

**2013 Amendment Act of
Financial Instruments and Exchange Act, etc.
(Act No.45 of 2013)**

[Briefing Materials]

May 2013
Financial Services Agency, Japan

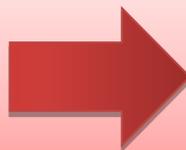
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**I. OUTLINE OF 2013 AMENDMENT ACT OF
FINANCIAL INSTRUMENTS AND EXCHANGE ACT, ETC.**

Outline of 2013 Amendment Act of Financial Instruments and Exchange Act, etc.

Challenges raising from the recent global financial crisis



Measures against insider trading and market fraud
Measures against a financial crisis originated from market disruption
Measures to strengthen the functions of the financial/capital markets and the financial industry in Japan

Measures Relating to the Recent Insider Trading Cases, etc.

Strengthening the insider trading regulation

- ◆ A new regulation against the disclosure of inside information and trading recommendations
- ◆ Raising the monetary penalty for violations committed by asset managers on their client accounts

Updating the insider trading regulation to reflect current financial and corporate practices

- ◆ Introducing an exemption for trading in cases where a considerable period of time has passed since the recipient of information last received the information concerning a tender offer

etc.

Establishment of Orderly Resolution Regime for Financial Institutions

To prevent financial crisis that may spread across financial markets, such as the failure of Lehman Brothers, and seriously impact the real economy, an orderly resolution regime for financial institutions based on the agreement by the G20 Summit countries will be established

Scope

- ◆ Financial institutions including deposit-taking financial institutions, insurance companies, financial instruments business operators, financial holding companies

Procedures

- ◆ Financial Crisis Response Council (consisting of the Prime Minister (chair), Chief Cabinet Secretary, Minister of Finance, Minister in charge of Financial Affairs, Governor of the BOJ, Commissioner of the FSA)

Measures

- ◆ Provision of liquidity, etc. under the oversight of Deposit Insurance Corporation, to ensure the performance of obligations for critical market transactions, where it is considered necessary to prevent severe market disruption (financial assistance or capital enhancement as necessary)
- ◆ Necessary measures for an orderly resolution (e.g., through the restriction of early terminations)

Funding

- ◆ Ex post bearing by the financial industry (government financial support in exceptional cases)

etc.

Enhancement of Provision of Capital by Banks, etc.

Enhancement of provision of capital by banks, etc.

- ◆ Relaxation of the restriction on the holding of voting rights by banks, etc. only in cases where contributions to the corporate restructuring or revitalization of region are expected

Others

- ◆ Regulatory reviews regarding banks, etc. (large exposure rules, regulations governing foreign bank branches, etc.)

etc.

Enhancement of Robustness of J-REIT Structures, etc.

Provide J-REIT with more choices for financing and capital policy

- ◆ Newly allow J-REIT to repurchase its equity and finance through rights offering

Others

- ◆ Measures to facilitate the acquisition of overseas real estate by J-REIT
- ◆ Newly apply insider trading regulation to J-REIT
- ◆ Provide investors with investment performance data in a simplified format

etc.

Revisions to Asset Management Regulations Building on the Experience of the AIJ Case

Strengthening criminal penalties for fraudulent reporting, etc.

- ◆ Increasing the criminal penalties for false reporting and fraudulent solicitation by Discretionary Investment Management Business Operators

Others

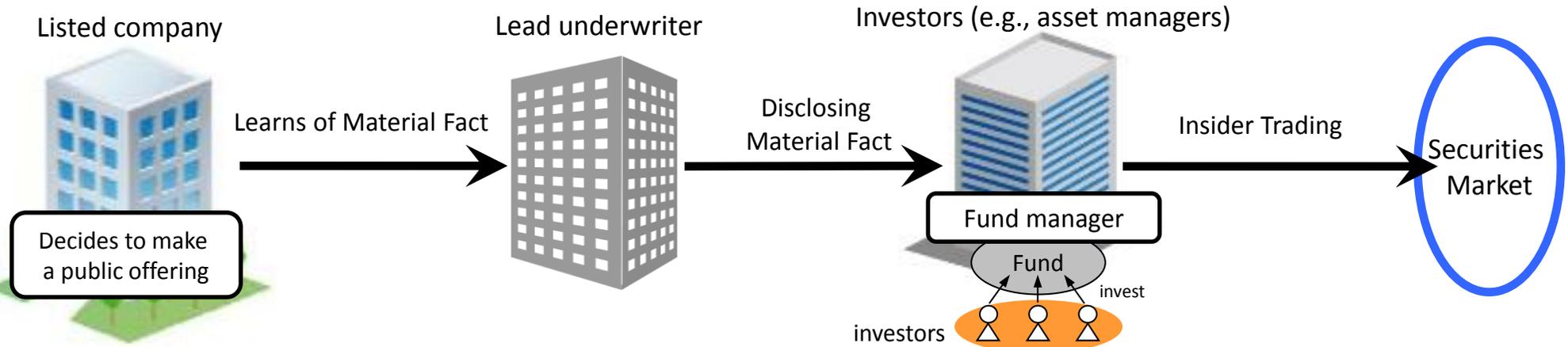
- ◆ Stricter eligibility requirements for pension funds to be qualified as professional investors

etc.

II. REVISIONS TO INSIDER TRADING REGULATIONS

Revisions to Insider Trading Regulations

(Overview of Cases of Insider Trading relating to Public Offerings)



Issuer	Date of announcement of public offering	Lead underwriter	Asset managers	Date of SESC recommendation (Date of order)	Amount of monetary penalty
INPEX COPPORATION	Jul 8, 2010	Nomura Securities Co., Ltd.	Chuo Mitsui Asset Trust Bank, Ltd.	Mar 21, 2012 (Jun 27, 2012)	50,000 yen
Nippon Sheet Glass Co. Ltd.	Aug 24, 2010	JP Morgan Securities Japan Co., Ltd.	Asuka Asset Management Co., Ltd.	May 29, 2012 (Jun 26, 2012)	130,000 yen
Mizuho Financial Group, Inc.	Jun 25, 2010	Nomura Securities Co., Ltd.	Chuo Mitsui Asset Trust Bank, Ltd.	May 29, 2012 (Jun 27, 2012)	80,000 yen
Tokyo Electric Power Co., Inc	Sep 29, 2010	Nomura Securities Co., Ltd.	First New York Securities LLC. and an individual	Jun 8, 2012 (Hearing Procedure concluded)	14.68 million yen 60,000 yen
Nippon Sheet Glass Co. Ltd.	Aug 24, 2010	Daiwa Securities Co., Ltd.	Japan Advisory Inc.	Jun 29, 2012 (Jan 8, 2013)	370,000 yen
Elpida Memory, Inc.	Jul 11, 2011	Nomura Securities Co., Ltd.	Japan Advisory Inc.	Nov 2, 2012 (Apr 16, 2013)	120,000 yen

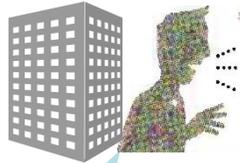
Footnotes 1: FSA issued a business improvement order against Nomura on August 3, 2012.

2: Kanto Local Finance Bureau rescinded registration of Japan Advisory as Investment Advisory and Agency Business operator on June 29, 2012.

