



Regulations on Life Insurance

(Focusing on Consumer Protection and Support)

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Life Insurance Association of Japan

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1. Reform of Financial System

◎ Transition of financial system reform

○ Japan's Big Bang

“Financial system reform plan” designed by then Prime Minister Hashimoto. It was made public in the fall 1996 so Japan's financial market may strengthen as international financial market to match with NY or London by 2001.

Enforcement of various deregulation

Financial
liberalization

Financial
securitization

Financial
globalization

1. Reform of Financial System

◎ Transition of financial system reform

● Changes in the insurance industry

Diversification of/A variety of products
Diversification of sales channels

Widened customers' options enabled them to choose the product that meets each customer's needs easily than ever before.

Policyholders protection against failure of insurers.

Settlement of troubles caused by widened gap in knowledge between insurers and policyholders about complex and difficult products.

2. Insurance Business Law

◎ Purpose and significance of Insurance Business Law

- Protection of policyholders' interests, etc.
- To ensure the sound management of insurance companies and fairness of insurance solicitation.
- To contribute to the stability of national life and the sound development of national economy.



- Regulations on entry, operations, insurance solicitation of private-sector insurance business
- Regulations for organization and management of insurance companies, etc.
- The FSA supervises insurance business and insurers.
- ✂ Features as Insurance Supervisory Act and Corporation Law

2. Insurance Business Law

◎ Major contents of Insurance Business Law

Regulations concerning supervision

- (1) Definition of insurance business
- (2) Entry restriction on insurance business (2)-2 Entry restriction on foreign insurers
- (3) Organization and management to carry on insurance business
- (4) Scope of insurance business operation
- (5) Regulations on product development, policy provisions, tariff, etc.
- (6) Regulations on accounting, asset management, etc.
- (7) Other restrictions on business operation
- (8) Supervision
- (9) To maintain the soundness of operations
- (10) Countermeasures against the failure of insurance companies
- (11) Regulations for insurance solicitation

※ Currently, the Prime Minister entrusts the authority to supervise insurance business except license and rescission of license to FSA commissioner.

2. Insurance Business Law

- © Drastic revisions of Insurance Business Law (1995)
Enforcement (April 1996)

