

Minutes of the Eleventh Meeting of the Working Group on Distributions of Securitized Products

1. Date

October 17, 2008 (Friday) 15:00 to 17:00

2. Place

JSDA Conference Room

3. Participants

As stated in Appendix 1

4. Agenda

(1) Unified Information Disclosure Format (provisional name) (UIDF)

- Investigations of UIDF in terms of practical application (including the case of distributions by non-arrangers of products)
- Investigations regarding requesting cooperation of originators that are providing the information in some form
- Investigations of how to include the UIDF in the self-regulatory rules
- Investigations of how to ensure accuracy of information provided by distributors

(2) Treatment of guarantees

(3) Establishing internal procedures to collect and communicate details and risks of underlying assets

- Free discussion

5. Summary of Proceedings

At the start of the meeting, a representative of the Financial Services Agency gave the following explanation of the Plan of Action announced by the G7 on October 10.

- In radical move, the communiqué of the recent G7 financial ministers meeting focused on an action plan for the financial problems the world is facing that they were committed to carrying out together. Concrete implementation is to be carried out in each country based on the Plan of Action.
- The fifth point of the Plan of Action — which is directly related to the work of this WG— is “Take action, where appropriate, to restart the secondary markets for mortgages and other securitized assets. Accurate valuation and transparent disclosure of assets and consistent implementation of high quality accounting standards are necessary.”
- The work of the JSDA has been introduced at the Financial Stability Forum Report made to the G7 together with the European Securitization Forum and the American Securitization Forum. The point of “unfreeze credit markets, restart secondary markets for mortgages” was also included in the G8 Leaders Statement on the Global Economy announced on October 15.
- In this way, there is an extremely high level of interest around the world in the activities of this WG. The FSA encourages you to continue your solid discussions.

Furthermore, the representative of the FSA stated that the Accounting Standards Board of Japan (ASBJ) yesterday announced an Exposure Draft of their clarification of Practical Solution on fair value measurement. Although the ASBJ is expected to finalize the guidance paper later after receiving public comment, he wanted to make members aware of it because it has a direct bearing on the provision of market price information by distributors to customers.

(1) Unified Information Disclosure Format (provisional name) (UIDF)

A. Investigations of UIDF in terms of practical application

The WG held discussions on individual items in the Common Information Item List and made the following revisions.

Item (before revision)	After revision	Reason for revision
“Structure-related risks” RMBS II-6 ABS II-6 CLO II-6	“Major structure-related risks”	<ul style="list-style-type: none"> • In practical terms, impossible to list all risks
“Others” RMBS IV-5, VI-12 ABS IV-5, VI-12 CLO IV-5, VI-12	Deleted	<ul style="list-style-type: none"> • Since the Common Information Item List’s role is to be a reference for communication methods, there is no need to include buffer-like items. • In the originator survey, many responded that “the definition was vague.”
“Collection rate or loss rate” categorized as Level 1 RMBS VI-10 ABS IV-4, VI-10 CLO VI-10	Re-categorized as Level 2	<ul style="list-style-type: none"> • Time lag between the occurrence of the default and collection is long. Also, it is difficult to determine a uniform definition for the point at which collection has been completed. • In the originators survey, originators expressed the opinion that given that the loan was defaulted, information could not be provided in some cases because there were no expectations of recovery.
“Notes” of Forecast repayment schedule, etc. (for products subject to change of repayment schedule) ABS I-13 CLO I-13	“For products with a high possibility of being subject to change of repayment schedule”	<ul style="list-style-type: none"> • To clarify that products with extremely low possibility of being subject to change in schedule need not be included.
“Prepayment and cancellation rate” categorized as Level 1 ABS VI-3, VI-9	Re-categorized as Level 2	<ul style="list-style-type: none"> • In the originators survey, respondents said there were cases where it was impossible for the system to provide the information immediately.
ABS note 12 (“With loan receivables of consumer finance companies”)	Revised to “For consumer loans”	<ul style="list-style-type: none"> • Because this is not a note aimed at any special business of originators.

