



FSA Newsletter July 2006



The Financial Services Agency welcomed 18 sixth-graders from Tsuchihashi Public Elementary School of Kawasaki City, who learned about finance and the economy (on June 1).

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【Topics】

Amendment to the Comprehensive Guideline for Supervision of Insurance Companies

On June 2, 2006, the Financial Services Agency (FSA) amended the "Comprehensive Guideline for Supervision of Insurance Companies" (hereinafter referred to as the "Guideline for Supervision"). This amendment was made to address the following two issues, of which an overview is given in the subsequent sections:

- To clarify the points to be noted by an insurance company in improving and developing a claims payment management system
- To clarify "other incidental operations" of an insurance company

I. Clarifying Points to be Noted by an Insurance Company in Improving and Developing a Claims Payment Management System

1. Development Leading to the Amendment

In response to the problems of inappropriate omission of insurance claims and benefits payments at life insurance companies, and missed payments of incidental insurance benefits at non-life insurance companies that occurred last year, the FSA issued a blanket request for report submission to all insurance companies.

Having sorted out the results of analyzing the problems found in those reports, as well as issues in various areas, the FSA decided to amend the Guideline for Supervision in an attempt to clarify the points to be noted by each insurance company in improving and developing its claims payment management system.

Seeing that making timely and appropriate insurance claims payments is fundamental, and is the most important function, both necessary and essential, for any insurance company to operate its insurance business, each company is required to set up an appropriate payment management system under the exercise of the appropriate governance functions founded on the self-responsibility principle, with the amended Guideline for Supervision also taken into account.

2. Contents of the Amendment

For the purpose of establishing a prompt and appropriate payment management system in relation to the overall management of insurance claims payments, issues were classified into the following categories:

- Awareness by directors, etc., and the role of the Board of Directors etc. regarding insurance claims payments
- Awareness by and the role of managers who are engaged in insurance claims payments
- Personnel development, and maintenance/improvement of the adjustment skills of claims adjusters
- Coordination with relevant divisions
- Development of a system in the payment management division
- Internal audits
- Audits by auditors

For each of these categories, the FSA has clarified the points to note, and has made other necessary changes as well.

II. Clarifying "Other Incidental Operations" of an Insurance Company

1. Development Leading to the Amendment

As the Insurance Business Law remained ambiguous as to the legality of offerings by an insurance company of services such as business matching, such services were not exactly an area in which insurance companies were actively engaged in the past, given the regulation prohibiting non-insurance operations.

Having recently received a deregulation request from the insurance industry, calling for the clarification that such services fall within what are called, "other incidental operations" under the Insurance Business Law, and may accordingly be offered by an insurance company as a business, the FSA examined the issue, taking into consideration the fact, for instance, that the treatment of such services has already been clarified in relation to banks. As a result of its examination, the FSA decided to clarify, in the Guideline for Supervision, that consulting services, business matching services and administrative work outsourcing services fall under "other incidental operations."

2. Contents of the Amendment

It has now been clarified that consulting services, business matching services and administrative work outsourcing services, all of which an insurance company has traditionally allowed to implement in conjunction with its conventional operations, fall under "other incidental operations," even when the insurance company conducts them separately from its conventional operations, from the perspectives of better serving client companies and making effective use of expertise, etc. in its conventional operations.

At the same time, the points to note and other matters in the implementation of "other incidental operations" have also been clarified, for example: whether a system has been set in place that is designed to ensure strict compliance with laws and regulations, etc., such as the prevention of acts that may be deemed to constitute an abuse of the dominant position and may be problematic in light of the Anti-Monopoly Law.

Financial Statements of Major Banks for FY 2005

Following the announcements by the major banks of their financial results for FY 2005, the Financial Services Agency (FSA) calculated the figures, etc. announced by the respective banks, and then released them on May 23, 2006.

The following sections describe an overview of the financial results of the major banks for FY 2005.

1. Financial Results of the Major Banks

Their net profits totaled 3 trillion yen, marking a record high with a significant year-on-year increase of 2.4 trillion yen. While their operating profits from core business took a steady course, this positive growth in net profits was presumably helped to a great extent by such special factors such as that some of the losses that the banks had incurred by their allowances for bad debts to dispose of non-performing loans in past years have now been recovered as profits, thanks to the business turnaround of borrower companies against the backdrop of an upturning economic environment.

Their capital adequacy ratio was 12.2%, showing a good improvement, with an increase of 0.6 percentage points year-on-year.

2. Status of the Major Banks' Non-Performing Loan Ratio

The total balance of their non-performing loans (loans disclosed under the Financial Reconstruction Law) amounted to 4.6 trillion yen, down by 37.5% year-on-year. Those in the "in danger of bankruptcy" category decreased by 49.1% from the previous year to 2.4 trillion yen, while those in the "special attention" category decreased by 17.8% from the previous year to 2.3 trillion yen.