Backgrounds of drastic revisions

Changes in economy
and society
To cope with changes
in consumers' needs

Review of system
in line with financial
deregulation and
globalization

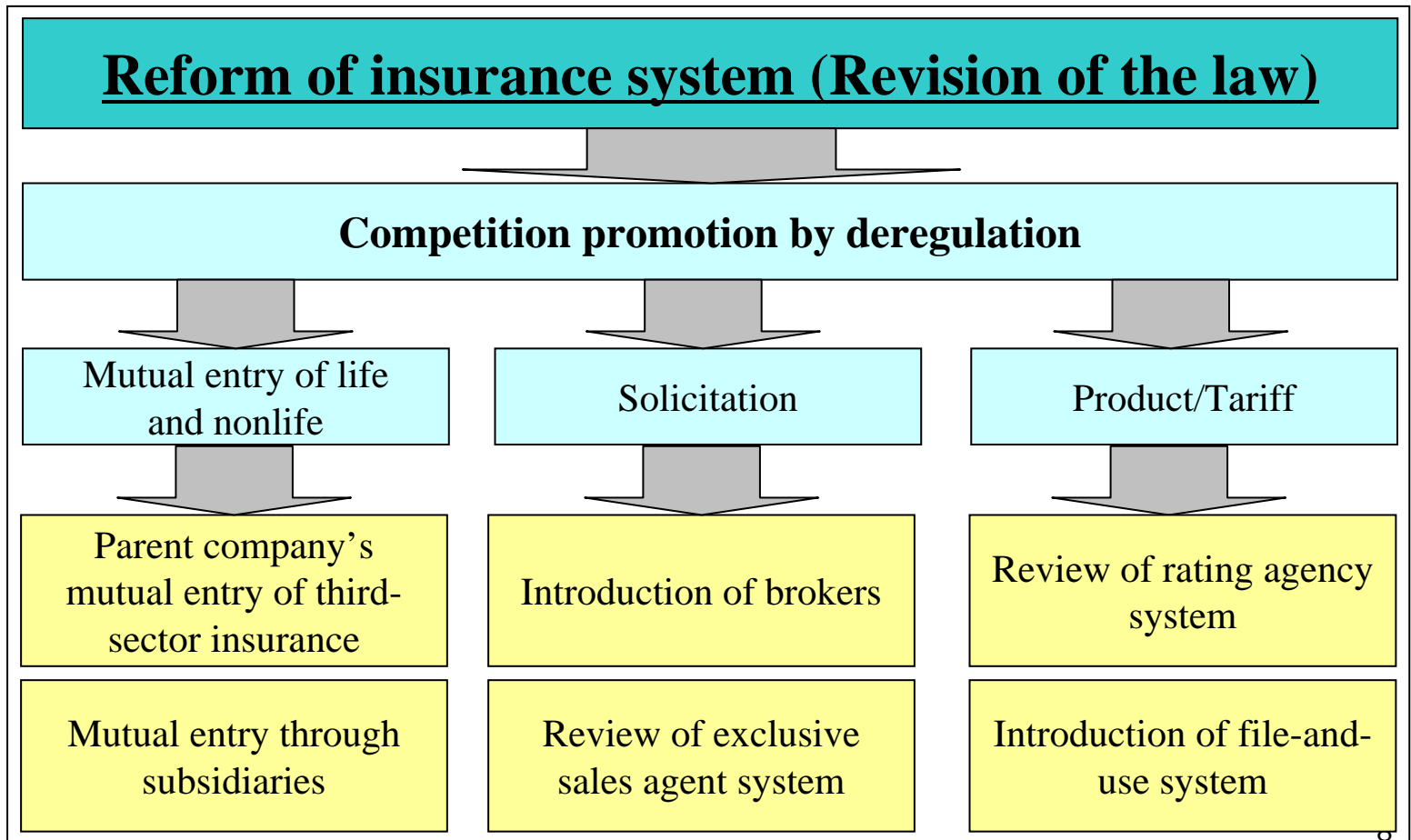
To cope with
international
harmonization

Consideration for public nature of insurance business

Reform of insurance system (Revision of the law)

