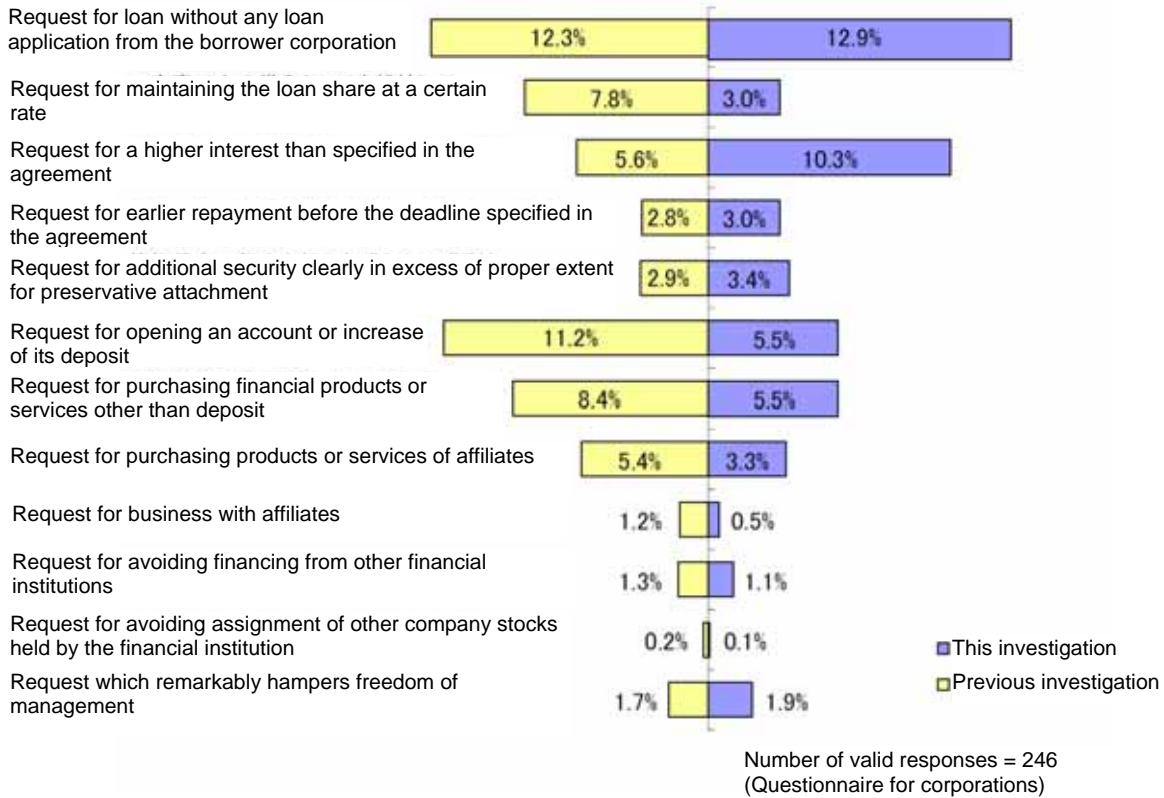
E. Involvement in the borrower corporation's business

- To have the borrower acquire the financial institution's or its affiliates' stocks by suggesting unfavorable conditions for subsequent financing if the borrower does not agree
- To constrain the fund procurement and management or and the asset management by interfering in the selection of methods in fund raising or asset disposition and thereby cause disadvantage to the borrower

III. Overview of the Results

1. Actual Conditions of Requests from Financial Institutions against the backdrop of Financing - Ratio of Borrower Corporations that Reluctantly Accepted the Requests

- The ratio of borrower corporations that accepted various requests from financial institutions although they did not want to do so has generally decreased. However, the ratio has increased for some types of regrets.

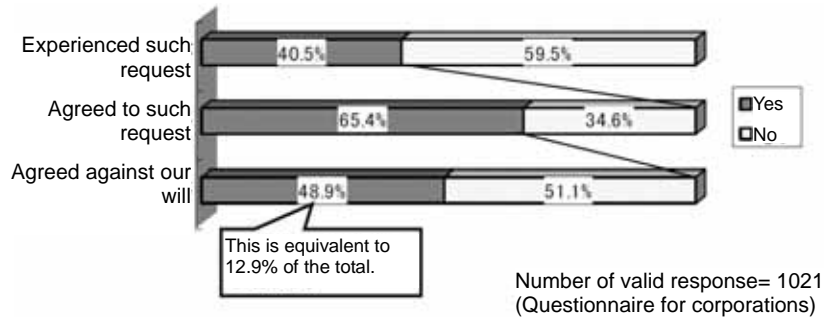


(1) Request for loan without any loan application from the borrower corporation
 The JFTC pointed out in the Previous Investigation that, if a financial institution in a dominant bargaining position takes an action as shown below, it will be in violation of the Antimonopoly Act.