Their non-performing loan ratio dropped to 1.8%, a 1.1% decrease from the 2.9% recorded for the fiscal term ended March 2005. This presumably reflects progress in the major banks' continuing efforts to restore soundness in their asset holdings after they achieved the goal of halving their non-performing loan ratio in the financial results for the fiscal term ended March 2005.

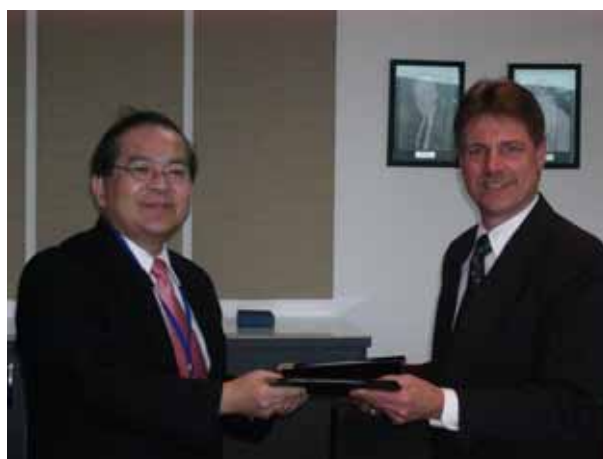
(Note) A goal stated in the "Program for Financial Revival," which was developed and released in October 2002, "to normalize the NPLs problems in FY 2004 by reducing the major banks' NPL ratio to about half of the figure for the fiscal term ended March 2002 (8.4%)."

FSA Signs MOUs with Financial Intelligence Units of Australia, Thailand, Hong Kong and Canada for Information Exchange on Suspicious Transactions

1. On May 9, 2006, the Financial Services Agency (FSA) signed an official document with the financial intelligence unit (hereinafter referred to as "FIU" ^(Note 1)) of Australia for the purpose of developing a framework for information exchange. Later, the FSA also signed MOUs for information exchange frameworks with the FIUs of Thailand and Hong Kong on May 15, as well as another MOU for an information exchange framework with the FIU of Canada on June 12.

The FIU of Australia is a governmental agency that has its headquarters in Sydney, and branches in Melbourne, Adelaide, Brisbane and Perth, and is staffed with more than 100 employees. The MOU for an information exchange framework with Australia's FIU was signed in Sydney by and between the respective heads of the FIUs of Japan and Australia, Nobuyoshi Chihara, Deputy Commissioner for International Affairs, and Mr. Neil Jensen (see photo).

2. Under the Organized Crime Punishment Law ^(Note 2), financial institutions including banks and securities companies are required to report to the Japan Financial Intelligence Office of the FSA (hereinafter referred to as the "JAFIO"), which is Japan's FIU, on any transaction suspected of involving criminal proceeds or terrorist financing, etc. The information exchange frameworks that have just been established provide for information exchange procedures, etc. to apply between the JAFIO and the FIUs of Australia, Thailand, Hong Kong and Canada regarding such transactions suspected of involving criminal proceeds or terrorist financing. With this setup, the FSA is now able to promptly exchange information with these signatory countries and regions on transactions suspected of involving criminal proceeds or terrorist financing.



Mr. Neil Jensen, the head of Australia's FIU, and Mr. Nobuyoshi Chihara, the head of the JAFIO, exchange signed documents

3. Given the increasing internationalization of crimes and terrorist attacks, it has now become an important task for the enforcement and intelligence authorities of countries to share information, and crack down on them in a concerted fashion and, accordingly, there is an international consensus on the promotion of information exchange between FIUs. This situation has led to actions by the FIUs of countries all around the world, of which Japan is one, for establishing networks for information exchange. Thus far, Japan has set up an information exchange framework with nine countries and regions including those described above (refer to the table below). In order to promptly establish information exchange frameworks with other major countries as well, consultations are currently under way.

| Country | Date Signed | Name of FIU |
|-----------------------|---------------|--|
| United Kingdom | June 2001 | SOCA (Financial Intelligence Unit of the Serious Organised Crime Agency) (Note) This was formerly the NCIS (Economic Crime Unit of the National Criminal Intelligence Service) before the organizational change in April of this year and at the time of the signing of the MOU. |
| Kingdom of Belgium | June 2003 | CTIF-CFI (Financial Intelligence Processing Unit) |
| Republic of Korea | December 2003 | KoFIU (Korea Financial Intelligence Unit) |
| Republic of Singapore | July 2004 | STRO (The Suspicious Transaction Reporting Office) |

| | | |
|---|---------------|---|
| United States of America | December 2004 | FinCEN (Financial Crimes Enforcement Network) |
| Commonwealth of Australia | May 2006 | AUSTRAC (The Australian Transaction Reports and Analysis Centre) |
| Kingdom of Thailand | May 2006 | AMLO (The Anti-Money Laundering Office) |
| Hong Kong Special Administrative Region | May 2006 | JFIU (The Joint Financial Intelligence Unit) |
| Canada | June 2006 | FINTRAC (The Financial Transactions and Reports Analysis Centre) |

4. Australia, Thailand and Hong Kong are countries and regions that are closely related to Japan geographically and economically, and Sydney in Australia, Bangkok in Thailand, and Hong Kong are all financial centers of the Asia and Pacific region. Likewise, Canada is also a country that has active relations with Japan in the economic and financial fields. As it is important to promptly exchange information with these countries and regions regarding transactions suspected of involving criminal proceeds or terrorist financing from the viewpoint of, among other things, fighting against crime and terrorist financing in Japan, the FSA believes that the information exchange frameworks that we now have are of great significance.

