



# FSA Newsletter April 2008



Minister Watanabe gave a speech at American Chamber of Commerce in Japan (April 7)



Welcome Ceremony for newcomer (April 1)

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## Photograph Gallery

In this corner, we post photographs of the Minister, the Senior Vice Minister, the Parliamentary Secretary and FSA officials at work in meetings, conferences and other events.



Senior Vice-minister Yamamoto made an address at the plenary session of “Business Accounting Deliberation Council” (March 27)

## Statements, Speeches & Material

In this corner, we post statements and speeches made by the Minister, the Senior Vice Minister, the Parliamentary Secretary and FSA officials, as well as presentation material they used.

### Official Statements

[March 25, 2008](#)

Policy Statement by Yoshimi Watanabe, Minister of State for Financial Services, at the Committee on Financial Affairs of the House of Councillors The 169<sup>th</sup> Ordinary Diet Session

**FSA Releases “Our Answers to Your Questions about the Financial Instruments and Exchange Act”**

The Financial Instruments and Exchange Act was put into force on September 30, 2007. This act is intended to enhance institutional infrastructure so as to enable ordinary investors to make investments with a sense of security and thus strengthen the flow of funds from “savings to investment.” In order to enable ordinary investors to make investments with a sense of security, it is important for business operators selling financial instruments to provide instruments suited to the investment experiences and needs of individual customers in an appropriate manner. The Financial Instruments and Exchange Act has been established for the very basic purpose of establishing a legislative framework necessary for this.

However, hearings with financial institutions and inquiries from customers have indicated that compliance with this act in actual sales activities has become a matter of formality in many cases and that there are cases of excessive reaction that is out of line with the purpose of the act.

Therefore, the Financial Services Agency (FSA) compiled a collection of questions and answers, partly based on the answers given in response to questions it actually received, and released it on February 21.

The Q&A collection has two objectives. One is to ensure that sales activities are conducted in an appropriate manner, without either overreaction to or neglect of the Financial Instruments and Exchange Act, by cataloguing typical cases of inappropriate practices based on misunderstanding the purpose of the act and by showing how the authorities view such cases.

The other objective is to enable supervisory officials to enforce the act in an apt and sensible manner in accordance with the purpose thereof by having them sort out their thinking over enforcement issues and enhancing their understanding.

The Q&A collection comprises the following nine questions and the answers thereto that cover five areas: suitability, obligation to provide explanation, advertisement rules, documents to be delivered prior to entering into contract, and regulation on financial instruments business. For details, please access:

<http://www.fsa.go.jp/en/news/2008/20080318-2.pdf>

Please be reminded that as indicated at the end of the Q&A collection, “the views contained in this document are our views at the time of the inquiry, in regard to the applicable laws and ordinances, based on the context in which the inquiry was made.”

### 1. Suitability

(Question 1)

Is it true that securities firms and financial institutions cannot sell or solicit high risk products to elderly people?

(Question 2)

Is it true that securities firms and financial institutions cannot engage in any transactions of financial instruments unless they find out the financial situation of their customers before each transaction?

### 2. Obligation to Provide Explanation

(Question 3)

Is it true that securities firms and financial institutions cannot sell high risk products unless they provide a lengthy explanation beforehand, even if the customer has extensive investment experience?

### 3. Advertisement Rules

(Question 4)

Is it true that risk information in advertisements on financial products must be written using letters and numbers that are 12 points or larger?

(Question 5)

Is there a minimum percentage requirement for how large the letters used for risk information in an advertisement must be in comparison with the largest letters used in the advertisement?

(Question 6)

Do advertisement rules apply to calendars that show the schedules of seminars hosted by securities firms?

(Question 7)

There are various types of fees for online trading. Are securities firms required to write out all of them in advertisements?

4. Documents to Be Delivered Prior to Entering into Contract

(Question 8)

Does the obligation to provide customers with statutory documents prior to entering into contract apply to a case where the customer acquires securities as a gift?

5. Regulation on Financial Instruments Business

(Question 9)

If an investment trust manager speaks about its products in seminars, is that considered solicitation which requires registration for Type II financial instruments business? What are other examples of cases where the scope of application of the regulations on financial instruments business becomes an issue?

### **FSA Launches New EDINET System**

On March 17, 2008, the FSA launched the new EDINET (Electronic Disclosure for Investors' NETwork) system. The new system has been developed under the Service and System Optimization Plan for Operations relating to Securities Reports, etc., with a view to improving the convenience for users of the EDINET system and enhancing the efficiency and security of the system, thereby making the disclosure system more effective and reliable.

Following the launch of the new system, the operation of the previous system was halted.