2. Insurance Business Law

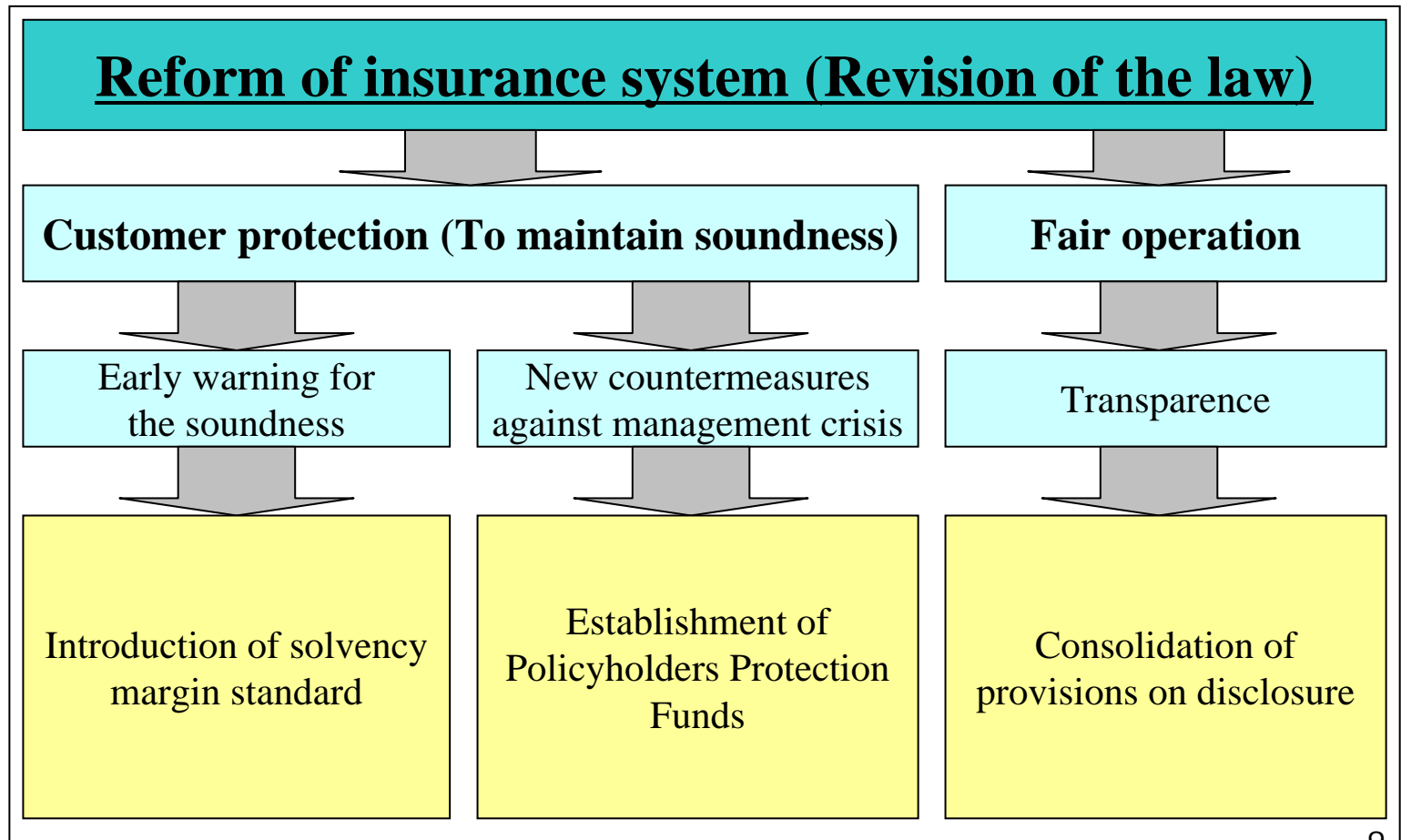
- © Drastic revisions of Insurance Business Law (1995)
Enforcement (April 1996)



2. Insurance Business Law

◎ Drastic revisions of Insurance Business Law (1995)

Enforcement (April 1996)



2. Insurance Business Law

© Major revisions of the law (After drastic revisions in 1995)

- 1998 revision Start of safety net/Early warning measures for insurers
Mutual entry between different financial institutions/
Sales of investment trust
- 2000 revision Facilitation of demutualization
Revision on provisions pertaining to failure of insurers
Financial resources for Policyholders Protection Corporation
(PPC)
- 2001 revision Lifting of ban on over-the-counter sales by banks
- 2003 revision Review from policyholders protection
(Reduction in the assumed interest rate)
Simplification of sales agent's registration
- 2006 revision Revisions to consist with revisions of Financial
Instrument and Exchange Law
- 2008 revision Revisions of Financial Instrument and Exchange Law
Enforcement of Insurance Law
- 2009 revision Introduction of ADR

2. Insurance Business Law

© Major orders related to Insurance Business Law

- Ordinance of Insurance Business Law
- Enforcement Regulation of Insurance Business Law
- Order on classification stipulated in Section 2, Article 132 of the Insurance Business Law (concerning Early Warning Measures)
- Order on special measures for policyholders protection (providing concrete contents for policyholders protection)
- Notification
- **Comprehensive supervisory guidelines for insurance companies (FSA)**
- Supervisory guideline for small-amount and short-term insurance dealers (FSA)
- Supervisory policy (FSA)

2. Insurance Business Law

- © Comprehensive guidelines for insurance companies
 - Issued by the FSA in August 2005
 - Document stating clerical procedures including advanced risk management and compliance system.
 - Material document in practices but not retaining compelling force.
 - Unlike Insurance Business Law violations are not criminally punished but order for improvement of management may be issued.
 - Contents are revised at any time if necessary.