Revisions to Insider Trading Regulations

(A new regulation against the disclosure of inside information and trading recommendations)

Corporate Insiders with the knowledge of Material Facts



Disclosure of inside information

Recipient of information



Trading

Securities Market

Concept

- Newly regulate improper disclosure of inside information which leads to trading while taking into account not to disrupt normal business activities of companies

Regulation

Corporate Insiders with unpublished Material Facts (e. g., officers or employees of listed companies or lead underwriters) shall not disclose inside information or recommend trading to another person, with the intention to encourage the person to make a profit by trading prior to publication

- ⇒ Criminal sanctions and monetary penalty shall be imposed on offenders in cases where trading has taken place prior to publication with these acts being a factor in the investment decision

Enforcement

Criminal sanctions

Monetary penalty

Publication of the offender's name as a warning

In cases of violation by securities companies, etc.

- 5 years or less imprisonment
- Fine of 5 million yen or less
- Additional fine of 500 million yen for legal entities

On securities companies:

- trading commissions received from the person who conducted the trading (for 3 months)
- [In the case of violation relating to public offerings] above trading commissions (for 3 months) plus half of the underwriting commission

The officer or the employee involved in the violation (excluding those who played a supplementary role)

In cases of violations by persons other than securities companies

- Half of the profit obtained by the person who conducted the trading

—

Comparison of the Regulations on Insider Trading

		Japan	U.S.	U.K.	France	Germany
Scope of the regulation						
	Insider trading	○	○	○	○	○
	Disclosure of inside information	×	○ ^{*1} Only when the recipient has conducted insider trading	○ ^{*2}	○ ^{*2} Enforced only when the recipient has conducted insider trading	○ ^{*3} Enforced only when the recipient has conducted insider trading
	Trading recommendations	×	△ ^{*4}	○	○ Enforced only when the recipient has conducted insider trading	○ Enforced only when the recipient has conducted insider trading
Monetary penalty		○	○	○	○	△ ^{*5}
	Amount of monetary penalty when trading is conducted on client accounts	Amount of fees	Up to 3 times the profit from insider trading	Amount of fees plus penalty	€100 million or 10 times the amount of fees or less	(Not subject to monetary penalty)
Criminal sanctions		○ (5 years or less imprisonment with work)	○ (20 years or less imprisonment)	○ (7 years or less imprisonment)	○ (2 years or less imprisonment)	○ (5 years or less imprisonment)

*1 Only when the inside information was disclosed in violation of fiduciary duty to issuer/shareholder or duty of trust and confidence to the source of inside information, etc.

*2 Except when conducted in the proper performance of the functions of his employment, office or profession, etc.

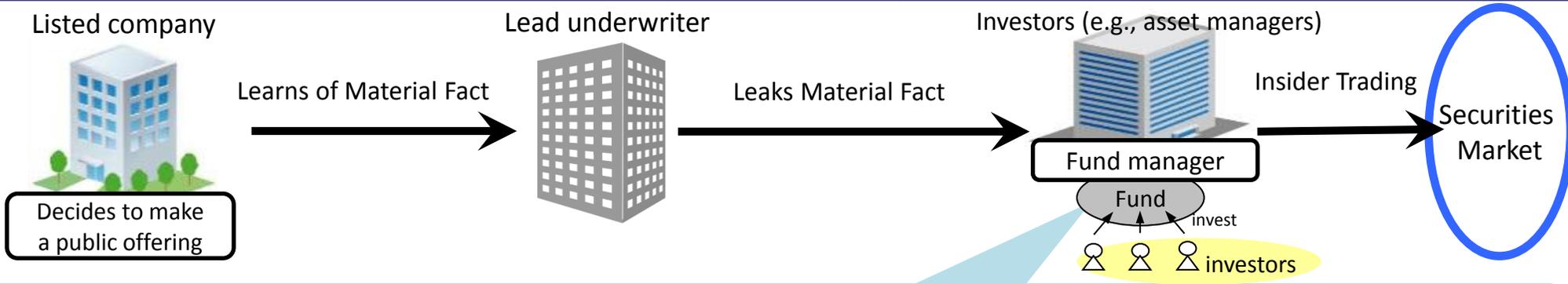
*3 Only when conducted without the authority to do so.

*4 Although these acts are not explicitly prohibited by laws, they may constitute a violation if trading has been conducted by a person who was recommended to do so.

*5 Only those who disclosed inside information or recommended trading may be subject to administrative measure (fine(€200,000 or less)).

Revisions to Insider Trading Regulations

(Raising the monetary penalty for violations committed by asset managers on client accounts)



Point

[Current] The amount of monetary penalty is “management fees (for 1 month)” multiplied by “the ratio of the value of the relevant stocks to the total Assets Under Management”

[Revisions] Calculate monetary penalty based on “the overall management fees for 3 months”
 ⇒ Asset managers are able to continue receiving the overall management fees from improved investment performance

Proposal for revision of Monetary Penalty Regime for Violations Committed “on Client Accounts”

	Current	Revisions	
	Monetary penalty	Monetary penalty	Publication of the offender’s name as a warning ^{*1}
Asset managers	On asset managers, $\text{Management fees (for 1 month)} \times \frac{\text{Maximum value of the relevant stocks}}{\text{Total Assets Under Management}}$	On asset managers, Management fees (for 3 months)	<ul style="list-style-type: none"> Persons who committed violations repeatedly ^{*2} Persons who conducted insider trading by taking advantage of their business relationships to demand Material Facts
Others	The proceeds from the violation	The proceeds from the violation	

^{*1} Including violations committed “on propriety trade account”

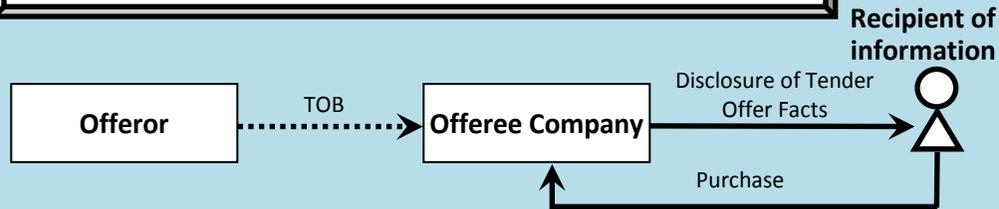
^{*2} Including other violations such as Market Manipulation

【Developing measures for effective investigation of monetary penalty cases, etc.】

- Enable the authority to order submission of articles in the investigation of monetary penalty cases (⇒ to secure trading records and evidence of disclosures)
- Enable the authority to inquire public agencies in relation to the investigation of monetary penalty cases (⇒ to identify the whereabouts of offenders)

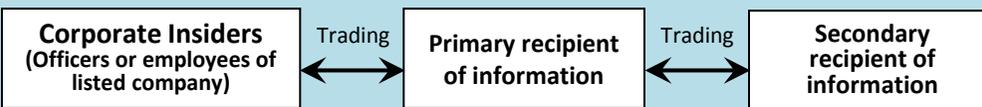
Measures following Insider Trading relating to Public Offerings, etc. (Reform of Regulation in the Light of Recent Financial and Corporate Practices)