Note 1: The acronym for "Financial Intelligence Unit," which refers to a governmental body that receives and analyzes, and supplies to investigative authorities etc., all information on suspicious transactions related to money laundering and terrorist financing. Japan's FIU is the Japan Financial Intelligence Office of the Financial Services Agency.

Note 2: The Law Concerning Punishment of Organized Crime, Control of Criminal Proceeds and Other Matters.

【Explanation of Laws and Regulations】

An Overview of the Amendments to Government and Ministerial Ordinances for Establishing Bank Agency Business System and other deregulation measures

I. Introduction

The Law for Partial Amendments to the Banking Law, etc. (2005 Law No.106; hereinafter referred to as the "Amended Law") was promulgated on November 2, 2005 and came into force on April 1, 2006. With the aim of improving convenience for depositors, etc. and the efficiency of bank management, it was designed to review the bank agent system and establish a bank agency business system, etc., as well as to take measures intended to relax the business regulations, etc. and ensure the proper business operations of banks, etc.

The basic approach to a bank agency business system is to secure and improve users' access to financial services and allow financial institutions to enter into a bank agent business in more diverse ways so that they can efficiently utilize various sales channels. In accordance with this approach, the previous requirement of a capital relationship with a bank has been removed for general businesses wishing to enter a bank agent business, and bank agents are now allowed to operate a non-bank agent business as well. On the other hand, a business permit is required to enter a bank agent business so that it should be executed in a proper and steady fashion, while approval is required on an individual basis for a bank agent to operate a non-bank agent business. Further, a series of measures should also be taken to ensure user protection and the soundness of banks.

Having already given an overview of the Amended Law in "Amendments to the Banking Law, etc.," which appeared in the "Explanation of Laws and Regulations" section of FSA Newsletter December 2005, we will, this time, describe an overview of the major amendments to government and ministerial ordinances, etc. that were made as a result of the Law taking effect.

II. Bank agency business system

1. Criteria for a Bank Agent Business Permit

To obtain a bank agent business permit, an application must be examined to see if the following criteria are met (Article 52-38, paragraph 1 of the Banking Law):

- ✓ an applicant should be a party that has a proprietary foundation deemed necessary to operate a bank agent business;
- ✓ an applicant should be a party that, in the light of its/his personnel structure etc., has a capacity necessary to execute a bank agent business in a correct, fair and efficient fashion and enjoys sufficient trust from society; and
- ✓ an applicant should be a party who is not deemed, by operating another business, to potentially harm the proper and steady operation of its/his bank agent business.

In line with this provision, a regulation amendment has been made so that the following matters should be noted in examining an application for the said permit:

(1) Proprietary foundation (Article 52-38, paragraph 1, item 1 of the Banking Law)

The Financial Services Agency (FSA) believes that as effects of an act that a bank agent performs belong to the affiliate bank (the bank that authorizes the agent to act for it) and the agent itself therefore never has a deposit liability etc., it is not necessary to require a proprietary foundation of a level as high as would be required in the case of a bank; nevertheless, from a viewpoint of ensuring the appropriate business operation, including the prevention of any mispending or misuse of funds, etc. provided by customers in relation to a bank agent business, and of ensuring stable and continual service offerings, a requirement for a bare minimum proprietary foundation has been established.

Specific criteria for proprietary foundation were determined, partly by reference to cases under other laws and regulations, as: an applicant should have 5 million yen or greater in the case of a corporation, or 3 million yen or greater in the case of an individual person, in net assets (assets minus liabilities) (Article 34-36 of the Enforcement Regulation of the Banking Law), and should be expected to be capable of maintaining the level of the said proprietary foundation throughout three business years after the opening of its/his bank agent business (Article 34-37, item 2 of the

Enforcement Regulation of the Banking Law).

- (2) **An applicant should be a party that, in the light of its/his personnel structure, etc., has a capacity necessary to execute a bank agent business in a correct, fair and efficient fashion and enjoys sufficient trust from society (Article 52-38, paragraph 1, item 2 of the Banking Law)**

✓ **Business execution capacity**

A regulation amendment has been made so that, in order to determine whether or not an applicant has the capacity necessary to execute a bank agent business in a correct, fair and efficient fashion

- the status of securing personnel with a capacity relevant to a bank agent business and
- the business operation structure for a bank agent business should be examined to see if they meet the following requirements:

The status of securing personnel with a capacity relevant to a bank agent business

(Article 34-37, item 3, (i) and (ro) of the Enforcement Regulation of the Banking Law)

- (a) An applicant should have a person or persons with sufficient knowledge relevant to the operation of a bank agent business assigned as manager or managers responsible for statutory compliance in each place of business that operates a bank agent business, and also have such a person or persons assigned as supervising manager or supervising managers of the division supervising a bank agent business.