2. Insurance Business Law

© Comprehensive guideline for insurance companies

- Working Group to deliberate what insurance product solicitation should be
 - Organized in the FSA in April 2005
 - Deliberating what insurance product solicitation should be from standpoint of consumer protection considering an increase in complaints about insurance sales and diversification of insurance product and sales channels.

Proposal

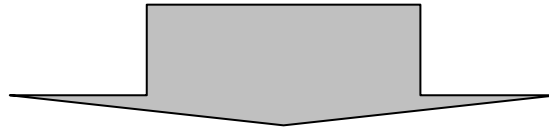
- What giving information should be in solicitation
 - ⇒ **Explanation of material items**
- What insurance product sales should be based on principle of suitability
 - ⇒ **Form of intention confirmation**

Revision of supervisory guideline

2. Insurance Business Law

◎ Explanation of material items

- Excessive information provided for consumers
 - ⇒ Difficulty in consumers' understanding
- Different quantity of information between companies
 - ⇒ Anxieties about difference in consumers' understanding about insurance product



- Material items should be limited to quantity that does not spoil consumers' will to understand
- Minimum quantity of material items should be decided by product

2. Insurance Business Law

◎ Explanation of material items

“Outlines of contract” ▪ ▪ ▪ Information necessary for customers to understand contents of products

- Design of product
- Protection
- Insurance period
- Underwriting condition
- Premium
- Premium payment

“Information calling for attention” ▪ ▪ ▪ Information insurance companies should provide to call customers’ attention

- Cooling-off, obligation of representation, etc.
 - Commencement of insurer’s liability
 - Safety-net
 - Exemption from liability
 - Lapse, reinstatement, etc.
- (Explicitly stated in guideline)

※ Sales agent needs to hand a customer “Outlines of contract” and Information calling for attention” in the solicitation
(Implemented in April 2006)

2. Insurance Business Law

◎ Introduction of form of intention confirmation

- Difficult to understand for consumers because of the complexity and diversification of products
- Difficult for consumers to understand precisely their own needs due to unique feature of product providing for the very rare insurance events
- Difficult to make decision unless they collect information and understand contents of other products and rider



- Collaboration between consumers and sales agents is required by filling in the gaps in knowledge between them.



Emphasis on principle of suitability

2. Insurance Business Law

◎ Introduction of form of intention confirmation

- To hand a customer “Form of intention confirmation” and to preserve it in the company

“Form of intention confirmation” . . .

- Collect information about customer’s needs
- Confirmation whether the product suits customer’s needs
- Ensure the opportunity of customer’s confirmation before signing a contract
- Final confirmation in writing

(Explicitly stated in supervisory guideline and implemented in April 2007)

2. Insurance Business Law

◎ Handling complaints and consultation

- Handling customer's complaints
 - ⇒ Not the matter of procedures but attitude how to handle
 - Need to resolve a trouble after obtaining customer's understanding and consent
- Explanation for customers ▪ Handling complaints
 - ⇒ High effectiveness is required from standpoint of customer protection and convenience



Structuring complain handling system by whole company

※ Alternative Dispute Resolution (ADR)

Transparent and prompt arbitration from neutral and fair standpoint
Life Insurance Association of Japan has established Arbitration Council to play a major role of ADR. (To become Financial ADR in the fall of 2010)

3. Changes in Consumer Administration

◎ Change in consumer policy

- Change in the position of consumers
 - From protection to support for independence
- Making the most of market mechanism
 - From prior restriction to ex post fact examination
- Disclosure and management in compliance with laws and regulations

3. Changes in Consumer Administration

◎ Fundamental Law of Consumers

● Background of enactment

- Former law was Fundamental Law of Consumer Protection enacted in 1968
- Recently, economic and societal environment around consumers has largely changed.
- Total review of Fundamental Law of Consumer Protection to suit present-day economic society.
- Revised to Fundamental Law of Consumers in 2004
- Realization of consumption life in which consumers may lead a life without care

3. Changes in Consumer Administration

© Fundamental Law of Consumers

● Basic concept

- Respect for consumers' right
 - ⇒ Declaration that consumers are independent subjects holding the right but not mere object to protect.
- Support for consumers' independence
 - ⇒ To ensure the suitable operations of business proprietors to secure consumers' safety.
 - ⇒ Particular attention should be paid to consumer's age, etc.