You can access the new EDINET (“In Japanese only”) at:

\*<http://info.edinet-fsa.go.jp/> for viewing filed documents

\*<http://www.edinet-fsa.go.jp/> for the filing of documents

## 1. Outline of New EDINET System

(1) The key points of the new EDINET system are as follows:

- (i) Realization of advanced usage of information through the adoption of XBRL (eXtensible Business Reporting Language)
- (ii) Improved convenience for users due to the enhanced search function and other new features
- (iii) Enhanced security
- (iv) Reduction in administration costs due to enhanced efficiency of the system operations

(2) Major changes from the previous EDINET system are as follows:

- (i) Revision of the EDINET code system
- (ii) Expansion of the scope of recommended environments
- (iii) Revision of the search function

Operation guidance materials, including those concerning the transition from the previous system to the new one, are available in Japanese at:

\*<https://www.edinet-fsa.go.jp/EKW0AZ0015.html> for the filing of documents

\*<https://info.edinet-fsa.go.jp/EEW1E62022.html> for viewing filed documents

For changes concerning the compilation of documents for filing, please refer to Figure 1.

## 2. Introduction of XBRL

Companies subject to the disclosure requirements must compile financial statements in the XBRL format when they file documents such as Annual Securities Reports, Semiannual Securities Reports, Quarterly Securities Reports and Securities Registration Statements concerning fiscal years that start on April 1, 2008 or later for disclosure through the EDINET system.

XBRL (eXtensible Business Reporting Language) is an internationally standardized computer language intended to enable efficient compilation, distribution and usage of financial statements and other data. It enables the provision of information in a computer-readable format. The adoption of XBRL in the new EDINET system realizes advanced usage of information, allowing investors to download financial statements and other data and directly process and analyze the downloaded data.

All companies subject to the disclosure requirements, including those that issue specified

financial statements, are required to file documents in the XBRL format. For detailed information on the scope of companies subject to the requirement for filing of documents in the XBRL format and the effective date, please refer to Figures 2 to 5.

The FSA believes that, by making the disclosure of financial data and other corporate information more effective and efficient, the introduction of XBRL will not only help to enhance the transparency of the securities market but also improve the information infrastructure in ways to enhance the efficiency of economic and social activities in general. It is important for the companies and investors concerned to understand the benefits of the introduction of XBRL and respond positively to it.

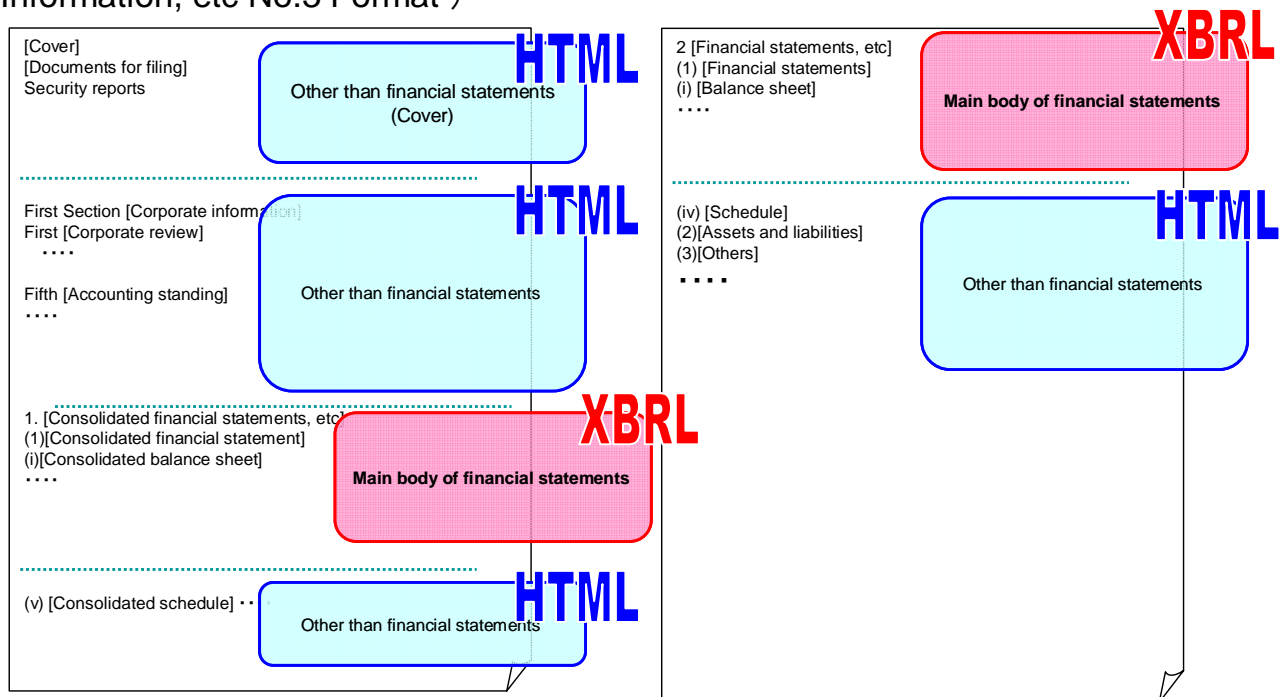
### **Figure 1 Changes concerning the compilation of documents for filing**