If a bank agent that has multiple places of business or offices (hereinafter referred to singularly as "place of business etc.") performs a bank agent business solely in its principal place of business, etc. (main office), it suffices to assign such manager or managers in the said place of business, etc.; if, however, it performs a bank agent business solely in an auxiliary place of business, etc. (branch), it needs to assign such a manager or managers in the said auxiliary place of business, etc. and such supervising manager or supervising managers who directs or direct the said auxiliary place of business, etc. in the division supervising a bank agent business in its principal place of business, etc. (main office). If a bank agent has only one place of business etc., the assignment of supervising manager is not required.

- (b) If an applicant intends to offer a checking account service or loan service, at least one of the managers assigned in the respective places of business, etc. that operates a bank agent business and at least one of the supervising managers assigned in the division supervising a bank agent business should be a person with the following work experience:

- (i) In the case of offering a checking account service:

In the case of offering a checking account service (only where no loan service is offered), the applicant should have assigned a person who has engaged in a checking account service or loan service for a total of three years or longer or who is deemed to have a capacity at least equivalent thereto.

In this case, in the FSA's view, the FSA requirement will be considered to be met if his work experience is an engagement in a checking account service alone for three years, as well as either an engagement in a business loan service for three years or an engagement in the combination of the two for three years.

- (ii) In the case of offering a loan service

In the case of offering a loan service, the applicant should have assigned a person who has engaged in a loan service for three years or longer or who is deemed to have a capacity at least equivalent thereto.

If, however, the applicant intends, in its loan service offerings, to handle only standard loan agreements regarding deposit or government bond secured loans, or funds for non-business purposes and not to be involved in any checks regarding agreement signing, the Regulation allows it to suffice if he has sufficient knowledge of a loan service and does not require work experience in a loan service; if the applicant intends to offer standardized loan products and not to be involved in any checks regarding agreement signing, the Regulation likewise only requires the assignment of a person who has engaged in a loan service for one year or longer or who is deemed to have a capacity at least equivalent thereto.

Business operation structure (Article 34-37, item 3, (ha), (ni) and (ho) of the Regulation)

A regulation amendment was made so that an applicant should be examined to see if the following requirements are met on the subject of business operation structure:

- (a) If an applicant intends to function as an agent in a deposit or money order service, a structure for administrative work processing, including online processing, that is needed according to the content of a bank agent business should have been set in place.

This does not, however, preclude bank agents from processing transactions by means other than online or real-time processing if, in addition to cases that involve no account transactions, it is deemed that a structure has been in place that will not entail any issues, such as one requiring prior consent from a customer.

- (b) An applicant is deemed to have ensured the business operation in compliance with laws and regulations, etc. by, for instance, establishing internal rules, etc. and having its business operation checked according to such rules, etc.
- (c) An applicant is not deemed to potentially harm the correct, fair and efficient execution of a bank agent business due to its/his personnel or capital structure or organization, etc.

This addresses the possibility that if, for instance, an applicant itself will purportedly perform a bank agent business as its sole business but its parent or subsidiary corporation, etc. operates some other business, such a setup might give rise to a negative occurrence such as an act constituting a conflict of interest, depending on, for example, the status of executives serving in multiple positions or the business operation structure.

✓ **Trust from society (Article 34-37, items 4 and 5 of the Regulation)**

It has now been clarified that an applicant (if an applicant is a corporation, including its executives) does not enjoy trust from society if any of the following descriptions applies to it/him; no permit will be granted to an organized crime group member, etc., as any such person is naturally deemed not to enjoy trust from society:

- an adult ward or a person under curatorship
- a bankrupt person who has not had its/his rights restored
- a person who had received a prison sentence or a severer punishment which he either finished serving or was discharged from on a date that still falls within the last five years
- a party who had violated the Banking Law, etc., the Law Concerning the Regulation of Receiving of Capital Subscription or the Moneylending Control Law and had received a sentence of fine which the party either finished serving or was discharged from on a date that still falls within the last five years
- a party who was subjected to the revocation, etc. of its license for a banking business, etc. or permit for a bank agent business, etc. of which date still falls within the last five years, or
- a person who has been ordered to resign from an executive position of a bank or bank agent, etc. in accordance with the Banking Law.

(3) Non-bank agent business operation criteria (Article 52-38, paragraph 1, item 3 of the Banking Law)

A regulation amendment has been made so that none of the following conditions should be met to fulfill the requirement of being a party who is not deemed, by operating a non-bank agent business, to potentially harm the proper and steady operation of its/his bank agent business (Article 34-37, item 6 of the Regulation).