3. Changes in Consumer Administration

◎ Fundamental Law of Consumers

● Relations between consumers' right and basic policy

<u>Consumers' right</u>	<u>Basic policy (Stated in articles)</u>
① Ensuring safety	⇒ Policy to ensure safety
② Ensuring options	⇒ Contracts suitable for consumers Suitable measuring Suitable standard Suitable advertisement, other indicator Promotion of fair and free competition
③ Providing information	⇒ Enlightenment and education
④ Ensuring education	⇒ Enlightenment and education
⑤ Reflection of consumers' view and ensuring transparency	⇒ Reflection of consumers' view
⑥ Relieving consumers' grievance	⇒ Complaint consultation and dispute resolution

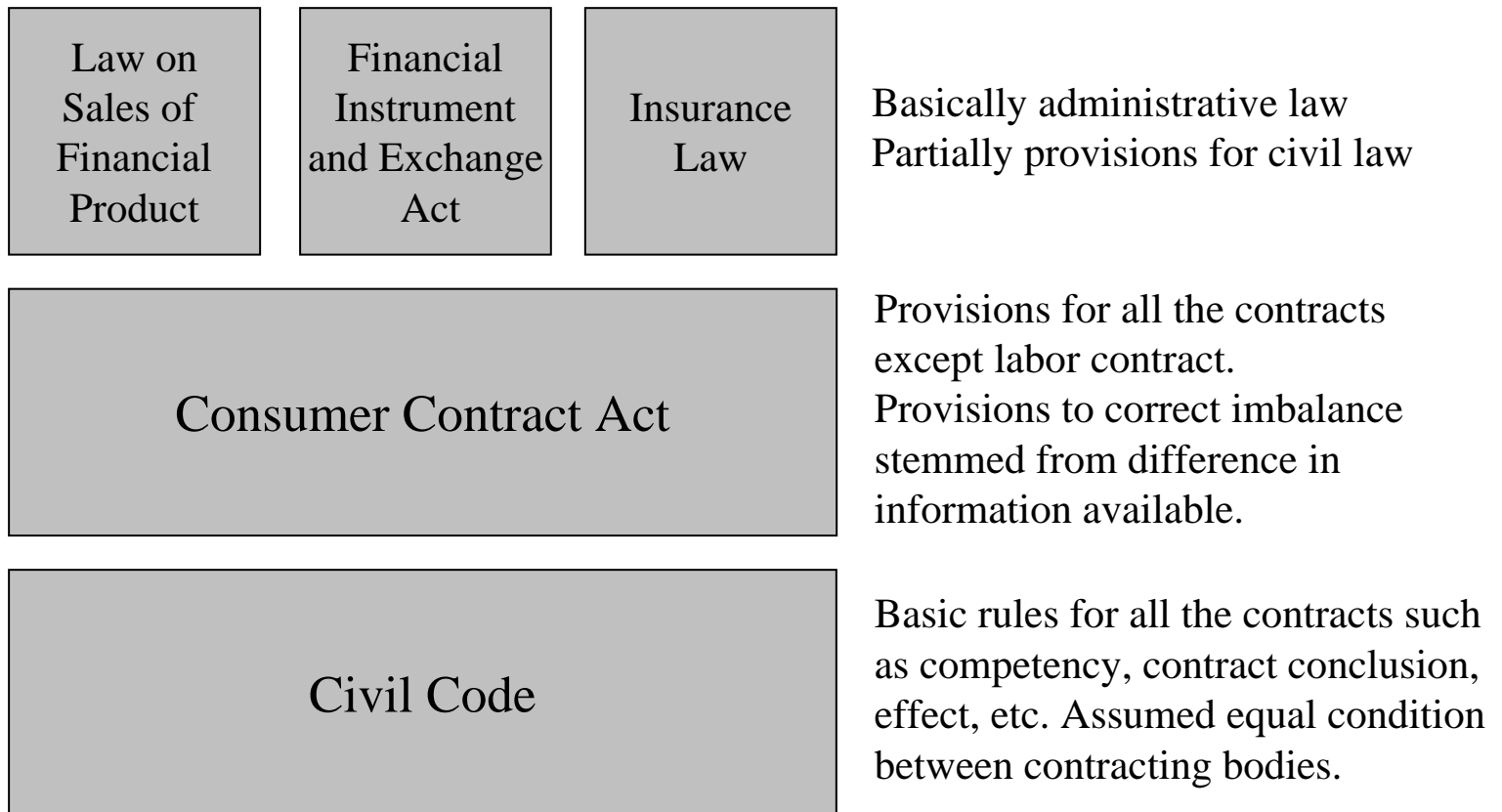
3. Changes in Consumer Administration

© Recent legislation (After 2000)

- 2000 **Consumer Contract Act** enacted
Law on Sales Visit revised and arranged in
Act on Specified Commercial Transaction
Law on Sales of Financial Product enacted
- 2004 **Fundamental Law of Consumers** enacted
- 2006 **Financial Instrument and Exchange Act**
enacted
- 2008 **Insurance Law** revised
- 2009 Three Consumer Affairs Agency-related laws
enacted

3. Changes in Consumer Administration

© Regulatory framework pertaining to consumer contract



4. Consumer Contract Act

◎ Purpose, outline, application, etc.

- Qualitative and quantitative difference between consumers and business entities in information available and negotiation skills.
- Comprehensive civil rules admitting the above difference.
- Regardless of type of business, products, service, etc. (Applied to all the consumer contract.)
- Basic law pertaining to consumer contract.
- Enforced in April 2001.

● Cases and conduct the Act is applied to

① Application for contract and withdrawal of application or consent to application

(Mistaken) Notification of untrue fact
Decisive judgment
Misrepresentation of disadvantageous fact

(Distressed) Failure to leave a place
Confinement of customer

② Invalidity of clauses of consumer contracts

Clause exempting entity from liability for compensation for damage
Clause unlawfully damaging consumer's benefit

4. Consumer Contract Act

◎ Outline, application, etc.

