Quality Management of Trademark Examination
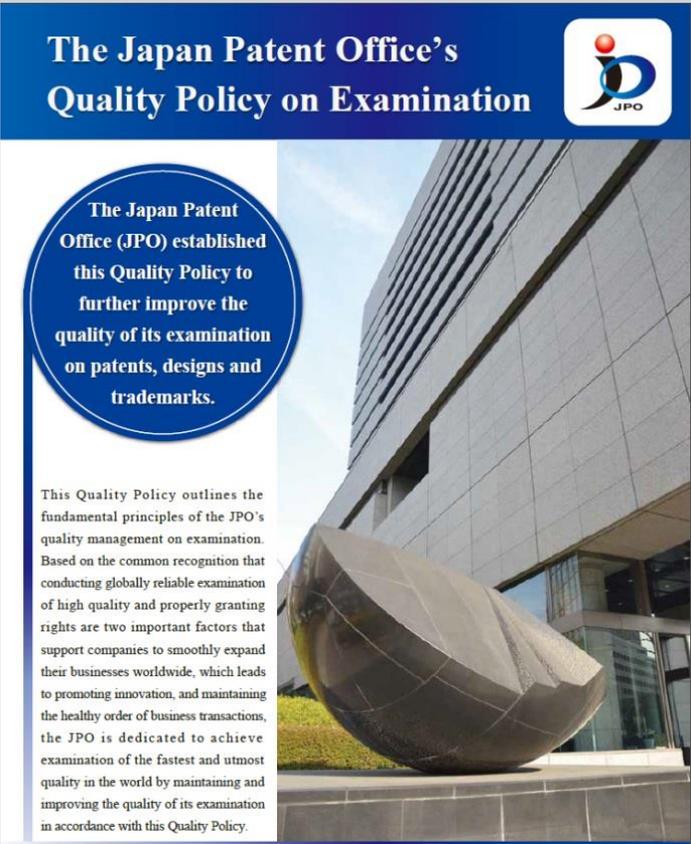
FICPI 18th Open Forum
October 11, 2019
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Japan Patent Office

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1. Quality Policy

> The JPO published its **"Quality Policy on Trademark Examination"** in 2014.

The Japan Patent Office's
Quality Policy on Examination

The Japan Patent Office (JPO) established this Quality Policy to further improve the quality of its examination on patents, designs and trademarks.

This Quality Policy outlines the fundamental principles of the JPO's quality management on examination. Based on the common recognition that conducting globally reliable examination of high quality and properly granting rights are two important factors that support companies to smoothly expand their businesses worldwide, which leads to promoting innovation, and maintaining the healthy order of business transactions, the JPO is dedicated to achieve examination of the fastest and utmost quality in the world by maintaining and improving the quality of its examination in accordance with this Quality Policy.

✓ We contribute to the protection and enhancement of brands and the smooth consumption of goods and services:
✓ We conduct consistent and objective trademark examination:
✓ We promote the utilization of the trademark system by closely communicating with applicants:
✓ We actively share information with relevant persons inside and outside Japan in order to improve the quality of trademark examination:
✓ We consistently improve operations:
✓ We raise the knowledge and capabilities of our staff:

2. Outline of Initiatives on Quality Management

Key Measures for JPO's Quality Management of Examinations

➢ Initiatives to enhance the examination quality: Quality assurance

- ✓ Quality checks and approvals by directors
- ✓ Consultations (Opinion exchange and knowledge sharing among examiners)
- ✓ Check Sheets for examiners

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➢ Initiatives to verify the examination quality: Quality verification