No specific restriction has been established in the Regulation against offering deposit and money order services while operating a non-bank agent business, in consideration that there is only a low likelihood that a negative occurrence, such as an act constituting a conflict of interest, might result from the non-bank agent business operation.

- The content of the non-bank agent business runs afoul of a law or regulation.
- The content of the non-bank agent business might damage trust from society in the applicant as a bank agent.

This might apply to cases where, for instance, a bank agent operates a non-bank agent business such as a business that might disturb good morals or public peace and quiet, a business that is contrary to public order and decency, and a business of an antisocial nature.

- The nature of lending activities does not fit the following descriptions:
 - (a) in operating as an agent or broker in deposit or government bond secured loans or consumer loans, or lending for a business purpose, the applicant intends to offer standardized loan products (up to 10 million yen) and not to be involved in any checks regarding the signing of agreements thereon; and
 - (b) in addition to operating as an agent or broker in deposit or government bond secured loans, the applicant, in the case of an applicant whose main business is in credit facilities, such as a moneylending business, credit business and loan guarantee etc., intends to offer standardized consumer loan products and not to be involved in any checks regarding the signing of agreements thereon (only in the case of loans etc. secured by a property etc. purchased with the funds so loaned).
- It is deemed that an act lacking in customer protection might be committed by the abuse of dominant bargaining position held in the non-bank agent business.

2. Criteria for approval for non-bank agent business operation (Article 52-42, paragraph 1 of the Banking Law)

A regulation amendment has been made so that an application for approval for non-bank agent business operation should be examined according to the non-bank agent business operation criteria described in Section 1(3) above (Article 34-41, paragraph 3 of the Enforcement Regulation of the Banking Law).

In the FSA's view, approval for non-bank agent business operation should be required if a bank agent intends to newly operate a business that belongs to a group different from the group to which its current non-bank agent business belongs in the two-figure category set out in the Japan Standard Industrial Classification (or in the four-digit category if the business belongs to Division K: Finance and Insurance).

An act of operating as an agent or broker in an incidental operation operated by an affiliate bank that is performed on behalf of the said affiliate bank counts as one "operation incidental to a bank agent business" (Article 52-42, paragraph 1 of the Banking Law) that a bank agent may operate without obtaining approval for non-bank agent business operation, but such an act will be treated as a non-bank agent business for which approval for non-bank agent business operation is required if any restriction under another law or regulation, such as a permit or license requirement, applies to the establishment of such an operation.

3. Segregated Account Management (Article 52-43 of the Banking Law)

Segregated account management is a measure legislated to prohibit a bank agent, in operating a non-bank agent business, from mispending or misusing funds, etc. regarding its bank agent business and to ensure steady receipts and payments of funds between a bank agent and an affiliate bank. More specifically, a regulation amendment has been made so that accounts should be managed in a state in which funds and other assets provided by customers in relation to a bank-representing act can be recognized immediately as to whether they are the bank agency's own assets or are attributed to any, and which, affiliate bank by, for example, maintaining them in separate locations (Article 34-42 of the Enforcement Regulation of the Banking Law).

4. Explanation to Customers, etc.

(1) Clear statement to customers (Article 52-44, paragraph 1 of the Banking Law)

In performing a bank-representing act (which refers to any act specified in the respective items of Article 2, paragraph 14 of the Banking Law), a bank agent is now required to clearly state the following matters to a customer, in addition to the trade name of the affiliate bank and the distinction between acting as an agent and acting as a broker (Article 34-43 of the Enforcement Regulation of the Banking Law):

- ✓ In accepting funds or any other asset from the customer in relation to a bank-representing act, the fact that the bank agent is authorized by the affiliate bank to accept such funds
- ✓ Where there are two or more affiliate banks:
 - if applicable, the fact that the service fee payable by the customer for the agreement regarding a bank-representing act that the customer intends to enter into and the service fee payable to

- another affiliate bank for an agreement similar to the said agreement are different;
- if applicable, the fact that the bank agent acts, on behalf of another affiliate bank, as an agent or broker in the signing of an agreement that is similar to the agreement regarding a bank-representing act that the customer intends to enter into; and
- the trade name or appellation of the affiliate bank which will be the party to the customer's transaction.

In addition to the above, a regulation has been amended so as to require a bank agent to supply information to be referred to by a customer, including the content of the similar agreement that is similar to the agreement regarding a bank-representing act mentioned above, upon request of the customer (Article 34-46 of the Enforcement Regulation of the Banking Law).

(2) Supply of information to depositors etc. (Article 52-44, paragraph 2 of the Banking Law)

As with the obligation of a bank to supply information to depositors, etc., a bank agent is now required to clearly state matters including the interest rates, service fees and coverage under the Deposit Insurance Law of major deposits, term deposits or premiums (hereinafter referred to as "deposits, etc."), and give an explanation of product information, etc. (Article 34-44 of the Enforcement Regulation of the Banking Law).