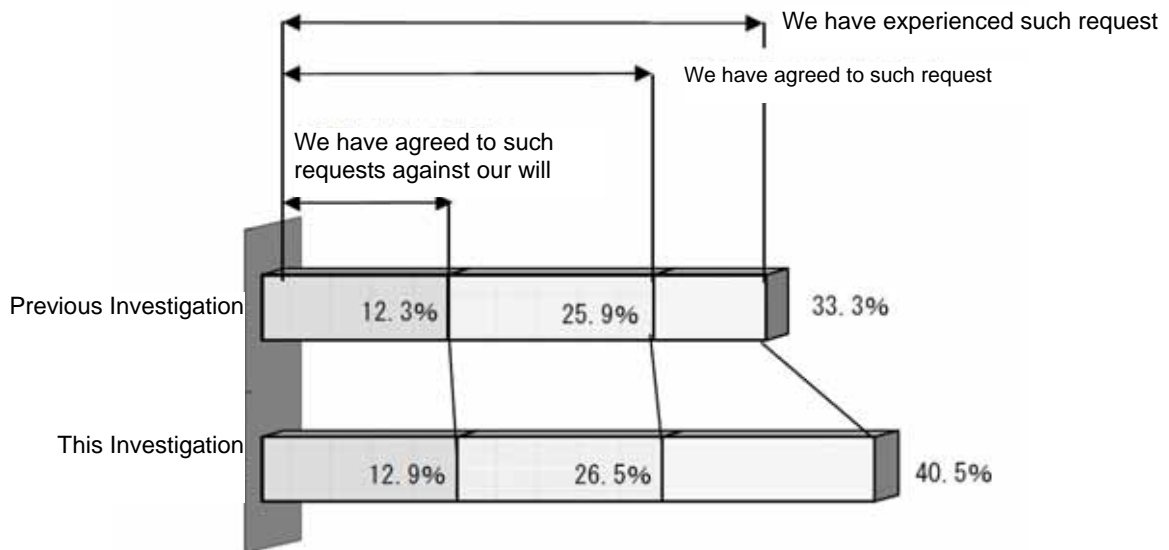
- The financial institution forces the borrower corporation to take out a short-term loan over the end of fiscal year by suggesting difficulty in subsequent financing if the borrower does not agree etc.

Compared with the Previous Investigation, requests to corporations have increased. The respective ratios of corporation's reactions upon requests of the total have also increased.

<Request for loan without any loan application from the borrower corporation>



<Comparison with Previous Investigation (Ratios of the total)>



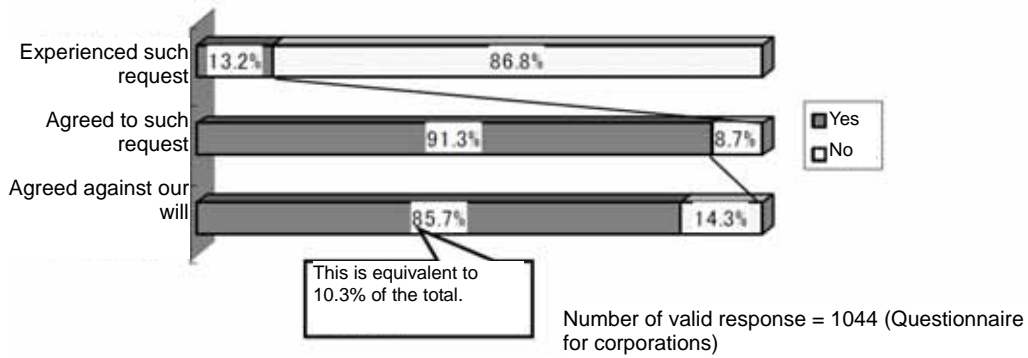
(2) Request for an interest higher than specified in the agreement