Major changes between old EDINET and new EDINET systems are as follows:

No	No. Changes	Current EDINET	New EDINET
1	Folder structure of documents for filing	Creates filing tray, automatically generates respective folders, and destinations are fixed	Filers create respective folders by themselves. Destinations are voluntarily definable
2	Creation of the XBRL-format data	- (All documents for filing are created in the HTML format)	Main bodies of financial statements excluding notes, etc. are created in XBRL format.)
3	Recommended HTML	—	Description in HTML4.01
4	Setting of HTML body filenames	Body filenames are displayed by name sorting, and assigned in sequence	HTML body filenames needs to be structured as follows: index first hierarchy (two-digit one-byte figures) + second hierarchy (two-digit one-byte figures) + serial number (from 000 to three-digit one-byte figures) + arbitrary name.html.
5	Cover filename	000_header.htm	0000000_header.htm
6	Character code for HTML files	S-JIS	UTF-8 *Use of data created for current EDINET requires conversion of character code
7	HTML file size	100KB or less per one file	1 MB per one file
8	PDF file size	100KB or less per one file	5 MB per one file
9	Prior format checking	Online checking in principle. Enables online format checking by downloading special programs	Implements system-based prior checking. Also, extends time available for system-based prior checking

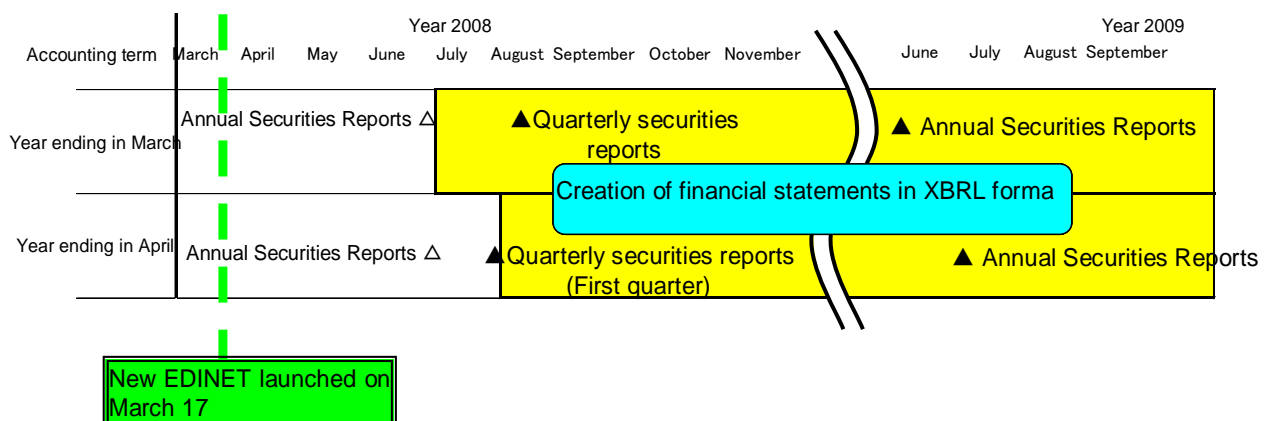
## Figure 2 Scope of HTML creation and overview of XBRL

(In the case of Cabinet Office Ordinance on Disclosure of Corporate Information, etc No.3 Format )