- ✓ Quality Audits (based on sample checks)
- ✓ User Satisfaction Survey
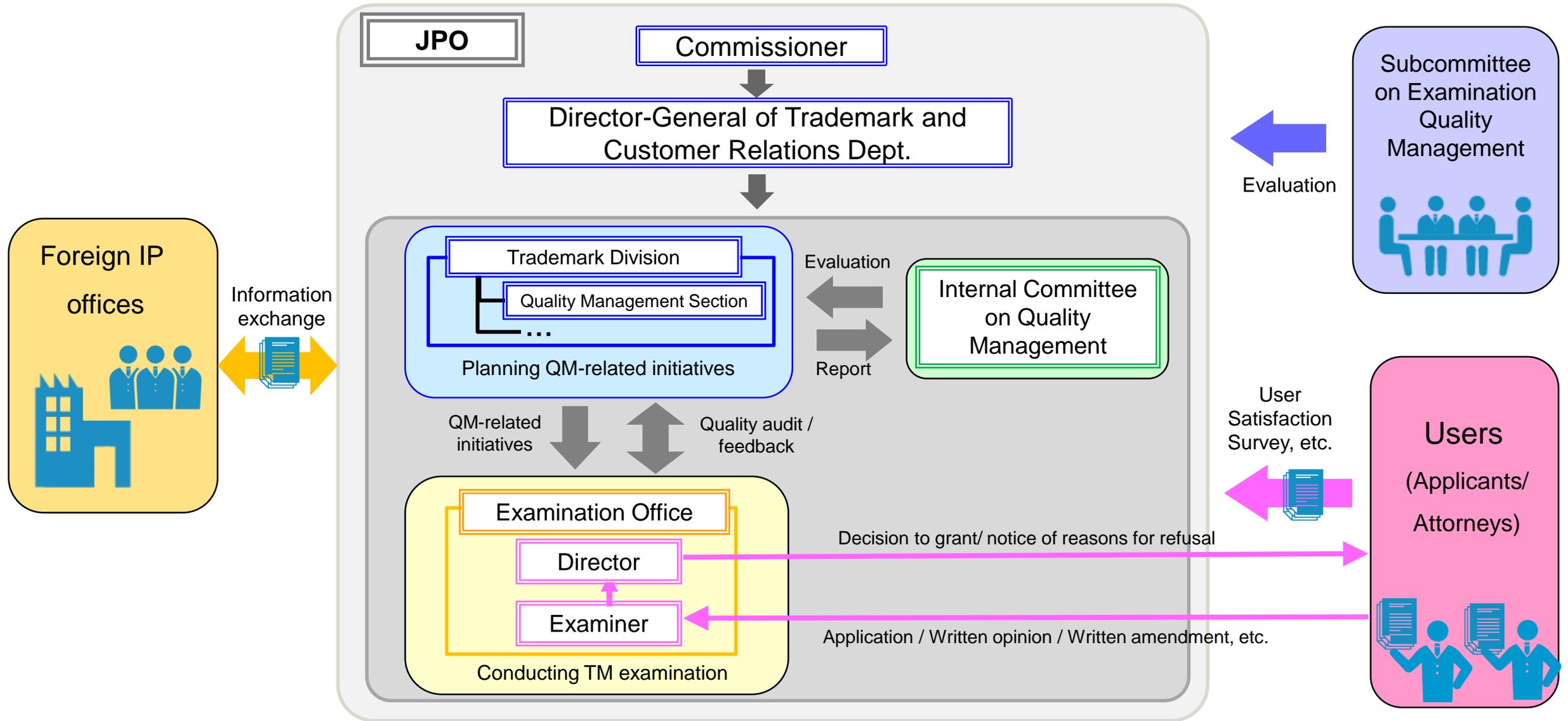- ✓ Opinion Exchange with Trial and Appeal Department

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➢ External evaluation of the quality management

