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ROUNDTABLE ON EXIT STRATEGIES

-- Note by the Delegation of Japan --

This note is submitted by the delegation of Japan to the Competition Committee FOR DISCUSSION at its forthcoming meeting to be held on 16 - 17 June 2010.

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Introduction

1. In this contribution paper, with regards to Japan's exit strategies, we would like to introduce (i) the capital injection of public funds into banks as a counter measure to the financial crisis, and (ii) government actions on corporate rehabilitation and industrial revitalisation.

1. Capital injection of public funds into banks as a counter measure to the financial crisis

1.1 *Progress of capital injection of public funds into banks¹*

1.1.1 *First injection of public funds based on the Financial Function Stabilisation Law*

2. At the end of the 1990s, Japan was confronted with a major financial crisis, the precursors to which were the collapses of Yamaichi Securities and Hokkaido Takushoku Bank in November 1997. In the wake of the crisis, the Law concerning Emergency Measures for Stabilising Financial Functions (Financial Function Stabilisation Law) was put into effect, and a system for preventive injections of public funds was introduced for the first time.

3. The capital injection of public funds was then capped at 13 trillion yen. In fact, public funds totalling 1,815.6 billion yen were injected into 21 major banks, including the Long-Term Credit Bank of Japan and the Nippon Credit Bank, which were facing management crises in March 1998.

4. It is worth mentioning that the "capital injection of public funds" was instituted by the Deposit Insurance Corporation, a government-authorised corporation, established under the Deposit Insurance Law to stabilise the financial system. The Deposit Insurance Corporation [almost wholly (about 95%) government-funded] injected the public funds by purchasing stocks, etc., in the banks in question through the Resolution and Collection Bank (reorganised into the Resolution and Collection Corporation in 1998), which had 100% voting rights. (The injection of public funds discussed in section B below was made possible through the same mechanism.)

1.1.2 *Second injection of public funds based on the Early Strengthening Law*

5. Despite the capital injection made in accordance with the Financial Function Stabilisation Law, the Long-Term Credit Bank of Japan and the Nippon Credit Bank failed to resolve their management crises. Consequently, the government enacted in October 1998 the Law concerning Emergency Measures for the Revitalisation of the Functions of the Financial System (Financial Revitalisation Law) and the Law concerning Emergency Measures for the Early Strengthening of the Functions of the Financial System (Early Strengthening Law).

¹ See National Diet Library Issue Brief 477 (Mar. 30, 2005).

6. The Financial Revitalisation Law created a system that would enable the government to buy nonperforming assets from sound financial institutions. The same law also provided the legal foundations for the government to temporarily nationalise the Long-Term Credit Bank of Japan and the Nippon Credit Bank.

7. The Early Strengthening Law, on the other hand, was designed to strengthen the scheme for preventive injections of public funds as a temporary measure. With the present law as its legal basis, 7.5 trillion yen in public funds were injected into 15 major banks in March 1999.

1.1.3 Creation of a permanent system out of temporary measures and the injection of public funds to Resona Bank

8. With the revision of the Deposit Insurance Law in May 2000, the temporary measure used for liquidation based on the Financial Revitalisation Law became permanent. As a way to respond to the financial crisis, moreover, the same law set forth provisions for capital injections (Article 102, Section 1), blanket government protection of bank deposits (Article 102, Section 2), and the establishment of the Special Crisis Management Bank (Article 102, Section 3).

9. In accordance with Article 102 of the Deposit Insurance Law, about 2 trillion yen worth of public money was injected into Resona Bank in 2003, one of Japan's largest banks. This time, it was the Deposit Insurance Corporation that carried out the injection through the acquisition of voting shares in the bank. Ultimately, the Corporation held about 70% of the bank's voting shares.