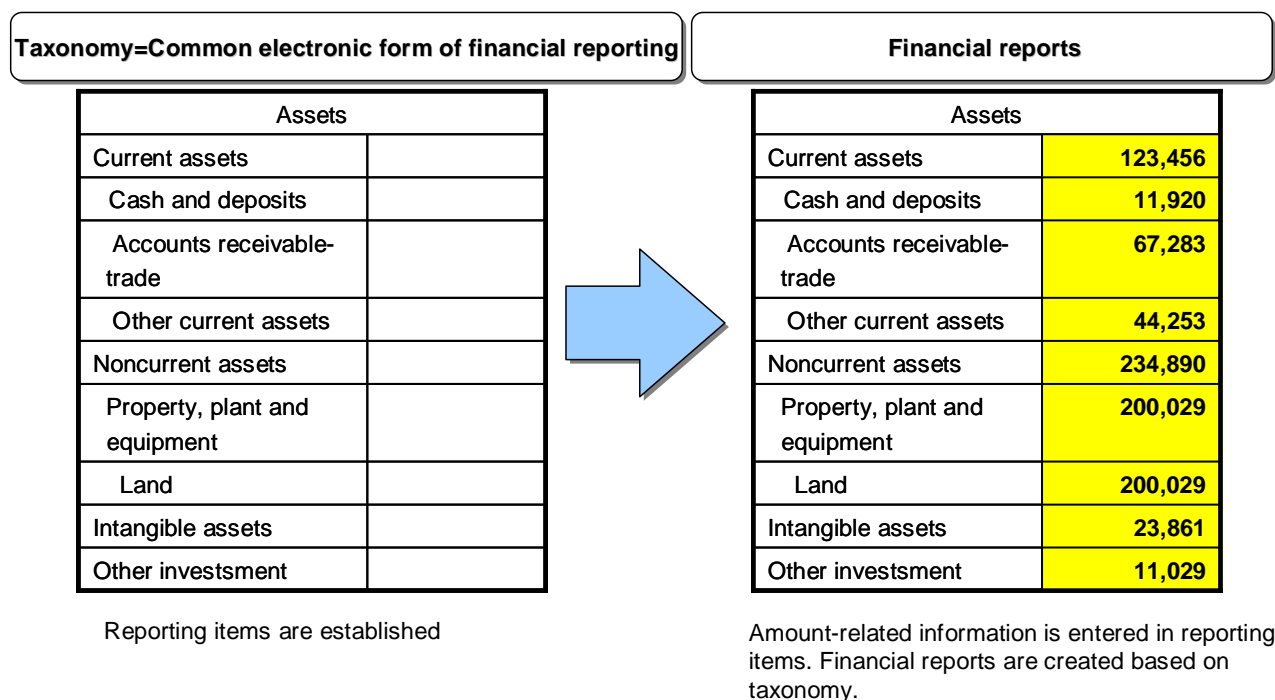
## Figure 3 Application period of XBRL

Companies subject to the disclosure requirement must compile financial statements in the XBRL format when they file documents such as Annual Securities Reports, Semiannual Securities Reports, Quarterly Securities Reports and Securities Registration Statements concerning fiscal years that start on April 1, 2008 or later for disclosure through the EDINET system.