Expansion of the scope of the term TOB Insiders



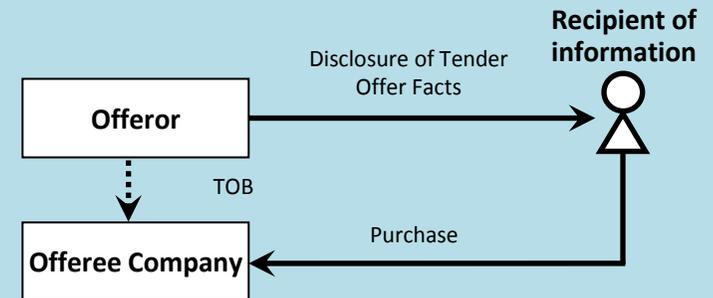
- [Current]** Offeree company is not determined as a TOB Insider in cases where the offeree company has made no agreement with the offeror
 ⇒ The recipient from the offeree company is a secondary recipient of information and omitted from the scope of regulation
- [Revision]** The offeree company will be determined as a TOB Insider regardless of the existence of an agreement with the offeror
 * Offeree company is generally notified of Tender Offer Facts by the offeror prior to the public announcement

Exemption related to trades conducted between persons in possession of Material Facts



- [Current]** Within over-the-counter or negotiated transaction conducted between specific persons who possess Material Facts :
- trading conducted between a Corporate Insider and a primary recipient of information is included in the regulatory exemption, while
 - trading between a primary recipient and a secondary recipient of information is not included
- ⇒ Difficult for a primary recipient of information to sell his/her shares
- [Revision]** Newly include over-the-counter or negotiated transaction conducted between a primary recipient and a secondary recipient of information in the regulatory exemption

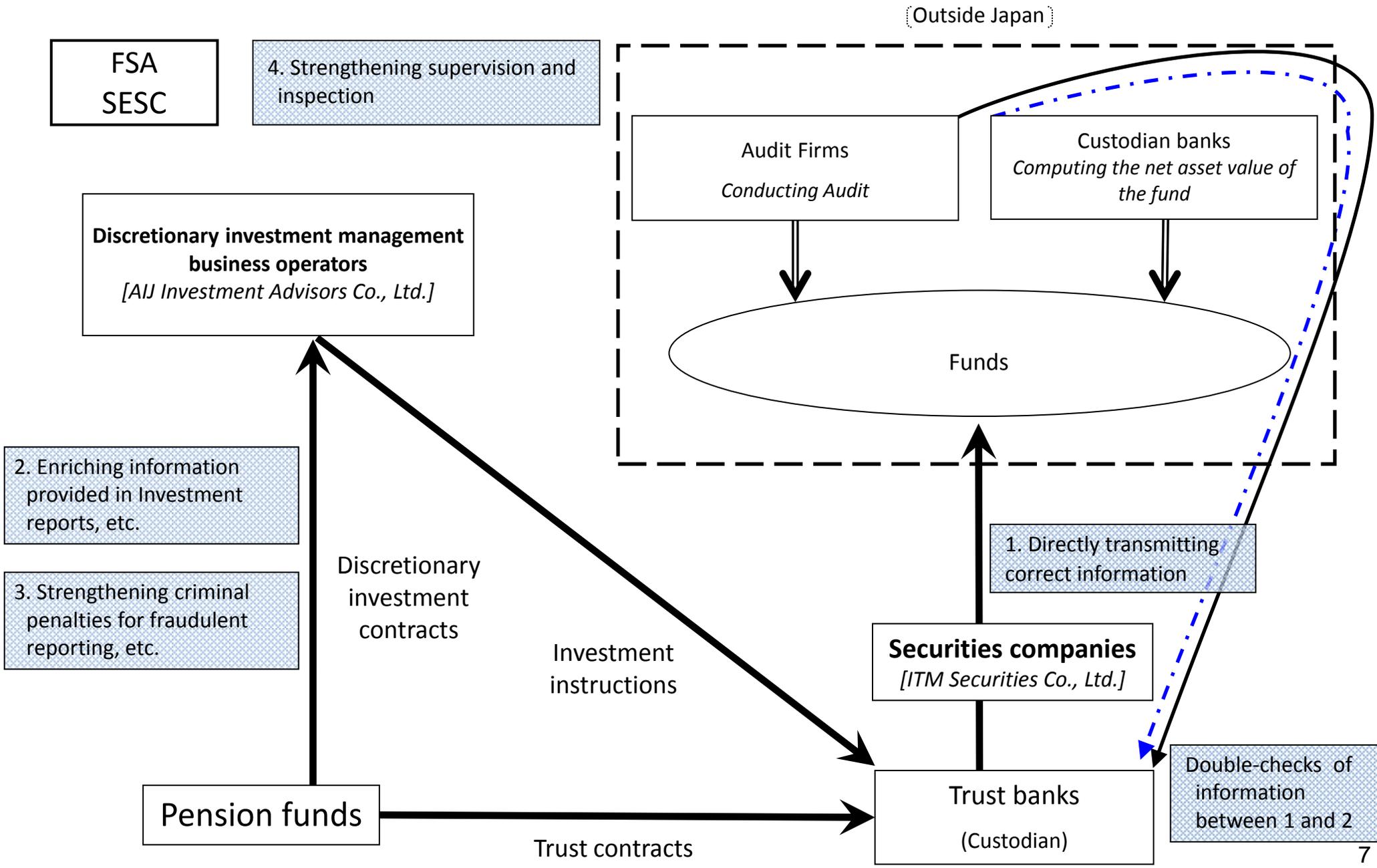
Exemption of trades conducted by the recipients of Tender Offer Facts



- [Current]** A recipient of Tender Offer Facts cannot purchase shares of the offeree company
 ⇒ Prevents fair competition and smooth trading in some cases, such as when the offeror discloses unpublished Tender Offer Facts to other potential acquirers to prevent them from purchasing shares of the offeree company
- [Revision]** The purchase by a recipient of information will be permitted under the following cases:
- [information made public]** where the recipient discloses the received information in a Tender Offer Notification, etc. when the recipient makes his/her own offer
 - [information has lost its usefulness]** where six months have passed since the recipient of information last received the information

III. REVISIONS TO ASSET MANAGEMENT REGULATIONS (ON THE EXPERIENCE OF THE AIJ CASE)

This Act — Revisions to Asset Management Regulations (on the Experience of the AIJ Case)



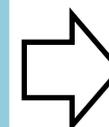
Overview — Revisions to Asset Management Regulations (on the Experience of the AIJ Case) (Published in September 4, 2012)

1. *Developing a mechanism for third party oversight to function effectively (e.g. by domestic trust banks)*



Amendments to Cabinet Ordinances and Supervisory Guidelines. (Promulgated in December, 2012)

2. *Developing a mechanism for customers (e.g. pension funds) to better detect problems*



This Act, as for the matters requiring law amendment. (underline)

For others, amendments to Cabinet Ordinances and Supervisory Guidelines (Promulgated in December, 2012)

3. *Strengthening criminal penalties for fraudulent reporting, etc.*



This Act

4. *Reviewing the regulation, supervision, and inspection systems regarding investment management businesses*



Amendments to Cabinet Ordinances and Supervisory Guidelines (Promulgated in December, 2012)

1. *Developing a mechanism for third party oversight to function effectively (e.g. by domestic trust banks)*

- (1) Developing a mechanism for domestic trust banks to directly obtain *net asset value* and *the audit report* from the reporting source
- (2) Requiring domestic trust banks to conduct double-checks of the *net asset value*

2. *Developing a mechanism for customers (e.g. pension funds) to better detect problems*

- (1) Enriching information provided in Investment reports, etc.
(For the matters requiring law amendment, life insurance companies issued investment report obligations to insurance contracts with benefit payment linked to investment performance.)
- (2) Increasing the issuance frequency of Investment reports, etc.
(Increasing the issuance frequency of the reports on the status of assets in custody compiled by trust banks)
- (3) Stricter eligibility requirements for Employees' pension funds to be qualified as *professional investors*.
- (4) Introducing checking systems by Discretionary investment management business operators.