● Consumer Contract Act and life insurance contract

① Insurance transactions to be applied

Life insurance contract of the individual

② Relation to Insurance Business Law

- Marketing of insurance companies was not restricted more strictly than before by Consumer Contract Act.
- Conduct mentioned in the Consumer Contract Act correspond to that stipulated in Section 1, Article 300 of Insurance Business Law
“Prohibited acts in insurance solicitation.”
- According to provisions of Insurance Business Law insurance contract concluded by prohibited act shall not be immediately rescinded.
(Before this Act was enacted, provisions of Civil Code were applied.)
- Owing to the enactment of this Act the policyholder may cancel the contract on more generous conditions.

5. Law on Sales of Financial Product

◎ Purpose, outline, application, etc.

The law has the purpose of strengthening the protection of customers by mandating that sales agents of financial product should provide the customer with the essential information.

● Material items requiring explanation (Related to life insurance)

① Risk of losing the principal due to fluctuations in interest, exchange rates, stock prices, etc.

= **Market risk**

⇒ Variable life insurance, insurance denominated in foreign currency

② Risk of losing the principal due to managerial/financial deterioration or failure of institutions dealing in financial products.

= **Credit risk**

⇒ All the insurance products

5. Law on Sales of Financial Product

◎ Purpose, outline, application, etc.

● Law on Sales of Financial Product and life insurance contract

① Life insurance contracts to be stipulated

All the life insurance contracts

② Relation to Insurance Business Law

- Insurance Business Law as supervisory law provides management of insurance companies and policyholders protection.
- Provisions for protection of policyholders' right are not sufficient.
- Law on Sales of Financial Product provides that a customer may claim compensation for damage caused by sales agent's illegal act.
- Law on Sales of Financial Product and Insurance Business Law mutually supplement and strengthen policyholders' protection.