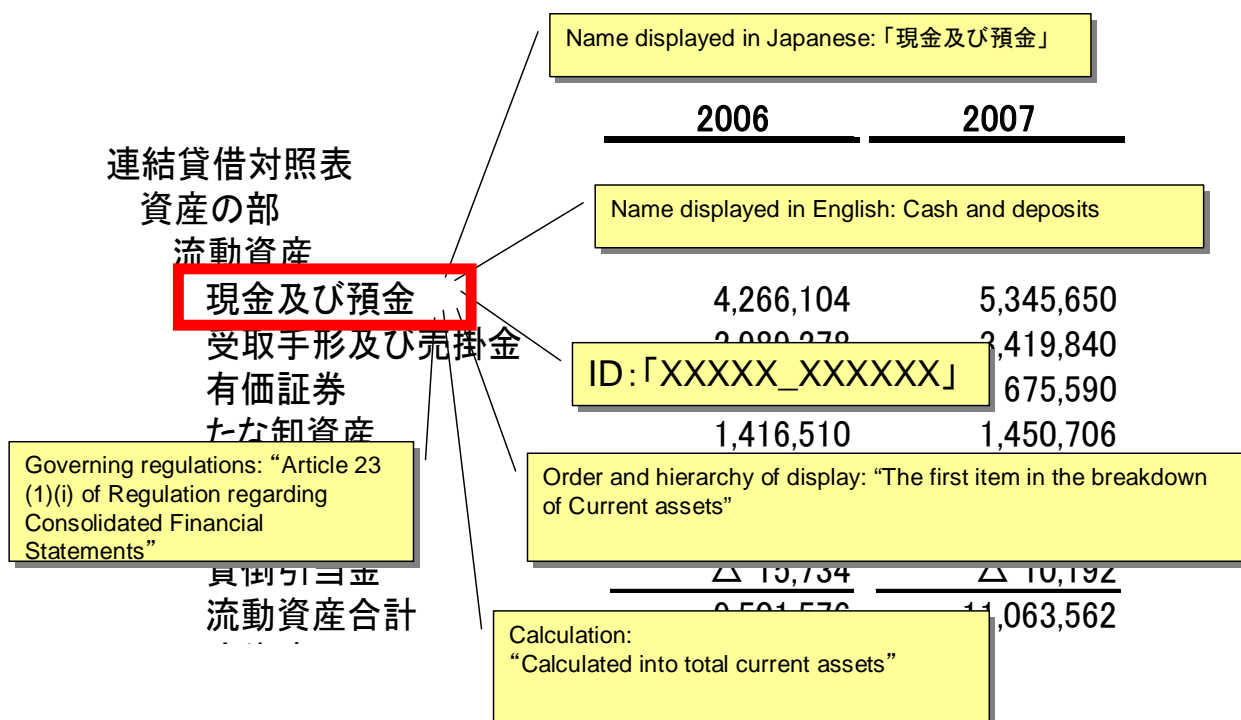




## Figure 4 Overview of XBRL



## Figure 5 Information possessed by XBRL



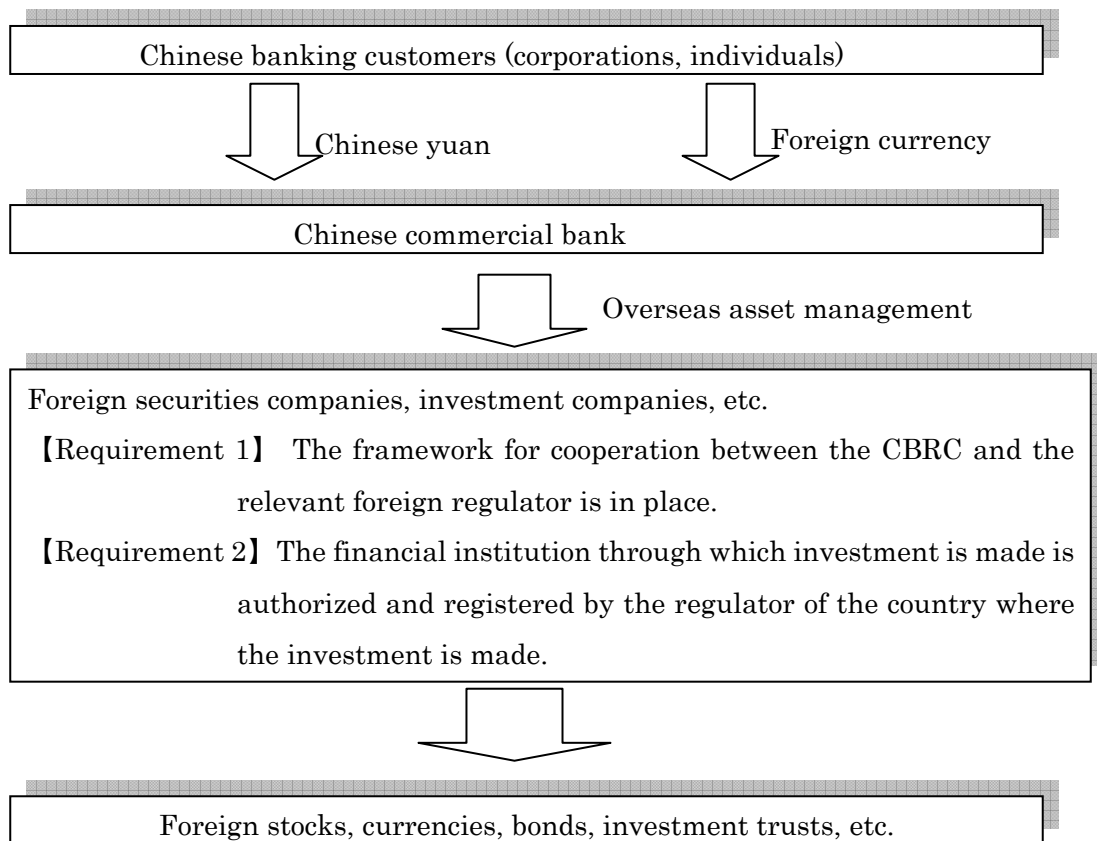
## FSA, China Banking Regulatory Commission Establish Framework for Regulatory Cooperation concerning QDII (Qualified Domestic Institutional Investor) System

On February 22, the FSA and the China Banking Regulatory Commission (CBRC) exchanged letters concerning the establishment of a framework for regulatory cooperation in relation to the QDII (Qualified Domestic Institutional Investor) system.

### **What is China's QDII (qualified domestic institutional investor) system?**

In China, domestic (Chinese) financial institutions must be authorized by the CBRC as QDIIs (Qualified Domestic Institutional Investors) if they are to make overseas investments for the purpose of wealth management.

\* Scheme of overseas wealth management under the QDII system (investment via bank)



The FSA believes that the agreement concerning the framework for regulatory cooperation will contribute to the vitalization and strengthening of the competitiveness of Japan's financial and capital markets, as called for in "The Plan for Strengthening the Competitiveness of Japan's Financial and Capital Markets," released late last year, as it enables Chinese commercial banks to make investments in the Japanese markets for the

purpose of wealth management.

Based on this plan, the FSA held its first round of periodic meetings with the Chinese regulatory authorities in January, as part of its efforts to enhance bilateral cooperation with the authorities regulating the fast-growing Asian markets. It is becoming increasingly important for both Japanese and Chinese regulators to strengthen their relationships with respect to financial services. The establishment of this framework represents concrete progress toward enhancing bilateral cooperation.

The importance of the roles to be played by Japan and China for the global economy as well as the Asian economy is growing. It is therefore an urgent task for the two countries to strengthen their relations with each other in the financial sector. The FSA intends to continue to enhance cooperation and exchanges with China at both public- and private-sector levels.