3. Strengthening criminal penalties for fraudulent reporting, etc.

Increasing the criminal penalties against Discretionary investment managers for

- (i) making false statements in Investment reports delivered to customers,
- (ii) making fraudulent statements in the course of solicitation, and
- (iii) concluding Discretionary investment contracts using fraudulent means.

4. Reviewing the regulation, supervision, and inspection systems regarding investment management businesses

- (1) Enriching information provided in Business reports submitted to the FSA
- (2) Strengthening supervision of Discretionary investment management business operators
- (3) Strengthening inspection of Discretionary investment management business operators
- (4) Reinforcing the authorities' capacity for strengthening inspection and supervision

Strengthening criminal penalties for fraudulent reporting, etc.

○ Making false statements in Investment reports, etc.

Current law: Imprisonment with work for not more than six months, or a fine of not more than 500,000 yen (no additional corporate fines)

Amendment: Imprisonment with work for not more than three years, or a fine of not more than 3 million yen (additional corporate fines of not more than 300 million yen) ^(Note 1)

○ Making fraudulent statements in the course of solicitation

Current law: Imprisonment with work for not more than one year, or a fine of not more than one million yen or not more than 3 million yen (no additional corporate fines or additional corporate fines of not more than 200 million yen) ^(Note 2)

Amendment: Imprisonment with work for not more than three years, or a fine of not more than 3 million yen (additional corporate fines of not more than 300 million yen) ^(Note 3)

○ Concluding Discretionary investment contracts using fraudulent means

Current law: Imprisonment with work for not more than three years, or a fine of not more than 3 million yen (additional corporate fines of not more than 300 million yen)

Amendment: Imprisonment with work for not more than five years, or a fine of not more than 5 million yen (additional corporate fines of not more than 500 million yen)

(Note 1) Regarding the administration type of trusts, the punishment is strengthened to imprisonment with work for not more than one year, or a fine of not more than 3 million yen (additional corporate fines of not more than 200 million yen).

(Note 2) Regarding the Discretionary investment management business operators and trust banks, the current punishment is imprisonment with a fine of not more than 3 million yen, or additional corporate fines of not more than 200 million yen. Regarding the insurance companies, imprisonment with a fine of not more than 3 million yen, or additional corporate fines of not more than 200 million yen.

(Note 3) Regarding the administration type of trusts, the punishment will be left unchanged at imprisonment with work for not more than one year, or a fine of not more than 3 million yen (additional corporate fines of not more than 200 million yen).

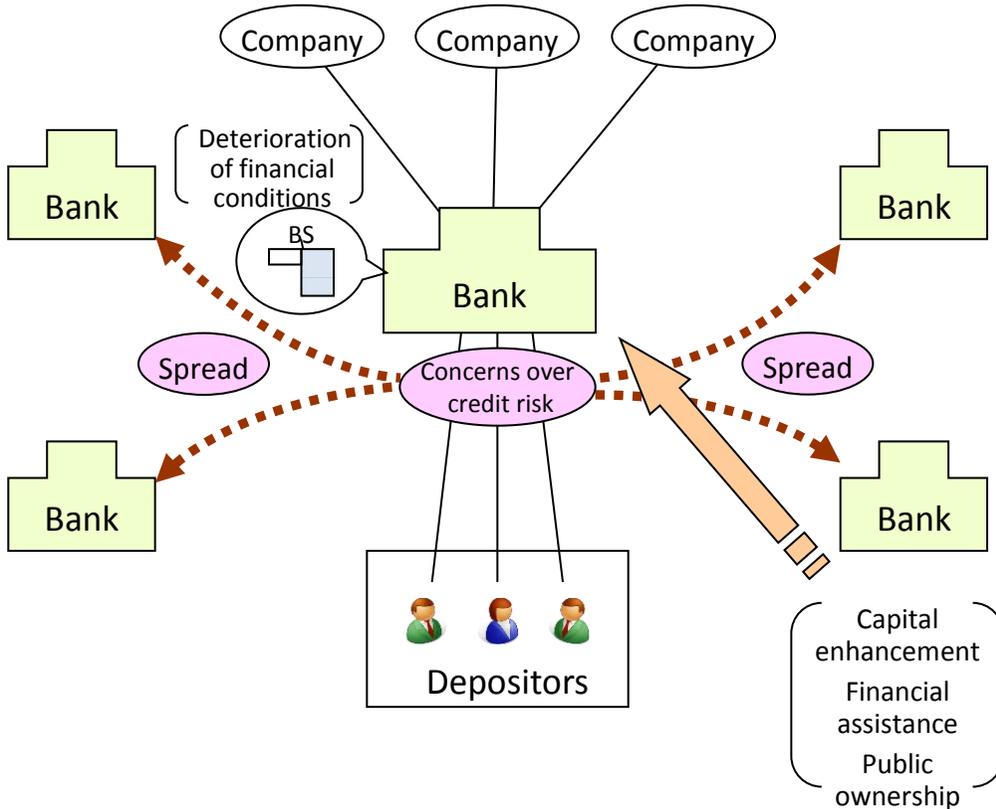
Developing a mechanism for customers (e.g. pension funds) to better detect problems

- Introducing legal obligations to provide Investment reports for life insurance companies engaging in business related to insurance contracts with benefit payment linked to investment performance.
- Increasing the issuance frequency *of the reports on the status of assets in custody* compiled by trust banks, in case of those delivered to pension funds, etc.
(Intervals not exceeding one year ⇒Quarterly)
- Stricter eligibility requirements for Employees' pension funds to be qualified as *professional investors*.
(Only those equipped with certain investment policies and managements, etc. eligible)