6. Financial Instrument and Exchange Act

◎ Purpose

Ultimately, “the purpose of this Act is to promote the sound development of national economy and to protect investors’ interest” and to attain this end as provided in Article 1:

- ① Consolidation of disclosure of corporations.
- ② Definition of items necessary for dealers in financial products
- ③ To ensure proper management of financial product exchange
- ④ Others (Surcharge, punishment, voluntary restriction, etc.)

Enacted in June 2006. Enforced in September 2007.

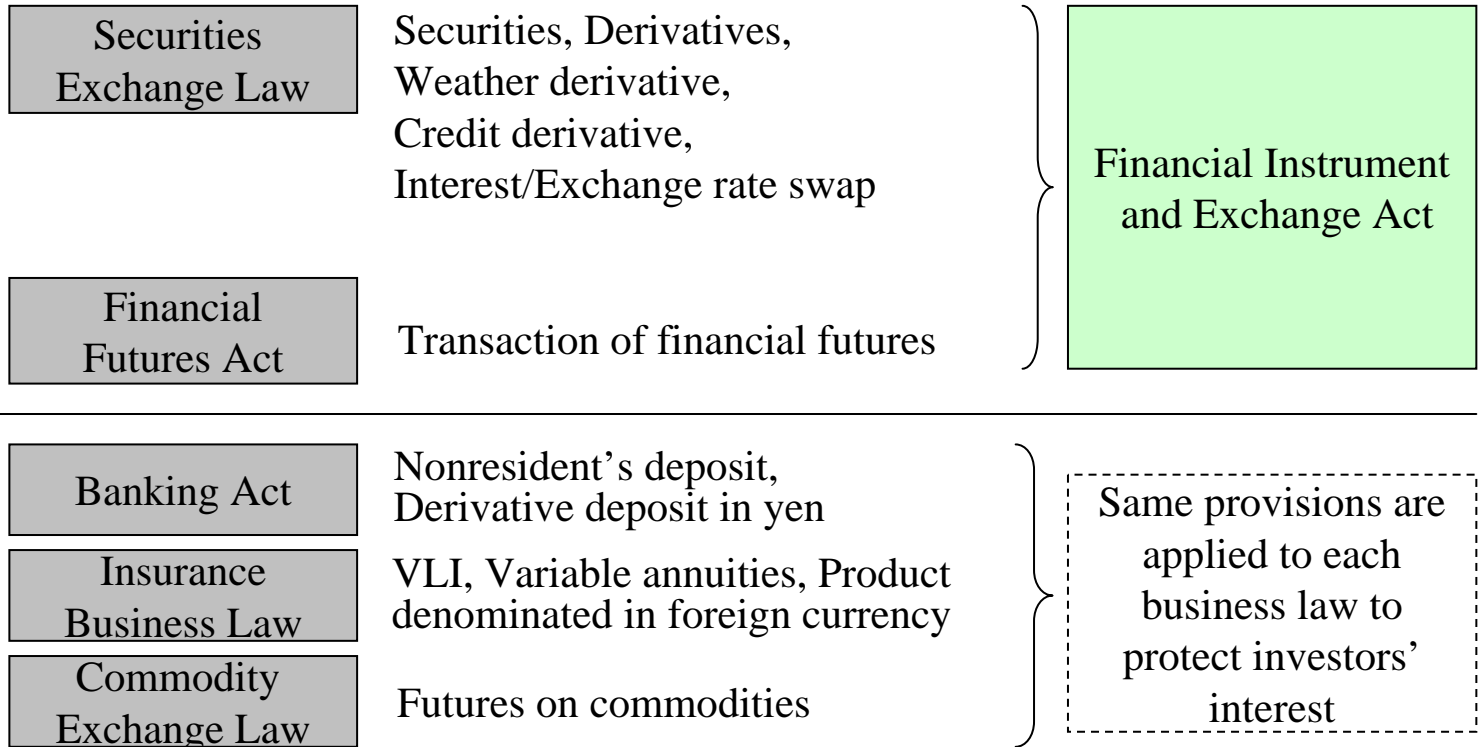
✘ Financial Instrument and Exchange Act is widely applied to cope with new financial service.