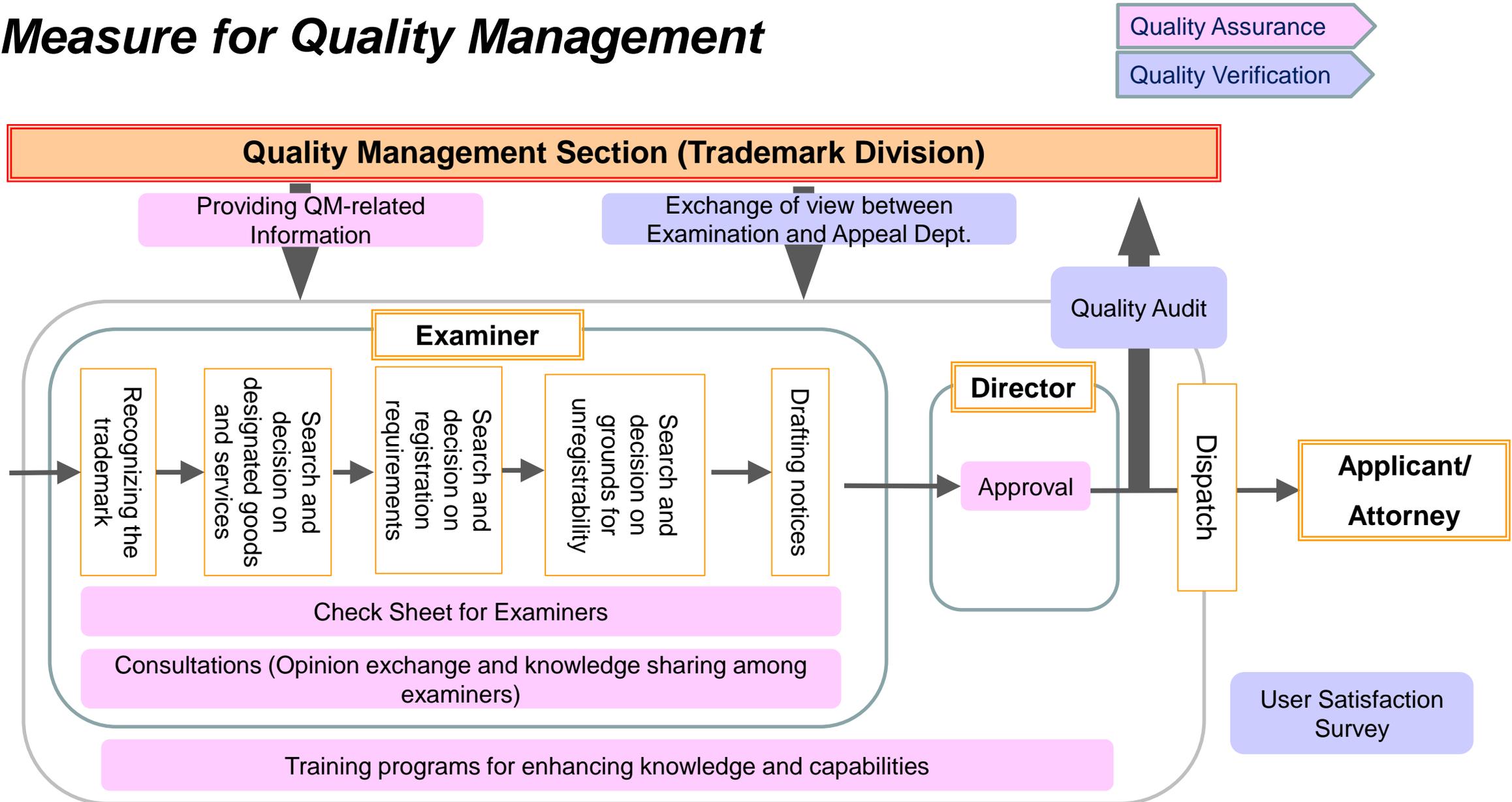- ✓ Subcommittee on Examination Quality Management

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Overview of Quality Management System

Measure for Quality Management

Quality Assurance

Quality Verification

Quality Management Section (Trademark Division)

Providing QM-related Information

Exchange of view between Examination and Appeal Dept.

Quality Audit

Examiner

| Recognizing the trademark | Search and decision on designated goods and services | Search and decision on registration requirements | Search and decision on grounds for unregistrability | Drafting notices |

Director

Approval

Dispatch

Applicant/ Attorney

Check Sheet for Examiners

Consultations (Opinion exchange and knowledge sharing among examiners)