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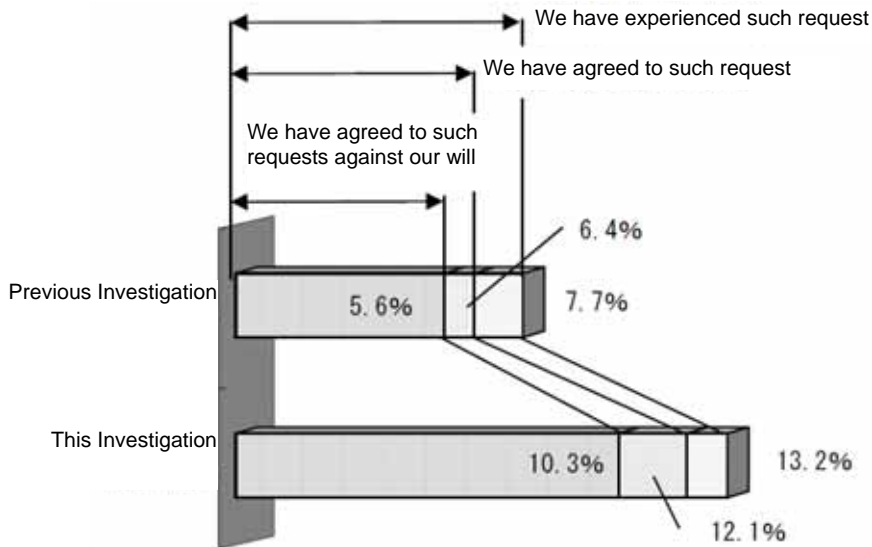
- The financial institution has the borrower corporation accept higher interest in excess of allowable change as specified in the agreement by suggesting, although there is no justifiable reason attributable to the borrower, unfavorable conditions for subsequent financing if the borrower does not agree.

Compared with the Previous Investigation, requests to corporations, the ratio of corporations that accepted the requests as well as their respective ratios of the total have increased.

<Request for interest higher than specified in the agreement>



<Comparison with Previous Investigation (Ratios of the total)>



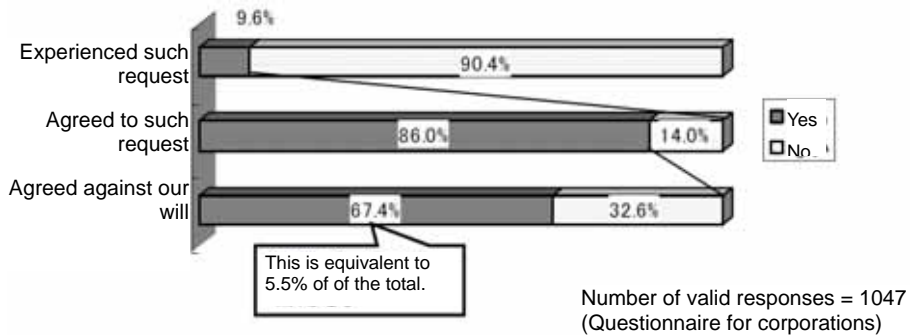
(3) Request for opening an account or increase of its deposit

The JFTC pointed out in the Previous Investigation that, if a financial institution in a dominant bargaining position takes an action as shown below, it will be in violation of the Antimonopoly Act.

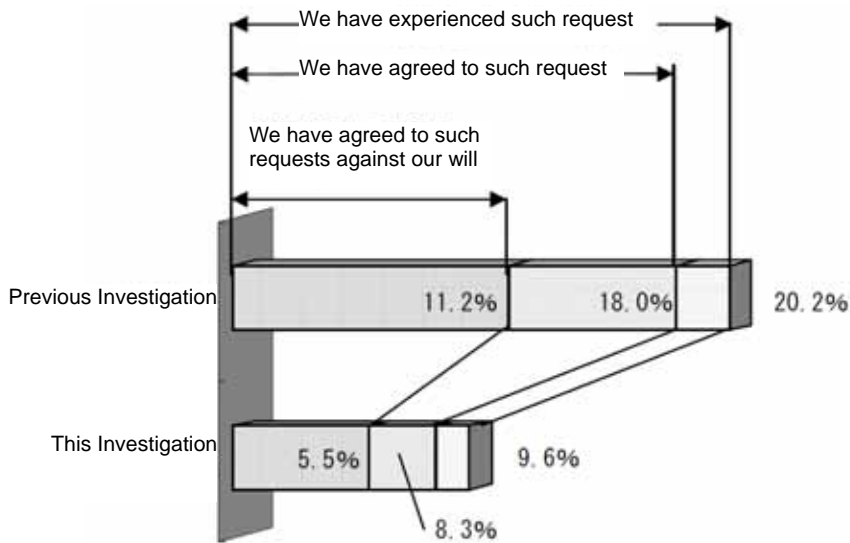
- The financial institution has the borrower accept opening an account or increase of its deposit or the like at the time of financing over the limit required for preservative attachment or does not accept the account closure and refund although there is no agreement that the deposit is provided as security.