✘ Financial Instrument and Exchange Act modeled itself on US SOX on internal control, so the Act has a feature as Japanese-version SOX.

✘ The concept of financial products in this Act, denoting “Financial products with investment nature” is narrower than that of Law on Sales of Financial Product.

6. Financial Instrument and Exchange Act

© Financial products provided or not provided by this Act



Insurance Business Law Art. 300 (Prohibited act in conclusion or solicitation of insurance contract

Art. 300 - 2 (Corresponding application of Financial Instrument and Exchange Act)

6. Financial Instrument and Exchange Act

◎ Key points

- Restrictions on advertisement
 - Clear statement of risk and commission, large font, etc.
- Restriction on conduct concerning sales and solicitation
 - Principle of suitability
 - Sales of product suitable for a customer
 - Obligation of handing the form
 - To hand the form stating product design, risk and cost
 - Act prohibited
 - ① Compelling solicitation (Partially)
 - ② Troublesome solicitation (Partially)
 - ③ Decisive judgment ④ False statement
 - Prohibition of loss compensation
 - Compensation for loss caused by transaction is prohibited.
- Customers to be applied
 - For each customer, difference is made depending upon whether he or she is a professional or an amateur. Provisions for protection are hardly applied if a customer is a professional.

6. Financial Instrument and Exchange Act

◎ Key points

- Financial Instrument and Exchange Act and life insurance Confined to designated insurance contracts
 - Designated insurance contracts ···· VLI, Variable annuities, Product denominated in foreign currency
 - Major restriction on conduct ····
 - ① Restriction on advertisement
 - ② Delivery of form before signing contract
 - ③ Principle of suitability

- Relation to Law on Sales of Financial Product
 - Law on Sales of Financial Product provides that a customer may claim compensation for damage for various financial products.
 - Financial Instrument and Exchange Act provides restriction on conduct more strictly than Law on Sales of Financial Product on the products with investment nature. The punishment may be inflicted more severely upon unfair violation of the Act.
 - Both laws are in a sense like the two wheels of a cart.

7. Insurance Law

◎ Outline

- Insurance Law provides general rules on insurance contract.
- It provides the right and obligation of the parties concerned from policy issue to expiry of the insurance contract.
- Provisions on insurance contract were included in Commercial Code. Since 1999 when the Commercial Code was enacted the provisions have not been revised for nearly 100 years. Some problems have arisen because the provisions are stated in literary expression and in “katakana” characters and the contents do not suit the present insurance system.
- Provisions on insurance contract were reviewed and separated as a different law.
- Enacted in June 2008. Enforced in April 2010.

7. Insurance Law

◎ Major revisions

● Major revisions

- Scope was widened to include cooperative insurance
- Provisions on accident sickness insurance were added
- Protection of policyholders
 - Provisions on representation at entry were reviewed for revision
 - Provisions on time of payment of insurance benefits were added
 - Unilateral compulsory provisions were added
- Provisions on change in beneficiary were reviewed for revision
Provisions stipulating that the insured person may request the policyholder to rescind the contract if family relations are broken off. Explicit statements providing that the beneficiary may be changed by a will.

● Difference from Insurance Business Law

While Insurance Business Law as so-called business law provides on insurance companies and insurance solicitation, Insurance Law provides the contents of insurance contract.

8. Lastly

- Early Warning Measures
- Safety net

- Introduction of SM ratio
 - Promotion of disclosure
 - Establishment of PPC
- <Insurance Business Law>

- Appropriate statement
- Obligation of explanation
- Contract conclusion

- Appropriate statement for solicitation
 - Explanation of material items
 - Introduction of intension confirmation
 - Restriction on advertisement
 - Consolidation of rules on representation
- <Insurance Business Law ▪ Guideline ▪ Law on Sales of Financial Product ▪ Financial Instruments and Exchange Act ▪ Consumer Contract Act ▪ Insurance Law >

- Settlement of troubles

- Complaint/Consulting System
 - Establishment of ADR
- <Insurance Business Law ▪ Guideline>