(3) Measures intended to ensure the sound and appropriate operation (Article 52-44, paragraph 3 of the Banking Law)

✓ **Prevention of confusion with deposits, etc.**

In engaging in sales, etc. of a financial product other than deposits, etc., a bank agent is now required to give an explanation of matters by providing written information, etc. for the purpose of preventing confusion with deposits, etc., including (A) the fact that it is not a deposit or term deposit, etc., (B) the fact that it is not covered by the deposit insurance, (C) the fact that the return of the principal is not guaranteed, and (D) who the party to the agreement is. Another requirement has also been set so that a bank agent must post in a fashion easily visible to customers at the teller counter of a place of business, etc. that performs bank-representing acts, the fact that it is performing bank-representing acts (Article 34-45 of the Enforcement Regulation of the Banking Law).

✓ **Proper handling of customer information**

As is the case for a bank, a bank agent is now required to take measures, in addition to the individual customer data safety management measures, etc. (Article 34-47 of the Enforcement Regulation of the Banking Law), that are intended to ensure that: (A) the bank agent will not use for any purposes other than a bank agent business any undisclosed financial information regarding a customer that the bank agent handles in the bank agent business in the absence of prior consent from the said customer in writing, etc.; and (B) the bank agent will not use in any operation concerning a bank agent business any undisclosed information regarding a customer that the bank agent handles in a non-bank agent business in the absence of prior consent from the said customer in writing, etc., or will not supply the same to an affiliate bank in the absence of prior consent from the said customer in writing, etc. (Article 34-48 of the Enforcement Regulation of the Banking Law).

✓ **Development of internal rules, etc.**

A regulation amendment has been made so as to require a bank agent to set out internal rules, etc. for the explanation to a customer of material matters taking into consideration the knowledge, experience and asset status of the customer or any other measures intended to ensure the sound and appropriate business operation (including measures intended to explain the details of, and risks involved in, a product or transaction by providing written information or any other appropriate method and intended to prevent crime) according to the content and method of the bank agent business that it operates, and also to develop training for employees or any other structure sufficient for its business to be operated in accordance with the said internal rules, etc. (Article 34-49 of the Enforcement Regulation of the Banking Law).

(4) Prohibited acts in relation to a bank agent business (Article 52-45 of the Banking Law)

The following acts in relation to a bank agent business are now specified as prohibited acts that lack in the protection of customers and might harm the sound and appropriate execution of the operation of an affiliate bank:

done to a customer

- An act of giving false information
- An act of providing a categorical judgment about an uncertain matter or giving information that might mislead a customer to believe an uncertain matter to be certain
- Tie-in financing
- Financing by reason of a personal connection
- An act of omitting to inform a customer of, or giving potentially misleading information to a customer on, a material matter taking into consideration his knowledge, experience and asset status according to the content and method of the bank agent business that the bank agent operates
- Abuse of dominant bargaining position as a bank agent or in the course of a non-bank agent business

done to an affiliate bank

- An act of omitting to inform an affiliate bank of, or giving false information to an affiliate bank on, a material matter that would affect its judgment on the signing of an agreement regarding a bank-representing act (Article 34-53 of the Enforcement Regulation of the Banking Law)

(5) Holidays and hours of operation of bank agents (Article 52-46 of the Banking Law)

As is the case for places of business of a bank, holidays and hours of operation of places of business, etc. of a bank agent that acts as an agent in a checking account service are, from a perspective of ensuring the stability in the settlement system, now subject to the restriction on statutory holidays (Saturdays, Sundays and public holidays, and from December 31 to January 3) and hours of operation (from 9:00 a.m. to 3:00 p.m.) under the Banking Law.

While a place of business, etc. that does not offer a checking account service is not subject to the application of the said restriction and is, therefore, not precluded from operating on statutory holidays and outside of statutory hours of operation, a regulation amendment has been made so as to require a bank agent to post its holidays and hours of operation in a place easily visible to the public (Article 16-7 of the Enforcement Ordinance of the Banking Law; Articles 34-54 and 34-55 of the Enforcement Regulation of the Banking Law).

(6) Books and records regarding a bank agent business (Article 52-49 of the Banking Law)

A bank agent is now subject to the obligation to prepare and retain general ledgers (for five years) for its principal place of business, etc., bank representation ledgers (for ten years) for its auxiliary places of business, etc. and, if no representing act is involved, documents stating the content of brokering acts, all for the purpose of making processing and calculations of a bank agent business clear (Article 34-58 of the Enforcement Regulation of the Banking Law).

(7) Reports on a bank agent business (Article 52-50 of the Banking Law)

A bank agent is now required to submit a report on its bank agent business within three months after the end of its business year, together with asset check records and a document stating the cash flow status, or with the balance sheet and profit-and-loss statement (Article 34-59 of the Enforcement Regulation of the Banking Law).