IV. ESTABLISHMENT OF ORDERLY RESOLUTION REGIME FOR FINANCIAL INSTITUTIONS

Response to a financial crisis

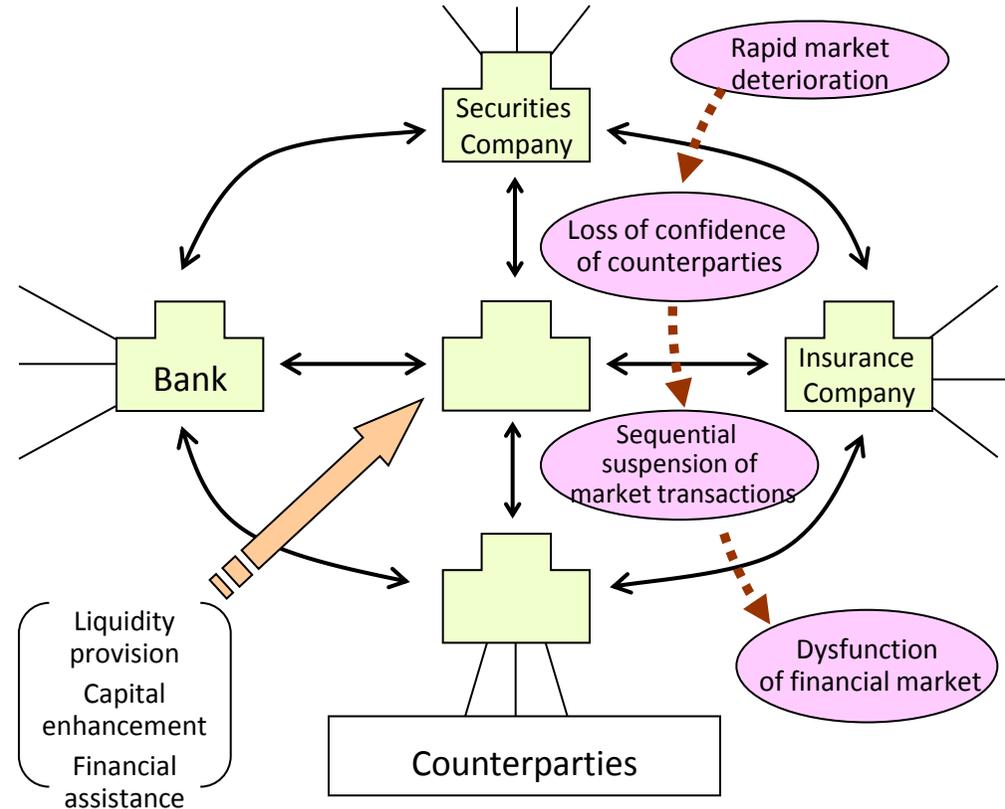
Financial crisis due to non-performing loan, which Japan has experienced



Measures to deal with the financial crisis (Article 102 of the existing Deposit Insurance Act)

⇒ Relieve the concerns over credit risk of a bank among its depositors, etc. and protect sound borrowers by safeguarding all the obligations of the bank.

Financial crisis originated from the market disruption triggered by the failure of Lehman Brothers



New measures to deal with the financial crisis to ensure the market functions

⇒ Avoid the sequential suspension of transaction among market participants and thereby prevent the dysfunction of financial market by ensuring the fulfillment of obligations for critical market operations, etc., in order to ensure the stability of the financial system

Establishment of Orderly Resolution Regime for Financial Institutions

- During the global financial crisis triggered by the failure of Lehman Brothers, etc., it was revealed that there is a potential risk that distress and failure of systemically important financial institutions may spread across financial markets and cause a serious impact on the real economy. In response to this, a framework for new effective resolution regimes for financial institutions has been discussed internationally and an agreement was reached on this issue at the G20 Summit.
In parallel with the progress of the international discussions, new comprehensive effective resolution regimes for financial institutions have been established in various countries.
- In Japan, reflecting these global trends, it is necessary to establish a framework for an orderly resolution regime of financial institutions (described below), in order to address risks that may spread across financial markets.

(Scope)

- Financial institutions including deposit-taking financial institutions, insurance companies, financial instruments business operators, financial holding companies.

(Procedure for initiating the orderly resolution mechanism of financial institutions)

- The Prime Minister confirms the need to implement the orderly resolution mechanism of financial institutions, following the deliberations by the Financial Crisis Response Council.

(Measures)

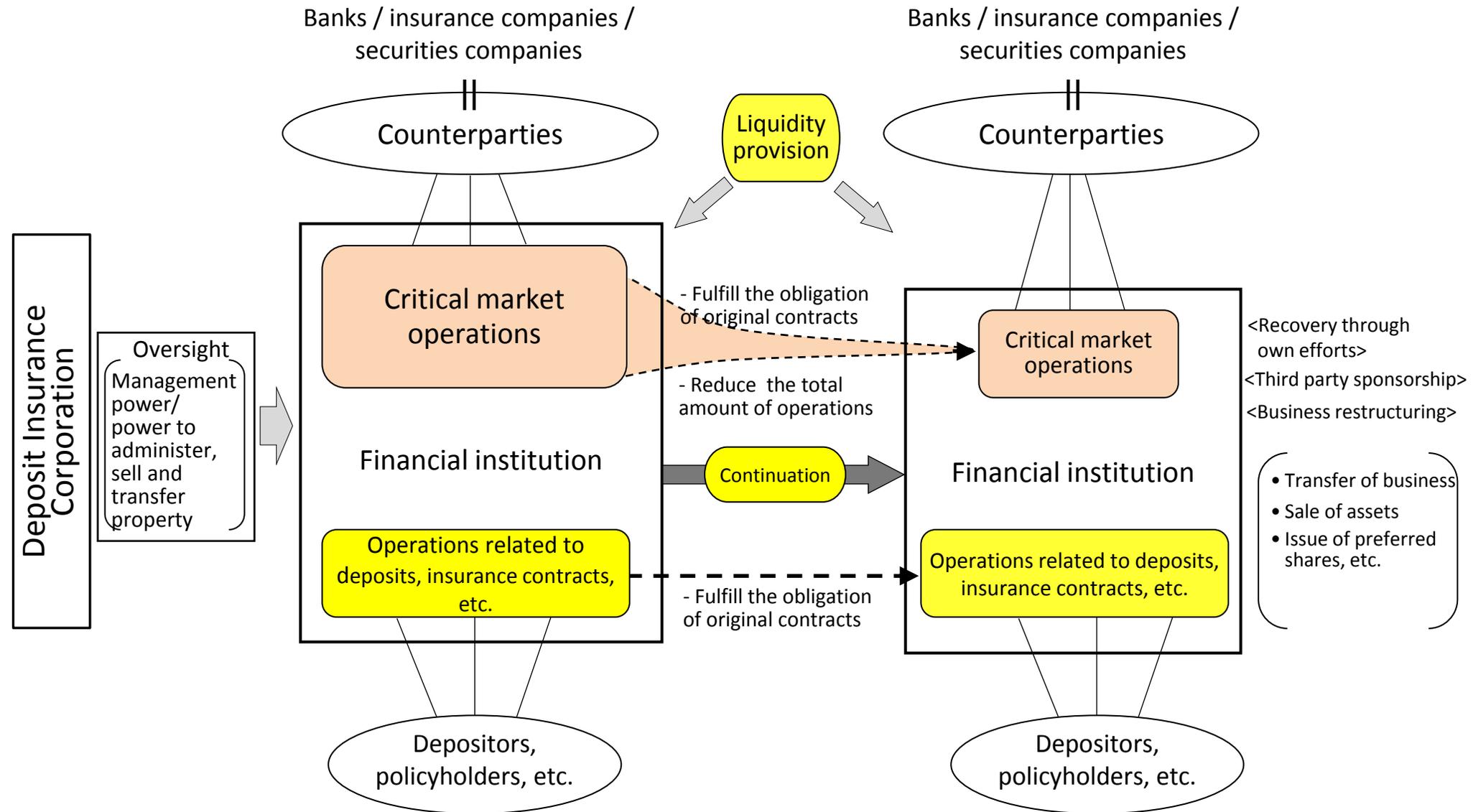
- Where it is considered necessary to prevent the severe market disruption:
 - ⇒ Oversight by the Deposit Insurance Corporation
 - ⇒ Provision of liquidity and financial assistance
 - Capital enhancement may be undertaken as necessary, when the financial institutions are not in the state of insolvency.
 - ➔ Reduce market transactions, while ensuring the performance and continuation of obligations which are critical for stabilization of the financial system.
 - ➔ Realize the orderly resolution of financial institutions and prevent the severe market disruption.
 - When the measures above are implemented, contractual bail-in options (writing down of unsecured debts or converting unsecured debts into equity) are exercised.