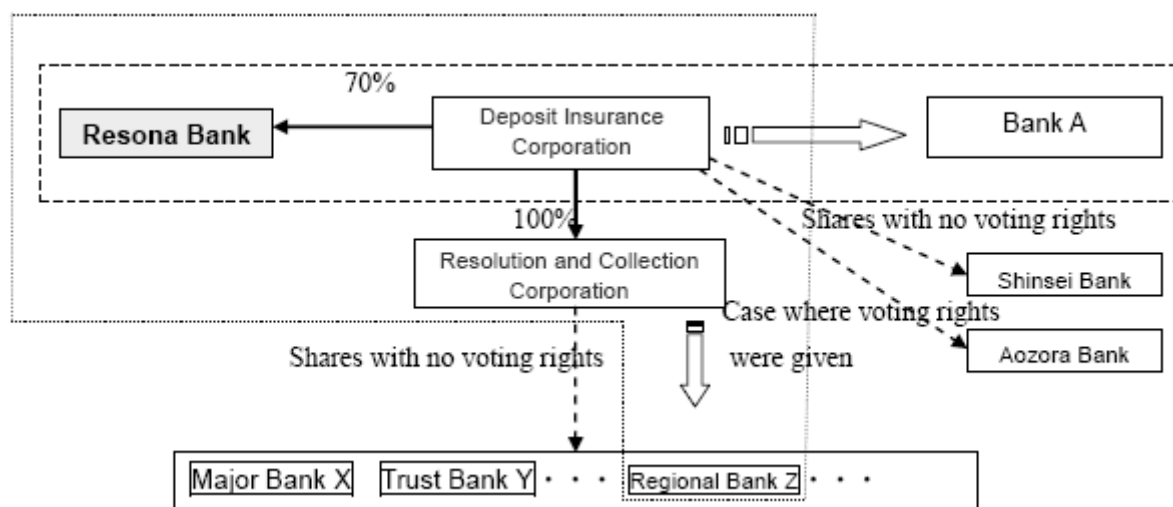
1.1.4 Acquisition of bank stocks by the Deposit Insurance Corporation (or Resolution and Collection Corporation)

10. As Resona Bank received a capital injection in 2003 based on Article 102 of the Deposit Insurance Law (as was described in section C above), the Deposit Insurance Corporation or the Resolution and Collection Corporation held stocks, etc., in numerous banks.

11. That is, with two injections of public funds (one in 1998 based on the Financial Function Stabilisation Law, and the other in 1999 based on the Early Strengthening Law; see sections A and B respectively for detail), the Deposit Insurance Corporation, through the Resolution and Collection Corporation, which owned 100% voting rights, had come to hold stocks, etc., in the then four mega banks and more than ten regional banks.

12. Moreover, based on the provisions for temporary nationalisation set out in the Financial Revitalisation Law (See Section B above), the stocks of both Shinsei Bank (formally, the Long-Term Credit Bank of Japan) and Aozora Bank (formally, the Nippon Credit Bank) were transferred in 1998 from the Resolution and Collection Corporation to the Deposit Insurance Corporation.

13. The bank stocks that the Deposit Insurance Corporation or the Resolution and Collection Corporation held were preferred stocks (with the exception of Resona shares), thus, in principle, these stocks did not come with voting rights. However, it was possible that voting rights would become attached to stocks of certain regional banks, as those banks would fail to offer dividend payments.



1.2 Subsequent conditions

14. Since then, the Deposit Insurance Corporation has not acquired voting stocks of banks other than Resona Bank based on the Deposit Insurance Law. Also, voting rights on non-voting stocks of banks, which the Deposit Insurance Corporation owned through the Resolution and Collection Corporation based on the Financial Function Stabilisation Law and/or the Early Strengthening Law, have not materialised.

15. Additionally, from 2004 to 2006, major banks were successful in paying back public money.

2. Corporate rehabilitation led by Industrial Revitalisation Corp. of Japan

16. The Industrial Revitalisation Corp. of Japan is a stock company established in April 2003 (and dissolved in March 2007) as a temporary measure under the Industrial Revitalisation Corporation Act. It was wholly funded by the Resolution and Collection Corporation, and its principal aim was to purchase nonperforming loans and help corporate borrowers rebuild their operations.

17. Details of its rehabilitation scheme are as follows:

- The Industrial Revitalisation Corp. of Japan selects companies with viable business prospects and greater potential for rehabilitation from among the nonperforming loans of main lenders.
- The Industrial Revitalisation Corp. of Japan buys the company's debt claims held by banks other than its main lender at a price deemed commensurate with the company's actual situation. In this way, the company's creditors are limited only to its main bank and the Industrial Revitalisation Corp. of Japan. Consequently, the company will find it easier to reconcile competing interests, compared to situations in which it is dealing with multiple lenders (lending banks).
- Main lenders are expected to give up a portion of their loan claims. Moreover, in co-operation with the Industrial Revitalisation Corp. of Japan, they draw up a blueprint for the rehabilitation of borrower companies. In this way, they can help the companies rebuild their operations.