

Provisional Translation

**Summary of
Issues Facing Improvement of Alternative Dispute Resolution
in the Financial Sector (Chairman's Memorandum)**

June 24, 2008
Financial Service Dispute Resolution Liaison Group

Roles of Financial ADR

○Concept of Financial ADR

The financial ADR is a mechanism that does not only protect individual users in financial troubles, but also secures the effectiveness of rules to improve financial transactions. The expansion of the financial ADR capability should contribute to increasing consumers' confidence in financial transactions and promoting the sound development of financial and capital markets.

Financial ADR improvements should secure three key points, (1) functions going across business boundaries, (2) comprehensive procedures provided for complaint resolution and dispute resolution, and (3) quality of procedures representing neutrality, fairness, transparency, confidentiality, promptness and low costs.

○ADR Administrator

From the viewpoint of financial expertise, many members commented that the private sector should administrate the financial ADR by taking advantage of know-how, experiences, and human resources accumulated at financial industry organizations.

○Securing Neutrality and Fairness

Majority of the members from consumer groups, bar associations and academia commented that those engaged in dispute resolution support, and in consulting and complaint resolution support, should be guaranteed a position to exercise their authority neutrally and fairly.

Majority of the members from consumer groups, bar associations and academia commented that the financial ADR should be administrated on self-supporting accounting systems, and organizational measures to demonstrate its independence and transparency should be taken, such as the enhancement of the transparency of organizational procedures.

Meanwhile, members from financial industry organizations, commented that the financial ADR should be neutral and fair to companies as well as users.

○Securing Effectiveness

▪ Self-regulatory Organizations

Members from consumer groups and bar associations commented that if industry organizations became self-regulatory organizations under relevant industry law, they could accumulate binding self-regulatory rules flexibly and promptly, and adopt these rules for the resolution of complaints and disputes, and consider improvements in sales promotion methods through the resolution of disputes.

On the other hand, many members from financial industry organizations doubted if industry organizations' shift to self-regulatory bodies under relevant industry law would necessarily lead to the enhancement of their ADR functions, and commented that among measures other than such shift, agreements among voluntary industry organizations and the legislation of ADR functions could secure the effectiveness of the financial ADR. Similar opinions were given by members from bar associations and academia.

- Financial ADR Body Certification

Majority of the members from consumer groups, bar associations and academia commented that the government sector including the Financial Services Agency should certify specific organizations as financial ADR bodies, in order to secure high-quality ADR operations, and that conditions for such certification should include a setup of the system to secure neutrality and fairness, a readiness to select procedure implementers with expertise in financial affairs, and procedure rules securing effective dispute resolutions.

- Requiring Companies to Conclude Contracts with Financial ADR Bodies

Majority of the members from consumer groups, bar associations and academia commented that the government should require companies to conclude contracts with the aforementioned financial ADR bodies certified by the FSA, or any other government agency, by adopting such contracts as a condition for business licenses. They also commented that companies should be required to accept ADR procedures, negotiate with relevant parties faithfully and respect ADR results, and that users should be given easier access to the financial ADR.

- Unified, Comprehensive Financial ADR Bodies

Many members commented that while it would be desirable to create a unified, comprehensive third party organization for financial ADR in the future, prudent considerations should be given to such approach because of unresolved relevant problems. They also commented and that unification and comprehensiveness should be considered over the medium to long term, while financial industry organizations upgrade their financial ADR arrangements to desirable levels for their standardization and enhance coordination among financial ADR bodies.

- Course of Actions

Majority of the members from consumer groups, bar associations and academia said legislative action should be taken to secure certain levels and qualifications for financial ADR bodies.

Majority of the members from consumer groups, bar associations and academia commented that legislative action should be taken to require companies to accept dispute resolution support procedures at financial ADR bodies meeting certain levels and qualifications, faithfully negotiate at relevant ADR bodies and respect decisions given by these ADR bodies.

On the other hand, many members from financial industry organizations commented that these organizations' past voluntary efforts were securing the fairness and neutrality of the financial ADR and companies' acceptance of ADR procedures. Therefore, it said, action might be limited to these organizations' enhancement of their voluntary efforts.

Conclusion

It is hoped that the Chairman's Memorandum hereof will be promptly utilized for financial industry organizations' financial ADR improvement efforts and the

government's concrete deliberations toward the improvement of the financial ADR.

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