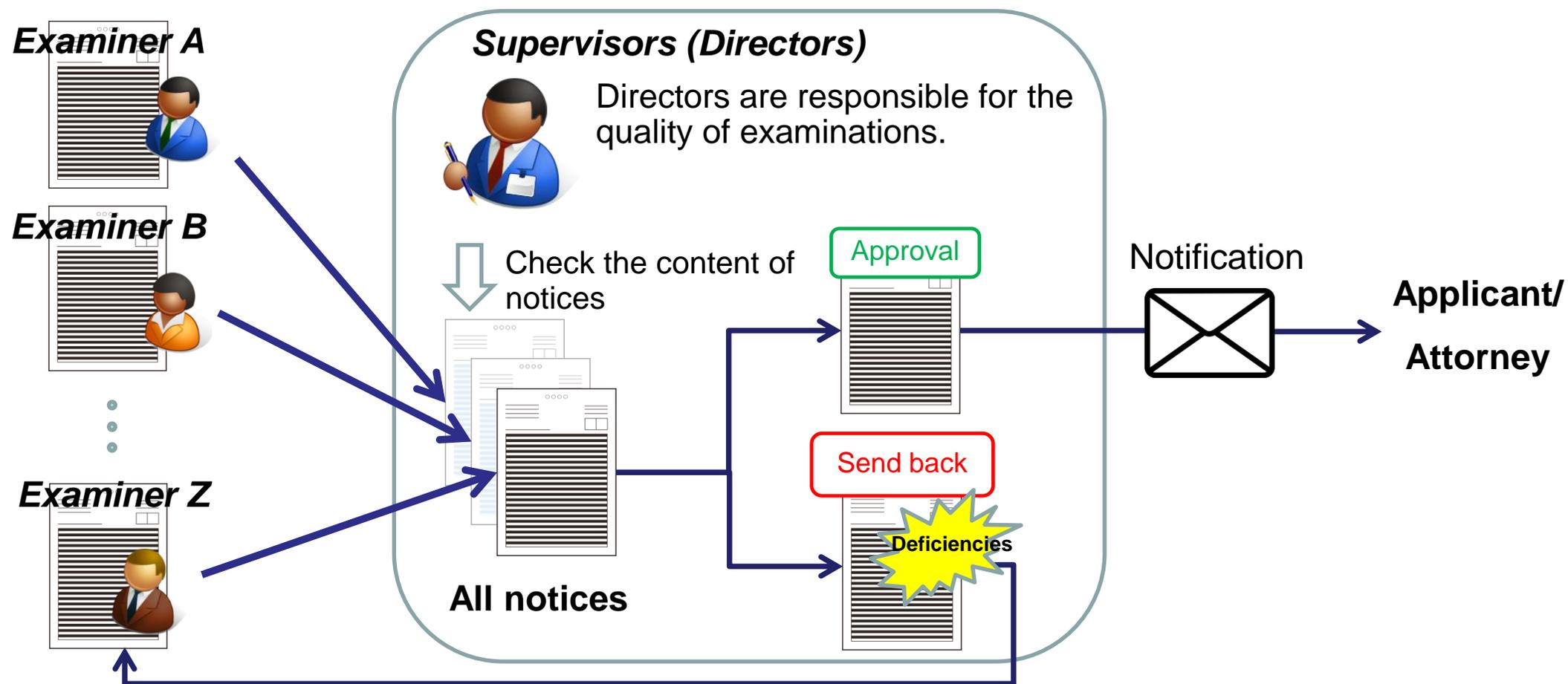User Satisfaction Survey

Training programs for enhancing knowledge and capabilities

3. Initiatives for Quality Assurance
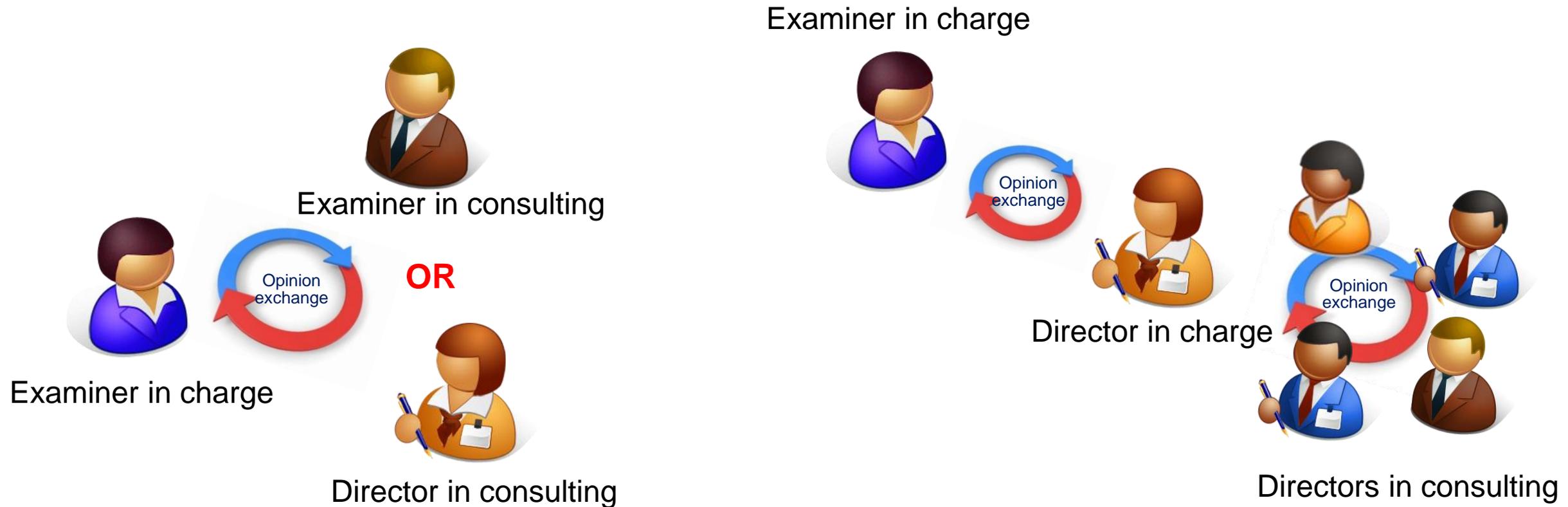
Quality checks and approvals by directors

Substantive and formality checks on examinations by Directors by checking **all notices** prepared by examiners

3. Initiatives for Quality Assurance

Consultations

Examiners have consultations with other examiners or directors in order to reduce disparities in terms of examination decisions and conduct appropriate examinations.