Compared with the Previous Investigation, requests to corporations, the ratio of corporations that accepted the requests as well as their respective ratios of the total have decreased.

<Request for opening an account>



<Comparison with Previous Investigation (Ratios of the total)>



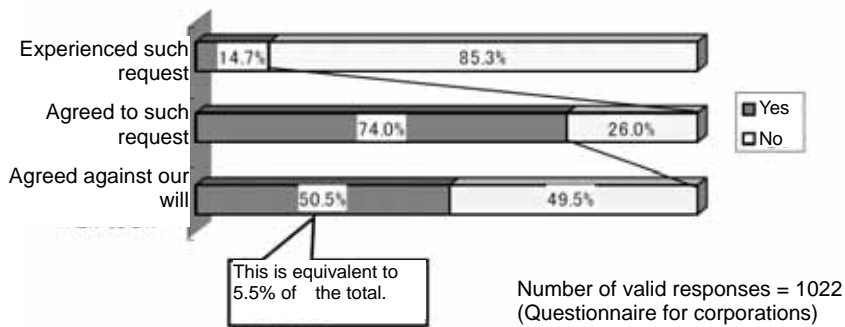
(4) Request for purchasing financial products or services other than deposit

The JFTC pointed out in the Previous Investigation that, if a financial institution in a dominant bargaining position takes an action as shown below, it will be in violation of the Antimonopoly Act.

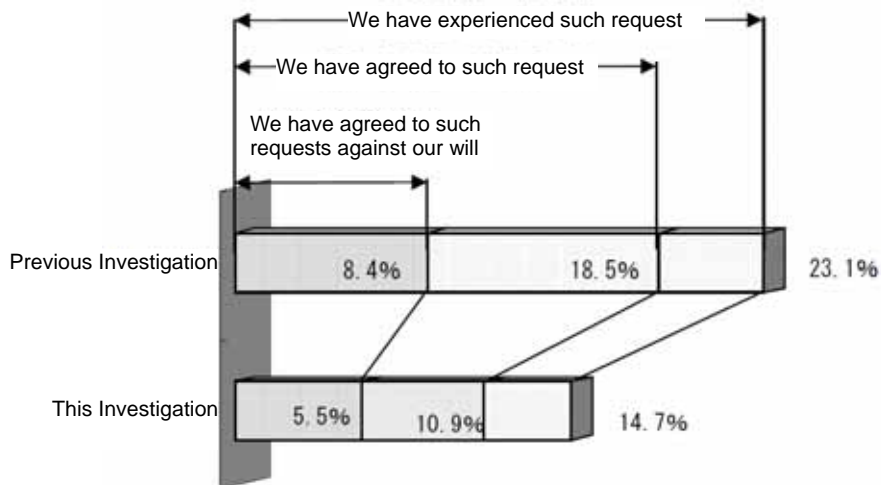
- The financial institution requests that the borrower purchase financial products or services such as firm banking, derivatives, bond trustee management or the like it provides, and suggesting unfavorable conditions for financing if the borrower does not agree.

Compared with the Previous Investigation, requests to corporations, the ratio of corporations that accepted the requests as well as their respective ratios of the total have decreased.