(Funding)

- Provide government guarantee for the Deposit Insurance Corporation's financing.
Should losses be incurred, the expenses shall be in principle borne ex post by the financial industry.
The government may provide financial support in exceptional cases. The Deposit Insurance Corporation shall record its expenses in the Crisis Management Account.

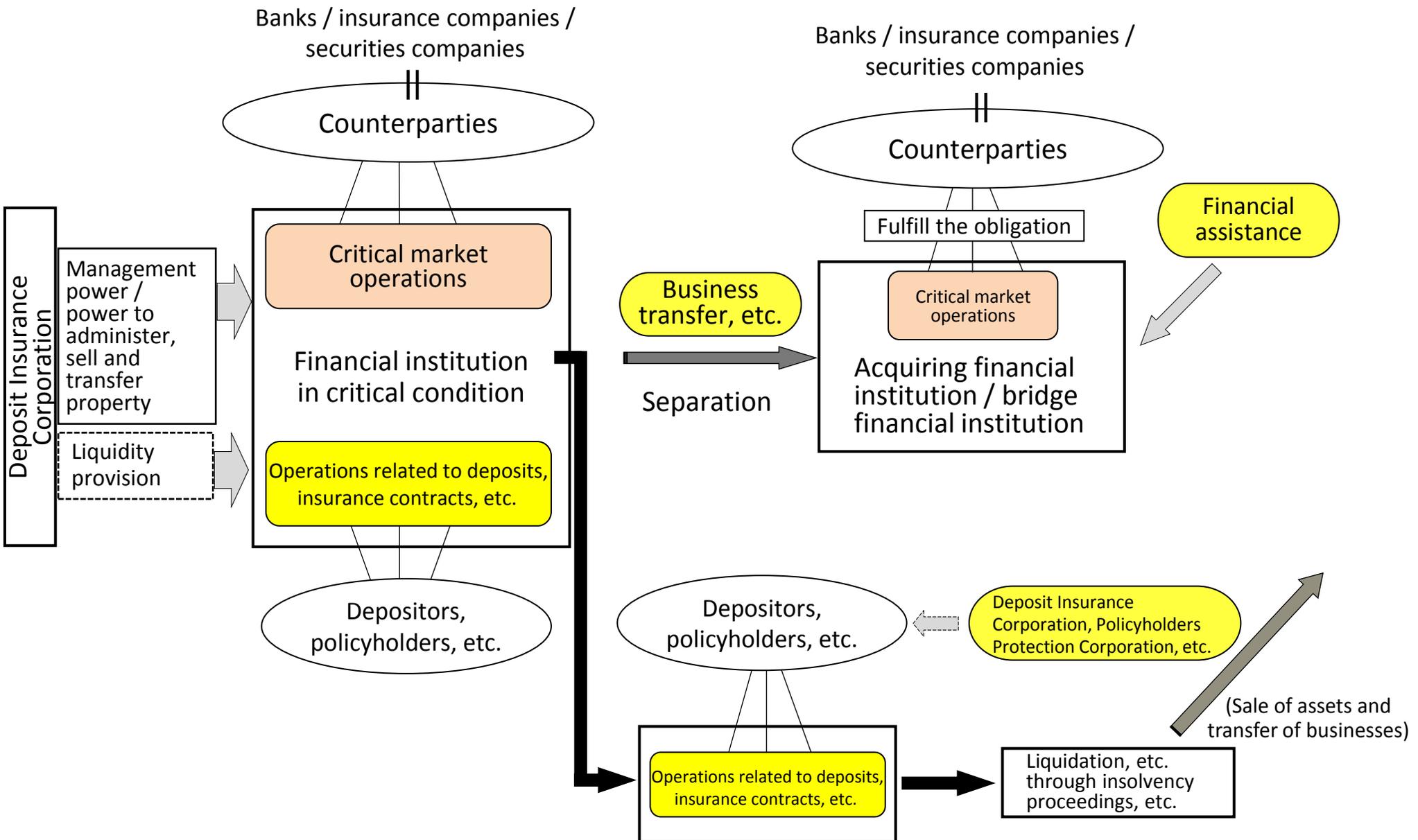
Orderly Resolution of Financial Institutions (1)

(In the case of a financial institution that is not in the state of insolvency)



Orderly Resolution of Financial Institutions (2)

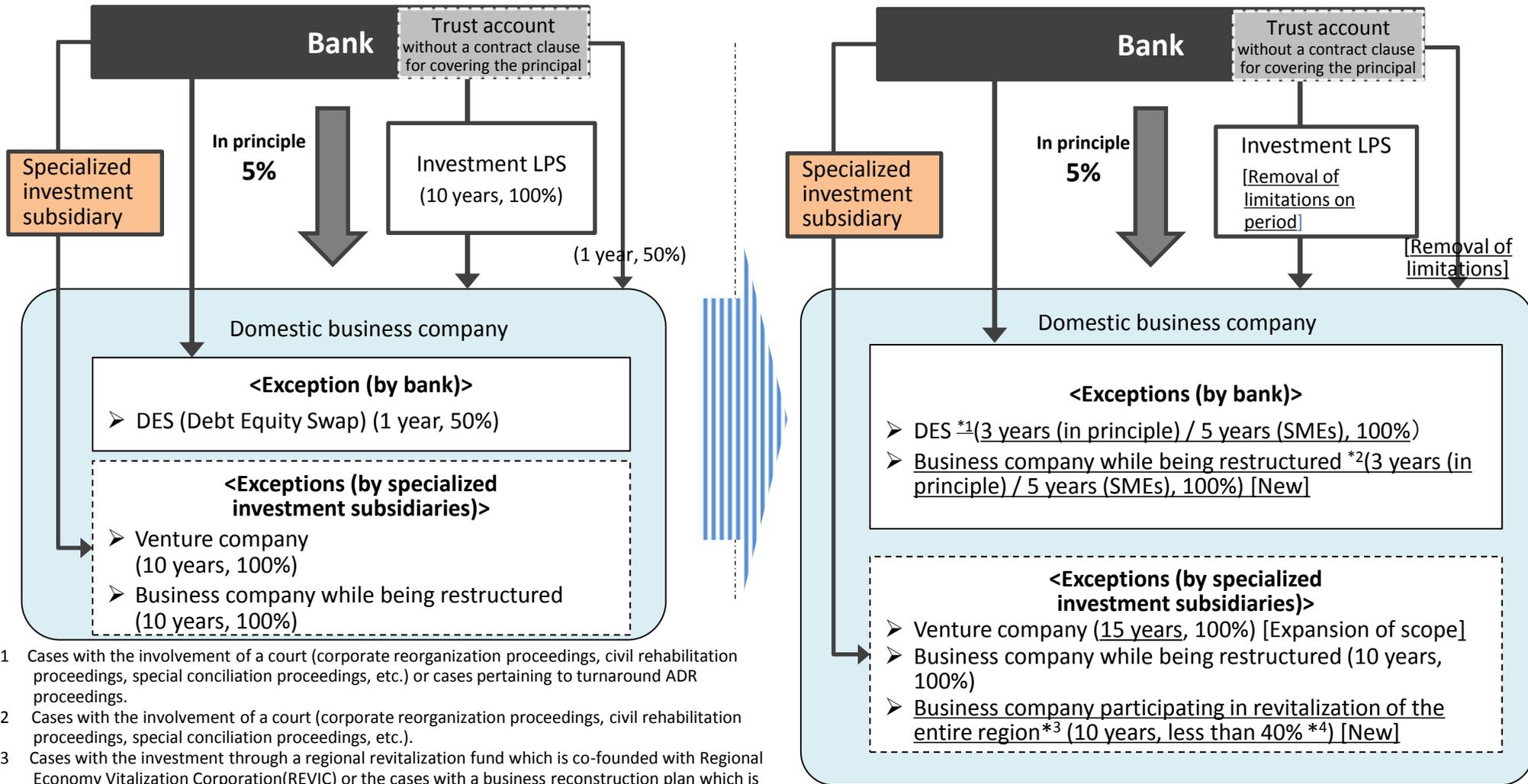
(In the case of a financial institution such as an insolvent one)