Examiner in charge

Examiner in consulting

Opinion exchange

OR

Examiner in charge

Director in consulting

Director in charge

Opinion exchange

Opinion exchange

Directors in consulting
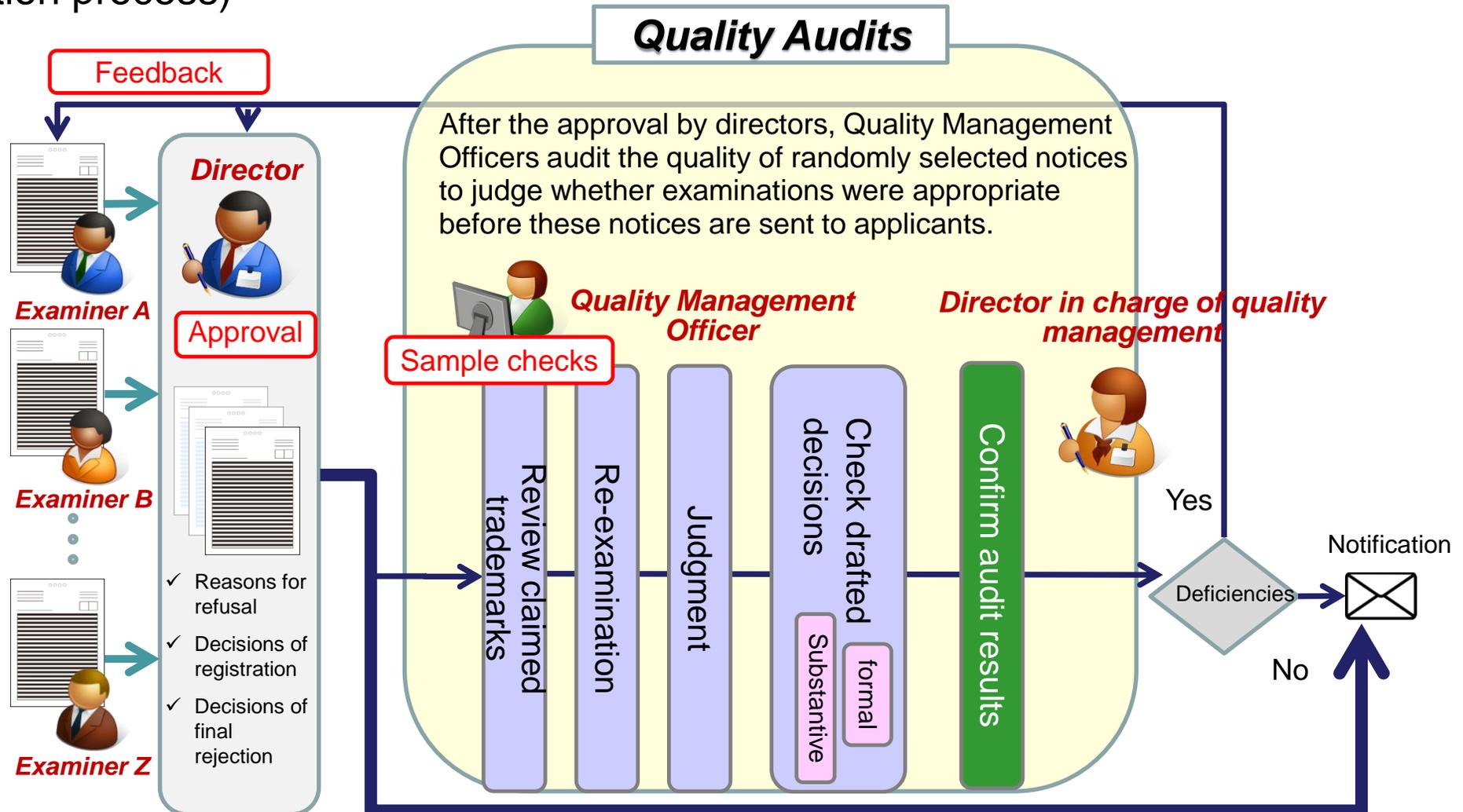
特許庁 JAPAN PATENT OFFICE

Check Sheets

閲覧制限　　化学審査室　担当審査官コード1234　　出願番号　商願 2019－012345

決裁者　再配案　指示箇所　**FA**　　　※□：重点項目、□：必須記載項目、□：審査内容に応じて記載

優先権 □ 有　　　分割 □ 有
刊行物提出　☑ 有（□ フィードバック希望有）
審査メモ　□ 有（□ 分類管理室からの連絡で特段問題無）

Special mention

| Has priority been claimed? | Is this a divisional application? | Did third-parties provide information? |

＜サーチ、判断過程＞
商品・役務　☑ 再ボタン　　☑ 適切な類似群付与 □ 管理テーブル確認（管ボタン）
　　　□ インターネット検索 □ J-PlatPat 出願人検索 □ 部門長確認済み（　　　　　）
　　　□ 審査上の取扱いの確認
・6条　□適用有（6-　　　　　　　　□ マッチアンマッチ画面での指定
・3条柱　適用有 □広範な指定 □法令上の制限 □ 小売等役務
　　　使用証明蓄積確認（□ 蓄積無　□ 全て解消　□ 未解消部分有）　□ 使用意思有
商標　☑ 称呼・検索用商標の確認　☑ 同一検索　☑ インターネット　☑ 新聞記事情報検索
　　　☑ サーチレポート □ 地理的表示(GI)検索(ポータルサイト) □ 文献 □ 品種登録検索
・3条　☑適用有（3-1- 3　　　）
・4条　□適用有（4-1-　　　）
　　　☑(4-1-11)図形検索 □（類似群を追加した場合）図形の再検索
　　　□(4-1-11)商標及び商品・役務の類否、権利者、遡及／満了日の確認／書換をしていない登録商標
　　　□ 注意すべき関連出願(他案件の判断との整合性の検討等)（　　　　　　　　）
・要注意案件該当性有 □ 公共・政治等関連(3-1-3、4-1-6/7/10/15、　　　　）
　　　　　　　　　□ 歴史上の人物名 （4-1-7　　　　　　　　　　）
　　　　　　　　　□ その他の衆目案件（　　　　　　　　　　　）
・□ その他・法制定の趣旨違背等 条文_____

Search・Judgement Process

Goods & services

| Are indications clear? | Has correct similarity group-code been assigned? |

Trademarks

Phonetic search conducted?	Internet/newspaper search conducted?
Search report checked?	Figurative search conducted?
Any related application(s) exist?	Applicable legal clause applied?