**Issuance of Comment Letter in Response to the Proposed Policy Statement “Guidance Regarding Implementation of PCAOB Rule 4012” of the PCAOB**

The FSA and the Certified Public Accountants and Auditing Oversight Board (CPAFOB) issued a comment letter dated March 4 to the Public Company Accounting Oversight Board (PCAOB) of the United States with regard to the proposed policy statement “Guidance Regarding Implementation of PCAOB Rule 4012.”

Pursuant to the Sarbanes-Oxley Act, the PCAOB is charged with inspecting accounting firms that audit U.S. public companies (“issuers” subject to U.S. regulation), including foreign accounting firms. In light of the fact that individual countries have established their own audit oversight entities, the PCAOB is considering a framework of cooperation in the inspection of non-U.S. audit firms with the authorities of their home countries.

PCAOB Rule 4012 (2004) identifies five broad principles that guide the PCAOB in determining the level of reliance on inspections by foreign audit oversight authorities: (i) adequacy and integrity of the non-U.S. oversight system, (ii) independence of the system’s operation from the auditing profession, (iii) independence of the system’s source of funding, (iv) transparency of the system, and (v) the system’s historical performance. The proposed policy statement, released on December 5, 2007, sets forth specific criteria for making judgment with regard to the above five principles.

The proposed policy statement refers to the use of a “sliding scale” approach, which determines the level of reliance according to the level of independence and rigorousness of the oversight system of the home country of the non-U.S. audit firm concerned. This approach is intended to make judgment flexibly in light of the circumstances of individual cases with due consideration of the fact that a variety of oversight systems are adopted by non-U.S. oversight authorities. In their comment letter, the FSA and the CPAAOB expressed their support for this approach.

Moreover, the FSA and the CPAAOB stated in the comment letter that, as it is essential to develop an effective cooperative arrangement between the FSA/CPAAOB and the PCAOB in conducting public oversight activities, they are in favor of exchanging inspection reports between regulators when necessary. They also suggested that the PCAOB consider adopting the home country-based approach so long as the home-country’s regulatory framework can be considered robust enough.

For details, please access:

<http://www.fsa.go.jp/en/news/2008/20080307-3.html>

**FSA Issues Comment Letter in Response to “CESR’s advice on the equivalence of Chinese, Japanese and US GAAPs - Consultation Paper”**

The FSA issued a comment letter dated February 25, 2008 in response to “CESR’s advice on the equivalence of Chinese, Japanese and U.S. GAAPs,” a consultation document published on December 18, 2007 by the Committee of European Securities Regulators (CESR) (GAAP stands for Generally Accepted Accounting Principles). This article provides explanations regarding: (1) the contents of the CESR’s draft advice, (2) a public hearing concerning the CESR’s draft advice and (3) the contents of the FSA’s comment letter.

(Note 1) The CESR comprises the securities regulatory authorities of the European Union (EU) member states. It issued the draft advice on the equivalence of accounting standards in response to a request from the European Commission (EC), the executive branch of the EU.

(Note 2) In the EU, EU companies that issue securities (public offering/listing) have been obligated since 2005 to adopt the International Financial Reporting Standards (IFRS). In 2009 and later, third-country companies that issue securities (public offering/listing) and raise funds in the EU will be obligated to adopt the IFRS or

standards equivalent thereto. Therefore, the EC intends to complete the assessment of the equivalence between the IFRS and third-country GAAPs by the middle of 2008.

## 1. Contents of CESR's Draft Advice

### (1) Approach to Equivalence Assessment

In its draft advice, the CESR proposes the adoption of a "holistic" approach. In this approach, even if there are lingering differences between two different sets of standards, they may be considered "equivalent" to each other from a comprehensive viewpoint so long as the standard setters concerned have a sensible medium-to long-term work program intended to achieve convergence by resolving such differences and there is evidence of the program being actively pursued. The holistic approach offers a contrast to the "snap-shot" approach previously adopted by the CESR, which seeks to judge the equivalence between standards on the basis of their differences recognized at a particular point in time. As major factors behind the switch to the holistic approach, the CESR cited (i) progress in the convergence process pursued by the accounting standard setters concerned and (ii) the removal of the U.S. Securities and Exchange Commission's (SEC) reconciliation requirement for non-U.S. companies with regard to their use of the IFRS in their financial statements.