**V. ENHANCEMENT OF PROVISION OF CAPITAL
BY BANKS, ETC.**

Review of Restriction on Holding of Voting Rights by a Bank, etc.

- It is provided that a bank, etc. and its subsidiaries shall not hold in total more than 5% (*) of voting rights in a domestic business company held by all of the shareholders, etc.
- (*) 15% for a bank holding company, and 10% for cooperative financial institutions.
- ⇒ To strengthen financial functions of banks, etc., while basically maintaining the current regulatory framework, in cases where contributions to the corporate restructuring or revitalization of region can be expected, allow banks, etc. to flexibly provide capital.



*1 Cases with the involvement of a court (corporate reorganization proceedings, civil rehabilitation proceedings, special conciliation proceedings, etc.) or cases pertaining to turnaround ADR proceedings.
 *2 Cases with the involvement of a court (corporate reorganization proceedings, civil rehabilitation proceedings, special conciliation proceedings, etc.).
 *3 Cases with the investment through a regional revitalization fund which is co-founded with Regional Economy Vitalization Corporation(REVIC) or the cases with a business reconstruction plan which is developed by a business alliances with REVIC or a business entrustment to REVIC, etc.
 *4 When the full consolidation method is applied, if not included within the scope of consolidation on an effective control basis, less than 50%.

Review of Regulations Governing Foreign Bank Branches

Current status

- A foreign bank is permitted to accept retail and wholesale deposits in the Japanese market through both branches and subsidiaries. The scope of approved business does not depend on whether they are branches or subsidiaries (committed internationally).
- Foreign bank branches are not subject to the regulations related to the stated capital.
- They are not subject to the application of Act on Special Measures Concerning Reorganization Proceedings of Financial Institutions, etc. (Act on Special Measures for Reorganization); and the supervisory authority does not have the right to file a petition for commencement of bankruptcy or reorganization proceedings or right to file a petition for temporary restraining order.
- The penalty for the violation of orders to maintain assets in Japan is low (non-penal fine of up to one million yen).

Contents of the review

<License>	<Regulation and supervision in ordinary times>	<Response in times of crisis or bankruptcy>
<ul style="list-style-type: none"> ○ <u>Clarify licensing standards</u> ⇒ Review the bank's application for the license <u>from prudential viewpoints</u> concerning accepting of retail deposits through a branch and fund management including fund transfer to head office. 	<ul style="list-style-type: none"> ○ Require foreign bank branches to <u>reserve assets in an amount equivalent to the minimum capital requirement for domestic banks (2 billion yen)</u>. ○ The clarified licensing standards shall be <u>applied as daily supervisory viewpoints</u>. ○ <u>Require explanation</u> to depositors that the <u>deposits held by foreign bank branches are not protected under the deposit insurance system in Japan</u>. 	<ul style="list-style-type: none"> ○ <u>Apply the Act on Special Measures for Reorganization</u> to foreign bank branches (grant the supervisory authority the right to file a petition for commencement of bankruptcy or reorganization proceedings or right to file a petition for temporary restraining order) ○ <u>Increase the penalty for the violation of orders to maintain assets in Japan</u>; shift from non-penal fine to criminal penalty (imprisonment with work for up to one year, or a fine of up to three million yen (additional fine of up to two hundred million yen on judicial person)).

Review of Large Exposure Rules

Current status

- From the perspective of ensuring diversification of risks associated with bank assets, large exposure rules set an upper limit on the total amount of credit exposures to a single counterparty or a group of connected counterparties.
- ⇒ There are some differences between current Japanese regulations and the international standards (“The Basel Core Principles”); and the IMF FSAP (Financial Sector Assessment Program) seeks the strengthening of the rules.

Contents of the review

1. Ensuring effectiveness of regulation

Establish discipline in order to prevent any evasion of regulation such as by means of using multiple names or circumventive financing.

2. Other reviews of regulations to ensure consistency with the international standards

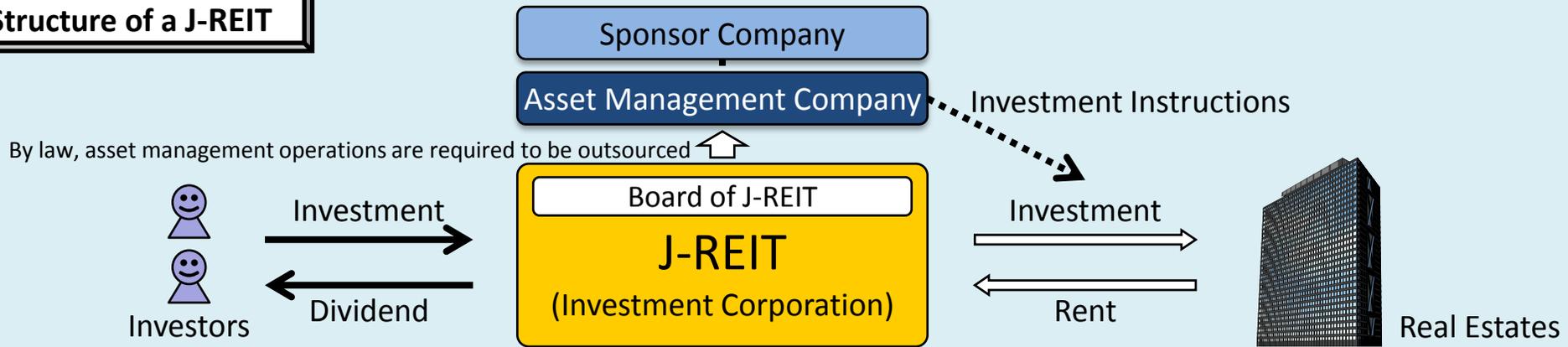
	Japanese regulations	(Reference) International standards
Scope of credit exposures	Inter-bank transactions (e.g. call loans, deposits), commitment lines, derivative transactions, publicly offered corporate bonds, etc. are <u>excluded from the scope of application</u> . ⇒ <u>In principle, above exposures are to be included within the scope of regulations.</u>	In principle, <u>all</u> of the on-balance sheet and off-balance sheet <u>transactions and claims are within the scope.</u>
Limit on the amount of credit exposures to a group of connected counterparties	<u>40%</u> of the amount of a bank’s (or a bank group’s) capital ⇒ <u>25%</u>	<u>25%</u> of the amount of a bank’s (or a bank group’s) capital
Scope of a group of connected counterparties	A counterparty (a single entity), its subsidiaries, and parent/sister companies (<u>identified based on control through voting rights: ownership of over 50% of voting rights</u>). ⇒ To be identified based on the <u>economic interdependence</u> , as well as on the control through voting rights (effective control basis).	Identified based on the <u>economic interdependence</u> , as well as on the control through voting rights.