(8) Access to explanatory documents etc. of an affiliate bank (Article 52-21 of the Banking Law)

From a perspective of information disclosure to customers, a regulation amendment has been made so as to require a bank agent to have and make accessible to the public to read in places of business, etc. that operate a bank agent business a so-called disclosure bulletin that an affiliate bank or the bank holding company that is the parent of the affiliate bank has prepared and made accessible to the public to read under provisions of the Banking Law, within four months after the end of each business year of the affiliate bank or the bank holding company that is the parent of the said affiliate bank (Article 34-60 of the Enforcement Regulation of the Banking Law).

5. Guidance, etc. by an affiliate bank to a bank agent

An affiliate bank is subject to the obligation to ensure the sound and appropriate operation of a bank agent business, such as business guidance to a bank agent (Article 52-58 of the Banking Law); more specifically, it is now required to take the following measures (Article 34-63 of the Enforcement Regulation of the Banking Law):

- Measures including business guidance and offering of training designed to have a bank agent comply with laws and regulations, etc. concerning a bank agent business
- Measures for checks and improvement, etc. of the status of the bank agent business implementation
- Measures for amendment or termination of the authorization agreement or reauthorization agreement on a bank agent business
- Measures for the affiliate bank to conduct necessary checks of a bank agent's handling of moneylending activities, etc.
- Measures to ensure the appropriate management of customer information, including preventing a bank agent from fraudulently acquiring customer information
- Measures to have a bank agent post on the storefront the trade name of the affiliate bank, letters signifying that the bank agent is a bank agent, and the name of the bank agent
- Measures for crime prevention in places of business, etc. of a bank agent
- Measures for the event of closedown of a place of business, etc. that operates a bank agent business, designed not to bring about a significant impact on customers, including the smooth takeover to a place of business etc. of the affiliate bank
- Measures to deal with complaints from customers of a bank agent in an appropriate and prompt fashion

6. Exemption (Article 52-61 of the Banking Law)

A regulation amendment has been made so as to designate long-term credit banks, shinkin banks, federations of shinkin banks, credit cooperatives, federations of credit cooperatives, rokin banks, federations of rokin banks, agricultural cooperatives, federations of agricultural cooperatives, fisheries cooperatives, federations of fisheries cooperatives, marine product processing industry cooperatives, federations of marine product processing industry cooperatives and the Norinchukin Bank, as parties who may operate a bank agent business without a bank agent business permit, in addition to banks (Article 16-8 of the Enforcement Ordinance of the Banking Law).

7. Delegation of authority (Article 59 of the Banking Law)

A regulation amendment has been made so that, as a general rule, the authority regarding a bank agent business, including the authority concerning a bank agent business permit, should be delegated to the Director of the Local Finance (Branch) Bureau responsible for the geographical area in which the principal place of business, etc. of a bank agent is located (Article 17-4 of the Enforcement Ordinance of the Banking Law).

III. Other deregulations

An overview of other major deregulations implemented in the course of the latest government and ministerial ordinance reforms is as follows:

1. Holidays and hours of operation of a bank

(1) Holidays of a bank

A regulation amendment has been made so that a day that is not a statutory holiday may be designated as a holiday if approved on the grounds that doing so would not potentially interfere with the sound and appropriate business operation due to, in addition to special circumstances on the part of the site of the place of business of a bank, such circumstances as the unlikelihood that customers should be inconvenienced considerably by such a holiday by reason of the district category (residential, office, commercial or otherwise) or the clientele (mostly retail or business customers) of the place of business.

In the process of such approval, the following matters would be examined:

- There is no likelihood that the operation of a processing system for domestic exchange transactions using a telecommunication line should be interfered with
- Customers should not be inconvenienced considerably
- The place of business does not offer a checking account service (Article 5 of the Enforcement Ordinance of the Banking Law; Article 15 of the Enforcement Regulation of the Banking Law).

(2) Hours of operation of a bank

A regulation amendment has been made so that the statutory hours of operation (9:00 a.m. to 3:00

p.m.) may be changed in the case of a place of business of a bank that does not offer a checking account service where, due to circumstances similar to those under Section (1) above, closing within the statutory hours of operation would not inconvenience customers. Such a change may be implemented upon notification to the Prime Minister (Article 16 and Article 35, paragraph 1, item 7 of the Enforcement Regulation of the Banking Law).

2. Contracting-out of cash receipt and payment administration regarding a lending operation

In addition to the contracting-out of cash receipt and payment administration regarding a deposit operation using ATMs of a so-called external business (a securities company or non-bank financial institution, etc.), the ban on the contracting-out of cash receipt and payment administration regarding a lending operation has now been lifted. A restriction has been imposed in the case of cash receipt and payment administration regarding a lending operation through the use of ATMs of a party whose main business is in credit facilities: such administration must be limited for deposit or government bond secured loans only (Article 13-6-4 of the Enforcement Regulation of the Banking Law; 2006 Financial Services Agency Notice (Re: Specifying contractors, etc. in the case of third-party contract on the receipt and payment administration for deposits, etc. under the provisions of Article 13-6-4 of the Enforcement Regulation of the Banking Law)).