拒絶理由通知＜起案書の確認＞
☑ 連絡先　　☑ 誤字・脱字　☑ 商標の認定
☑ 適用条文に合った理由を記載　☑ 全ての必要な説明を適切な順番で記載
☑ 出願人が理解できる文章で簡潔・平明に記載
□（6条,4-1-16等)補正案の提示 □（3条＋4-1-16）16号の適用範囲の明示
□（3条)「普通に用いられる表示」認定
☑（3、4条)具体的証左の提示 ※証左の提示は適切か（ブログや本人の使用例は不適切）

□ 登録査定(FA)

Details of Notices

Contact Information filled?	Any typos?
Applicable legal clause been applied?	All necessary explanations provided?
Concise and readable explanation?	Any amendment(s) proposed?

決裁者記載欄(再起案を指示した場合は、シート左側の「決裁者再配案指示箇所欄」中、再起案理由に該当する箇所にチェックを入れ、下記に具体的理由を記載してください。最終的に起案内容に変更が生じたか否かが分かるように記載してください。)
【FA】3条(再調査・要検討・その他 条文:3-1-　　　)→指示結果(当初の起案維持／起案内容変更)
　　　4条(再調査・要検討・その他 条文:4-1-　　　)→指示結果(当初の起案維持／起案内容変更)
　　　6条(再調査・要検討・その他 条文:6-　　　)→指示結果(当初の起案維持／起案内容変更)
　　　その他(類似群相違・区分相違・誤記訂正＆文章修正・補正案指示・各種フラグ(　　　)、(他:　　　))
　　　　　→指示結果(当初の起案維持／起案内容変更)
　　　　　　　　　　　　　　　　　　　　　決裁者_____

For use by Directors

| Request re-examination | Request further search |
| Conclusion reached following the request | |

Quality Audits

Review the quality of examinations based on sample checks (to verify the quality of the entire examination process)

Quality Audits

Feedback

Approval

Director

Examiner A

Examiner B

Examiner Z

✓ Reasons for refusal
✓ Decisions of registration
✓ Decisions of final rejection

After the approval by directors, Quality Management Officers audit the quality of randomly selected notices to judge whether examinations were appropriate before these notices are sent to applicants.

Quality Management Officer

Sample checks

Director in charge of quality management

Review claimed trademarks

Re-examination

Judgment

Check drafted decisions

Substantive

formal

Confirm audit results

Deficiencies

Yes

No

Notification

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4. Initiatives for Quality Verification
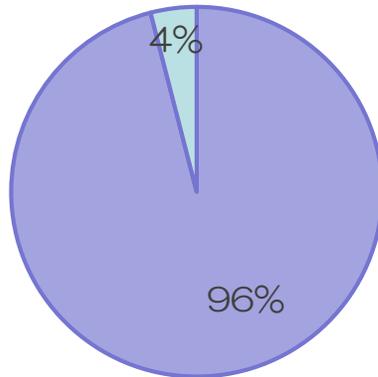
Quality Audits

Results of the Quality Audits (FY 2018)

<Number of Sample Checks>

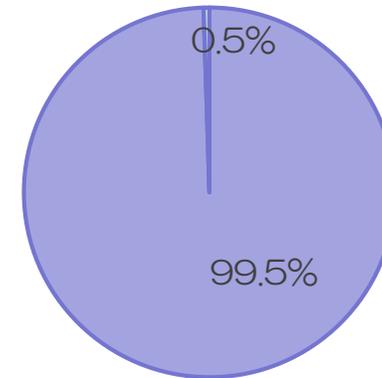■ Decisions to refuse: 1,500
■ Decisions to grant: 1,500