### (2) Assessment of Individual Countries' Standards

The CESR recommended that if it is found as of June 2008 that the Accounting Standards Board of Japan (ASBJ), which is responsible for setting the Japanese GAAP, has achieved according to schedule the objectives set out in the Tokyo Agreement, reached in August 2007 between the ASBJ and the International Accounting Standards Board (IASB), the Japanese GAAP should be considered equivalent to the IFRS. In addition, the CESR recommended that the U.S. GAAP should be considered equivalent in light of the fact that there is active work toward achieving convergence between the IFRS and the U.S. GAAP and such work is expected to continue and ensure that they are effectively equivalent to each other. Meanwhile, the CESR pointed out that although the Chinese GAAP could on the surface qualify as equivalent to the IFRS, a final decision on its equivalence should be postponed on the ground that the Chinese GAAP has been in effect only since January 2007.

## 2. Public Hearing Concerning Draft CESR Advice

On January 21, 2008, the CESR held a public hearing on its draft advice at its headquarters in Paris, which was attended by representatives from Japan, including officials of the FSA. At the public hearing, in response to explanations provided by the CESR, many participants expressed support for the recommendation for the adoption of

the holistic approach.

### 3. Contents of FSA's Comment Letter

In its comment letter sent to the CESR, the FSA stated that:

\*it supports the conclusions set out in the CESR' advice because it believes that it is in the interests of both Europe and the rest of the world that the European market maintains its openness.

\*it considers the holistic approach consistent with the ongoing global efforts toward achieving convergence.

\*the Japanese GAAP should be considered as an equivalent to the IFRS, without being conditioned to further evidence on convergence progress, as is the case with the US GAAP, because there is evidence that work programs for achieving convergence are being actively pursued by the ASBJ and the IASB

For details, please access:

<http://www.fsa.go.jp/en/news/2008/20080307-2.html>

## **Japan and EU Hold Fourth Monitoring Meeting on Developments in Accounting and Auditing Issues**

The Fourth Japan-EU Monitoring Meeting on Developments in Accounting and Auditing Issues was held in Tokyo on March 3, 2008.

Such monitoring meetings have been held since November 2006, with a view to monitoring the progress status of programs for achieving convergence between the accounting standards adopted in Japan and the European Union (EU) and discussing the oversight of audit firms and other oversight-related issues. The discussions are held mainly between the FSA and the European Commission (EC), the executive branch of the EU, with regard to two major areas: accounting standards and audits.

Regarding accounting standards, the two sides discussed developments related to the EU's planned equivalence assessment and enhancement of the governance over the International Accounting Standards Committee Foundation (IASCF).

(Note) In the EU, EU companies that issue securities (public offering/listing) have been obligated since 2005 to adopt the International Financial Reporting Standards (IFRS). In 2009 and later, third-country companies that issue securities (public offering/listing) and raise funds in the EU will be obligated to adopt the IFRS or

standards equivalent thereto. Therefore, the EC intends to complete the assessment of the equivalence between the IFRS and third-country GAAPs (Generally Accepted Accounting Principles) by the middle of 2008.

Regarding the equivalence assessment, the two sides agreed that the “holistic” approach proposed in “CESR's advice on the equivalence of Chinese, Japanese and U.S. GAAPs, with regard to CESR advice on the equivalence issues” released in December 2007 and the assessment on the Japanese GAAP provided in it were constructive.

(Note 1) According to the CEFR's definition of the holistic approach, taken collectively, two sets of standards are allowed to be considered “equivalent,” “irrespective of the existence of potential lingering differences, as long as such differences are taken into account in a sensible long-term work programme between the standard setters concerned and there is evidence of such programmes being actively pursued.”

(Note 2) The CESR recommended in the advice that “come June 2008, the Commission should consider Japanese GAAP equivalent, unless there is no adequate evidence of the ASBJ (Accounting Standards Board of Japan) achieving to timetable the objectives set out in the Tokyo Agreement” reached in August 2007 between the ASBJ and the IASB (International Accounting Standards Board).

Also, the two sides shared the view that it is important to enhance the governance over the IASCF, which is responsible for making decisions on the funding of the IASB and the selection of personnel of the IASB amid the growing global trend toward adopting the IFRS or achieving convergence with the IFRS, and agreed to cooperate in this regard. It should be noted that the IASCF is due to start the process of reviewing its constitution.

Regarding audits, the two sides discussed the EU's proposal concerning a transitional measure for third-country auditors in relation to the equivalence assessment and Japan's notification requirements for foreign audit firms.

In accordance with its directive concerning legally mandated audits, the EU is due from June 2008, to require non-EU auditing firms that audit non-EU companies listed in the EU to subject themselves to the direct oversight of the authorities of the relevant EU countries by registering with those authorities, or to the oversight of equivalent regulatory regimes as specified in the EU directive in their home countries. To this end, the EU has been making preparations for the equivalence assessment. In January, however, it proposed to postpone the conclusion of the equivalence assessment until 2011 and is deliberating a plan to waive the registration requirement until 2011 as a transitional measure. The EU

side explained the status of the deliberation at the Monitoring Meeting.

For its part, the FSA explained the notification requirement for foreign audit firms, due to take effect in April 2008.

The next Monitoring meeting is scheduled to be held around the middle of 2008.