3. Voting right ownership restriction for a bank etc.

A regulation amendment has been made so that, with respect to the restriction for a bank or a subsidiary of a bank against owning a certain number of voting rights of a domestic company (Article 16-3 of the Banking Law), voting right ownership beyond the limit is now allowed if approval is obtained in advance, owing to the fact that there are reasonable grounds, such as conversion of non-voting shares issued by a customer company of a bank or a subsidiary of a bank, which were acquired on the basis of a reasonable management improvement plan set by and between the bank or the subsidiary of a bank and the said company, to voting shares for the purpose of disposing of them within a suitable period of time as a result of the improvement of the said company's management (Article 17-6, paragraph 1, item 11 of the Enforcement Regulation of the Banking Law).

Note: Measures similar to those described in Sections 1 to 3 above have also been taken for long-term credit banks, shinkin banks, rokin banks and credit cooperatives.

4. Restriction against lending to non-members of a shinkin bank etc.

While a cooperative-type financial institution, such as a shinkin bank, is not allowed, in the light of its particular organizational characteristic, to lend to non-members an amount exceeding 20% of the aggregate amount of loans, etc. made by the said shinkin bank, etc., a regulation amendment has been made so that, within the scope of the said restriction:

- Funds may be lent to and bills may be discounted for independent administrative institutions and local independent administrative institutions; and
- Funds may be lent to selected project operators prescribed in Article 2, paragraph 5 of the Law Concerning Promotion of Development, etc. of Public Facilities, etc. Using Private Funds, etc. (1999 Law No. 117) in relation to selected projects prescribed in paragraph 4 of the same Article (Article 8 etc. of the Enforcement Ordinance of the Shinkin Bank Law).

Note: Similar measures have also been taken for rokin banks and credit cooperatives.

【Hot Picks from the Financial World】

* We deliver the hottest information of the times in this section, selected from among 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 Financial Services Agency's website.

Q. The financial results of all the life insurance companies became available yesterday, and their revenues increased for the first time in eight years according to the nine major companies. Some companies even disclosed their three main sources of income to the public. What is your opinion on this?

A. The economic climate has finally improved for life insurance companies as well, and their core life insurance businesses seem to have started to recover gradually. It is a delightful development. However, a closer observation reveals that the negative spread still remains, albeit a small one. Life insurance companies would become truly sound if this negative spread disappears. I solemnly hope that the companies make an effort.

(from [the press conference following a cabinet meeting on Tuesday, May 30, 2006](#))

Q. the bill for the Financial Instruments and Exchange Law submitted at the current Diet session incorporates regulations on funds. Please describe the significance of the Law once again.

A. One aspect is that the Financial Services Agency (FSA) needs to know what kind of funds are out there, and where they are. However, not all funds need to be registered or regulated, such as funds freely managed by a small group of friends. Of course, they must act in compliance with other laws and regulations. With that said, the spirit of the new Law is that funds in the broader sense—a typical example being funds which seek the participation of outsiders—must properly clarify their own existence and inform members of necessary matters.

(from [the press conference following a cabinet meeting on Friday, June 2, 2006](#))

Q. The representative of Murakami Fund was arrested yesterday. Please describe what the challenges will be after the enactment of the Financial Instruments and Exchange Law, such as enhancing the surveillance of the securities market.

A. Firstly, I believe the Securities and Exchange Surveillance Commission (SESC) fully performed its function again in this incident. Although their work is low-profile, the series of actions taken by the Tokyo District Public Prosecutors Office were supported by SESC in all aspects of the interpretation of laws, collection of materials and so forth. While SESC does not by nature come to the forefront in criminal cases, in my opinion it has fully accomplished the mission it was given. The bill for the Financial Instruments and Exchange Law, which is currently in the final stages of deliberation at the House of Councilors, provides for certain funds. It is the product of hard work by the Financial Services Agency (FSA) based on two ideas, namely, that investors must be protected by such means as disclosure of information and that the Japanese economy should be stimulated through free economic activities. At the present stage, I cannot think of any provisions that should be added. I therefore think it is our best piece of work at this point, although after the Financial Instruments and Exchange Law is approved at the Diet, there might be various matters that need to be considered in the course of its implementation.

(from [the press conference following a cabinet meeting on Tuesday, June 6, 2006](#))

Q. what are your thoughts on enhancements to staff at the Securities and Exchange Surveillance Commission (SESC) and financial supervision and administration?

A. While acknowledging that outrageous staffing requests would not be met at times like this, I would like to make a request for enough staff needed to at least protect consumers and investors.
(from [the press conference following a cabinet meeting on Tuesday, June 13, 2006](#))