<Request for purchasing financial products or services other than deposit>

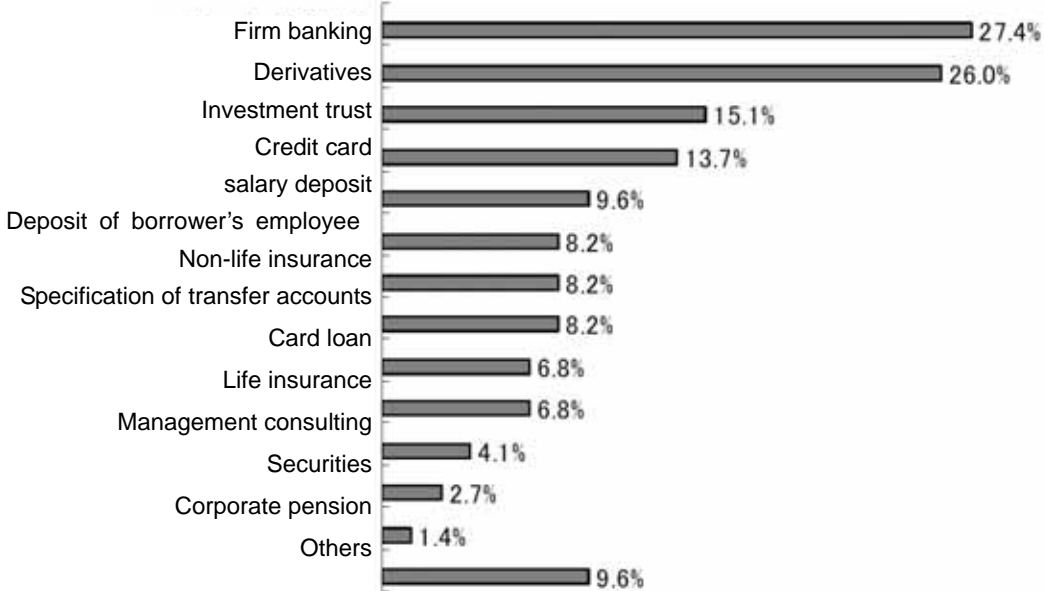


<Comparison with Previous Investigation (Ratios of the total)>



To the corporations that answered that they had requests from city banks, we asked about the details of the requests. Many corporations were requested to purchase firm banking and derivatives.

<Financial products and services requested to purchase by city banks (multiple answer)>



2. How Corporations react to Requests

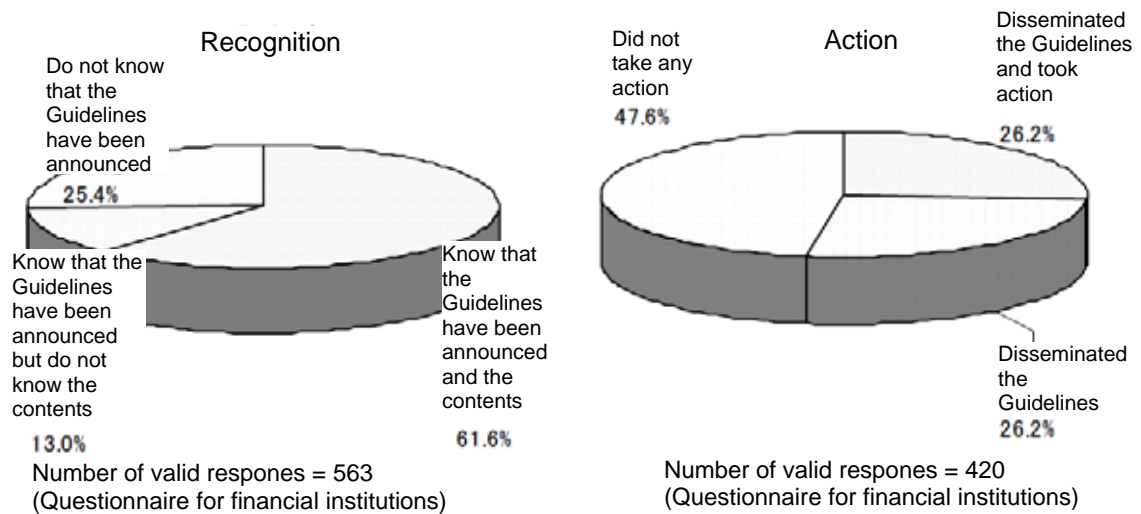
- Among the borrower corporations, 30.3% feel it difficult to refuse requests from financial institutions.

- 59.8% of borrower corporations which accepted requests from financial institutions although they did not want to do so answer that they accepted requests in fear of difficulties in subsequent financing if they do not agree.

3. Actions taken by Financial Institutions

- 20% or more of the financial institutions do not know the Previous Investigation or Guidelines; more than 40% have taken no action though they knew about both.

<Financial institution's recognition and actions about Guidelines announced in December 2004>



- 5.6% of financial institutions do not know the cease and desist recommendation to the Sumitomo Mitsui Banking Corporation concerning its violation of the Antimonopoly Act; approximately 30% know about it, but have not taken any action.

<Recognition of the cease and desist recommendation to financial institution in December 2005 and actions taken>