You can see a press release concerning the latest meeting at:

<http://www.fsa.go.jp/en/news/2008/20080319.html>

## **[Minister in His Own Words]**

\* This section provides information regarding the hot topics of the moment, selected from questions and answers given at the Minister's press conferences, etc.

If you wish to find out more, we invite you to visit the "[Press Conferences](#)" section of the FSA website.

## **[The transitional period for specified insurance business operators expired yesterday (March 31), following a revision of the Insurance Business Act]**

As the below Table, the transitional period for specified insurance business operators expired yesterday (March 31), following a revision of the Insurance Business Act. A survey on the future outlook of specified insurance business operators revealed that as of the end of yesterday, 379 business operators out of the total of 430 (88.1%), were expected to continue to provide insurance coverage in some form or other. Business operators categorized in "a" to "e" in the reference paper are those expected to continue to provide insurance coverage in some form or other. There are 186 business operators expected to go out of business. Meanwhile, the purpose of the revision of the Insurance Business Act is to protect insurance policyholders. In light of the fact that nearly 90% of all specified insurance business operators are expected to continue to provide insurance coverage, I believe that the current situation mostly conforms to the purpose of the revision of the Insurance Business Act, which is to protect insurance policyholders.

**[Extract from the press conference on April 1, 2008]**



## Table Projected transition of specific insurance businesses as of March 31

Projected transition data were compiled as of March 31, 2008, and are subject to change

Transition type	End of March, 2008
a. Shifting to insurance company	5 (1.2%)
b. Shifting to small-claims and short-term insurance business (SSIB)	60 (14.0%)
c. Continuing cooperative business by being exempted from the Insurance Business Act (Note 1)	179 (41.6%)
d. Continuing insurance coverage by concluding group contracts with other insurance companies, etc.	114 (26.5%)*
e. Transferring cooperative contracts to other insurance companies, etc.	21 ( 4.9%)*
<b>Above businesses continuing insurance coverage [A]</b> <b>(a+b+c+d+e)</b>	<b>379</b> <b>(88.1%)</b>
<b>Simply closing business [B]</b>	<b>51</b> <b>(11.9%)*</b>
<b>Total [A]+[B]</b>	<b>430</b> <b>(100.0%)</b>

(Note 1) Examples of exemptions

- Limiting congratulatory and condolence payment within the range acceptable to social standards
- Limiting the number of policyholders to 1,000 or less
- Operation in accordance with an exemption provision under the Insurance Business Act, such as transformation into a workplace cooperative

(Note 2) Asterisks represent businesses expected to close down as cooperatives (186 business operators in total [43.3%])

〔Act Concerning Special Measures for Strengthening Financial Functions〕

Q: You told us earlier that the government concluded that it would not be necessary to extend the Act on Special Measures for Strengthening Financial Functions. Why has the government reached such a conclusion? Also, in relation to cooperative financial institutions, you said that such institutions should make self-improvement efforts if they need to strengthen their capital base. Do you think that regional banks and second-tier regional banks have sufficient levels of capital? Am I to understand that you believe that such banks should also begin by making self-improvement efforts?

A: I do not believe that there are currently any banks with insufficient levels of capital. However, as non-performing loans are likely to increase when the subprime mortgage problem or a recession in the United States affects the Japanese economy, it is essential to take action early in anticipation of such negative developments. A shortage of capital could deal a fatal blow to financial institutions, so it is important for them to make self-improvement efforts first. So-called LCFI (large and complex financial institutions) have approached sovereign wealth funds and other parties for infusion of additional capital as they have failed to raise the necessary capital in their home markets. This apparently represented self-improvement efforts on the part of LCFIs, as capital provided by sovereign wealth funds is different from public funds.

In Japan, the injection of public funds into financial institutions was met by something akin to an allergic reaction. Measures (for strengthening the capital base of financial institutions) were implemented under Items 1 and 3, Article 102 of the Deposit Insurance Act, producing certain effects. Meanwhile, although there were two cases (in which public funds were injected into banks) under the Act on Special Measures for Strengthening Financial Functions, this act was used much less often than had been expected. This unfortunately indicates that there was an allergic reaction to the use of public funds. Therefore, it is essential for banks to first of all make self-improvement efforts.

As for the impact of the stock price drop, this does not worry me much, as Japanese financial institutions have become sufficiently robust to withstand it. In any case, it cannot be denied that the disruption caused to the flow of money by the subprime mortgage problem has increased downside risks for the economy, and so I think we should raise our level of vigilance.

【Extract from the press conference on March 28, 2008】

## **[Information]**

The FSA has started an E-mail Information Service. If you register your e-mail address on the Subscribe Page of the FSA website, we will notify you by e-mail once on each day when new information is posted on our website. For details, please access [Subscribing to E-mail Information Service](#) of the FSA website.