Results of Sample Checks on Decisions to Refuse Registration

4%

96%

■ Compliant ■ Not Compliant

96.0% Compliance

Results of Sample Checks on Decisions to Register Trademarks

0.5%

99.5%

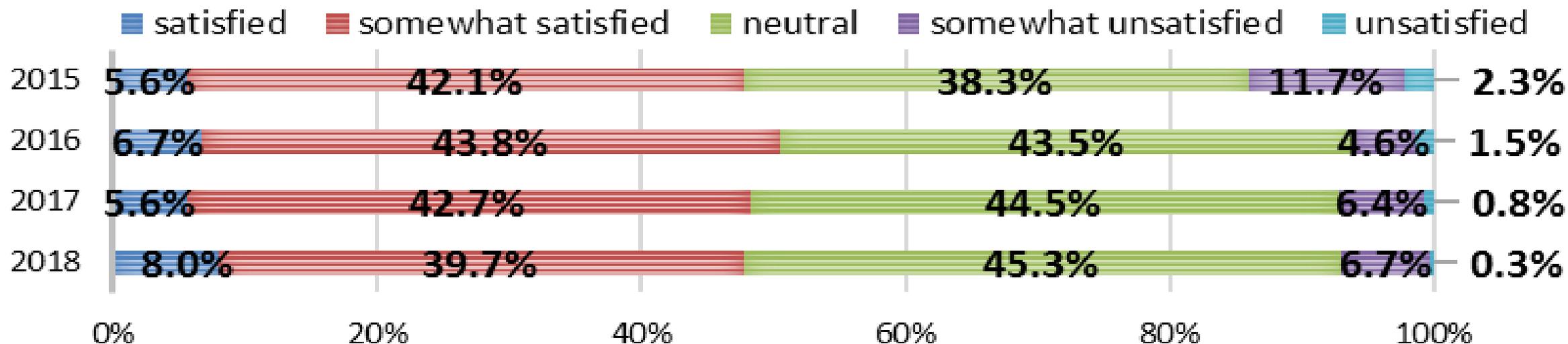■ Compliant ■ Not Compliant

99.5% Compliance

4. Initiatives for Quality Verification

User Satisfaction Survey

Results of the User Satisfaction Survey (FY 2018)

> ➢ The percentage of "Average" or higher was 93.0%.
> ➢ The combined percentage for "Satisfied" and "Somewhat Satisfied" reached 47.7%.

Overall quality of trademark examination

■ satisfied ■ somewhat satisfied ■ neutral ■ somewhat unsatisfied ■ unsatisfied

Year	satisfied	somewhat satisfied	neutral	somewhat unsatisfied	unsatisfied
2015	5.6%	42.1%	38.3%	11.7%	2.3%
2016	6.7%	43.8%	43.5%	4.6%	1.5%
2017	5.6%	42.7%	44.5%	6.4%	0.8%
2018	8.0%	39.7%	45.3%	6.7%	0.3%

0%   20%   40%   60%   80%   100%

4. Initiatives for Quality Verification

Opinion Exchange with Trial and Appeal Department

■ Feedback to the Examination Dept. on appeals against the examiner's decision of refusal

➤ Feedback on the results of appeals against the examiner's decision of refusal case will be given to the Examination Dept.

➤ Examiners in charge will utilize the feedback for future examinations.

➤ It is possible to submit an opposing opinion about the feedback, if any.

Examples of Feedback →

- Applicable Article is incorrect
- Inappropriate acknowledgment
- Error in judgement
- Thorough search not done

■ Examination Dept. and Trial and Appeal Dept. exchange views

➤ They exchange views several times a year

Examples of Agendas →

- Appropriateness of supporting evidence for acknowledgment
- Acceptance of elements constituting trademarks
- Lack of comprehensive consideration
- Descriptions of examiner's decision of refusal are insufficient

Subcommittee on Examination Quality Management

➢ The Subcommittee is composed of a broad range of experts including those from companies, in the legal profession, and with academic experience.

➢ The Subcommittee makes an objective evaluation and provides proposals for improvement, based on evaluating the JPO's state of implementation and status of quality management.

Thank you for your attention