VI. ENHANCEMENT OF ROBUSTNESS OF J-REIT STRUCTURES, ETC.

Revisions to J-REIT and Investment Trust Regulations

- Outline of the Revision to J-REIT Regulation -

Basic Structure of a J-REIT



Outline of the Revision

- **Provide J-REIT with more choices for financing and capital policy**

Compared with REITs in other countries, financing and capital policy instruments for J-REIT are restrictive.
 ⇒ Newly allow J-REIT to repurchase its equity and to finance through rights offering, etc.

- **Improve J-REIT governance**

Conflicts of interests may exist between the asset management company and J-REIT investors due to the important role of the sponsor company in the asset management operations of J-REIT.

⇒ Require the asset management company to obtain a prior approval from the board of J-REIT* when making substantial acquisition of properties from the related parties (e.g. sponsor company).

* Majority of the members of the board of J-REITs are required to be independent of the asset management company.

- **Newly apply insider trading regulations to J-REIT**

- **Measures to facilitate the acquisition of overseas real estate by J-REIT**

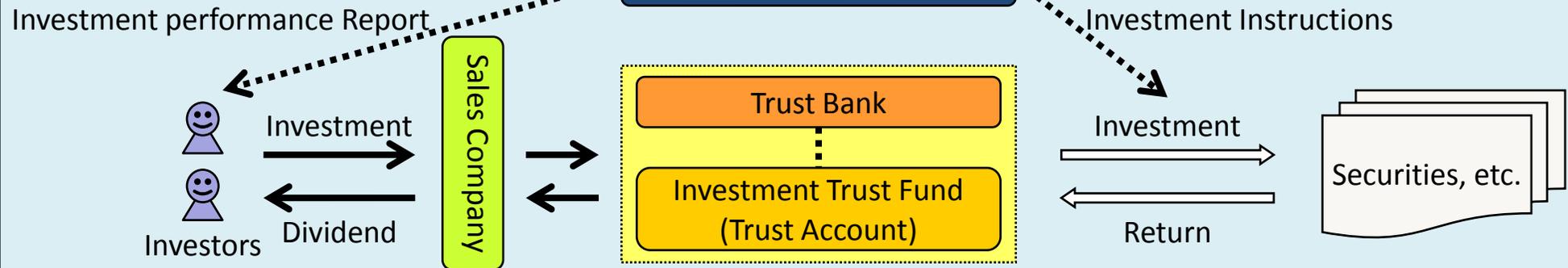
There are needs for J-REITs to invest in the overseas real estate using a Special Purpose Company (SPC).

⇒ In addition to direct acquisition, newly allow J-REIT to acquire overseas real estate indirectly using SPC.

Revisions to J-REIT and Investment Trust Regulations

- Outline of the Revision to Investment Trust Regulation -

Basic Structure of an Investment Trust



Outline of the Revision

○ Measures to simplify merger process of small scale investment trusts

Because of frequent offering of new products, investment trusts tend to remain sub-scale with correspondingly suboptimal operational efficiency.

⇒ Allow investment trusts to merger without requiring the investors' written approval, as long as the resulting changes to asset composition do not disadvantage the investors.

○ Provide investors with investment performance data in a simplified format

Current investment reports delivered to investors are often expansive and overly complex.

⇒ Require the asset management company to deliver an "investment performance summary report" to all investors, and to deliver a full report upon request.

○ Measures to ensure stable operations of the MRF*, etc.

During the financial crisis in the US, there were instances of MMF operations failing due to market turbulence.

⇒ Allow the asset management company to financially support its MRF, etc.** in exceptional circumstances.

* MRF: A type of investment trust used for the management of the money for securities trading of private investors in securities companies. It comprises mainly of highly-rated bonds of the short remaining period. (Similar to MMF in other countries.)

** Under the present regulation, asset management companies are prohibited from compensating investors for capital losses on MRF investments.

VII. OTHER AMENDMENTS

Other Amendments

- **Review of regulations concerning foreign bank agency services**

Allow domestic banks, etc. to provide the foreign bank agency services only when they are conducted overseas, regardless of whether there are capital relationships.
- **Review of regulation on scope of a bank's subsidiary company concerning overseas M&As**

Allow domestic banks to hold the acquired foreign financial institution's subsidiary companies that do not fall on an eligible subsidiary company for up to 5 years in principle.
- **Fit-and-proper requirements for auditors**

Introduce the requirements for auditors of banks, etc. to be knowledgeable and experienced enough to properly, fairly and efficiently implement the audit (there is already the corresponding provision for the directors engaging in the ordinary business of a bank, etc.).
- **Order to dismiss external auditors**

Enable issuance of an order which obliges a bank, etc. to dismiss its external auditors in the case where the bank has violated any laws and regulations, etc. or has committed an act which harms the public interest (there is already the corresponding provision as to directors and auditors).
- **Scope of firms subject to request of reports and inspection**

Add the firms which are re-entrusted with the business of a bank, etc. (including the firms who are entrusted through more than two layers of entrustment) to the scope of firms subject to request of reports and inspection (entrustment is already within the scope).
- **Capital reserve, etc. of cooperative structured financial institutions, etc.**

Allow cooperative structured financial institutions, etc. to cancel its preferred equity by enabling transfer of capital reserve, etc. to surplus.
- **Partial Relaxation of Tender Offer Rules**

Under the current FIEA, there are several types of exceptional share purchases that do not require a tender offer, such as those in the financial market and those within a corporate group. However, under certain conditions, a combination of exceptional purchases shall be subject to a tender offer as a whole. The amendment eases these conditions and allows such a combination of purchases to be done without launching a tender offer.
- **Partial Relaxation of Large Shareholding Report Rules**

Under the current FIEA, a large volume holder is exempted from further reporting if 1) the last reporting is due to a decrease of 1% or more in the holding ratio and 2) the new holding ratio disclosed in it is 5% or less. The amendment removes the former condition and thus eases the reporting conditions.

VIII. SCHEDULE FOR ENFORCEMENT OF NEW RULES

Schedule for Enforcement of New Rules

This Act shall come into force as from the date specified by a Cabinet Order within a period not exceeding one year from the date of promulgation,

provided that;

- revisions to asset management regulations building on the experience from the AIJ case (strengthening criminal penalties),
- revision of large exposure rules (prevention of evasion of the law)

shall come into force twenty days after promulgation,

- establishment of orderly resolution regime for financial institutions, etc.

shall come into force as from the date specified by a Cabinet Order within a period not exceeding nine months from the date of promulgation, and

- enhancement of robustness of J-REIT structures, etc.,
- revision of large exposure rules (except the provision above)

shall come into force as from the date specified by a Cabinet Order within a period not exceeding one year and six months from the date of promulgation.