The WG Chair had the following comments on 2 and 3 in the Overall Opinions of the CMBS Common Information Item List.

- When trustees and others pass on materials, reports, and other information produced by the primary providers of information as is (or reorganized), naturally, the primary providers of information bear the responsibility for the information and reports. In practical terms, it is clear that it would be impossible for trustees and others passing the information and reports on to check everything.

- However, those passing on the materials do have a responsibility to check obvious errors, and it is important in practice for those preparing materials and reports to fulfill their responsibilities by properly and clearly procuring and noting information. I would like to see these points set out in the final report.

Continuing on, a representative of the CMSA gave the following explanation of progress in the CMSA's IRP discussions and their schedule going forward.

- Recently, the Standardization Subcommittee of CMSA Japan and the WG Chair and Deputy Chairs carried out discussions on the sections of the IRP in which several alternatives have been noted. The working groups under the Standardization Subcommittee are now discussing those issues based on the results of the discussions.
- There is a question as to what degree opinions can be consolidated, but the Standardization Subcommittee wants to put something together next week.

The WG Chair requested that the CSMA report the results of their discussions at the next meeting or the one following that, to which the CSMA agreed.

B. Investigations regarding requesting cooperation of originators that are providing the information in some form

The WG Chair asked the representative of the FSA whether or not he thought that it would be effective for the government authorities supervising originator companies to request collaboration in some form as necessary from the originators of products in addition to the JSDA requesting collaboration from industrial associations to which originators belonged. In response, the FSA representative said that while they had no concrete plans to do so, they were prepared to consider it if necessary.

The WG Chair stated that he had no intention of making any difficult requests of originators, but he intended, as an industry, to seek cooperation in obtaining reasonable disclosure, and he would like to have the cooperation of the FSA on this matter. In terms of the timing of the cooperation request, he would like to do it ahead of time to ensure the smooth implementation of the self-regulatory rules.

C. Investigations of how to include the UIDF in the self-regulatory rules

(Treatment of written form)

WG members expressed the following opinions on this issue.

- I do not think we have to decide the order of each item.
- Because there are system restrictions, there is no necessity to go as far as to determine the order of the items. Nevertheless, as long as we are going to create an UIDF, even if it is not going to be provided for in the regulations but a voluntary action by each distributor, I think we need to make clearly understandable for investors where an item can be found in the UIDF and which items will be disclosed and which will not.
- While it is understandable that there may be some limitations derive from systems and other aspects, from the point of view of investors, it is inconvenient to be shown information that differs according to the distributor providing it. Moreover, if a uniform written form is used as the format, it will lend itself to future compilation into a database. Therefore, at this stage, I am wondering if it is really a good idea to "not stipulate the order of the information items."
- Although it is very convenient for customers to have a uniform written form and therefore desirable to have a uniform format as that form, there is also the issue of the administrative burden placed on the distributor. Therefore, how about a flexible treatment allowing the distributor to just prepare a balance sheet if all of the items in the format are filled in?
- Because there can be multiple producers of information, particularly for the periodic disclosure following the issue of the product, we should not be making inflexible rules for reporting.

The WG Chair made the following proposal, which was approved.

- In the self-regulatory rules, the actual order of the information items will not be stipulated.
- On the other hand, for the convenience of investors, each company should organize the information so that the location of items can be determined at a glance.

(Naming)

WG members had the following opinions on naming.

- Since the term “format” suggests that the information items have a determined order, it is not an appropriate naming.
- The term “disclosure” also is associated with disclosure under the Financial Instruments and Exchange Act (FIEA) and gives an image of a broad and general type of disclosure. It is therefore not a desirable term since it differs from the refined disclosure developed by us in this WG.

The UIDF was officially named the Standardized Information Reporting Package

(However, the Katakana “Repo-tingu” used in the Japanese name may be changed in future).

(Relationship with the CMSA’s IRP)

The WG Chair gave the following explanation of the relationship of the Standardized Information Reporting Package (SIRP) with the IRP of the CMSA.

- In the WG’s Interim Report, the results of our discussions were that we would require in the self-regulatory rules a format “① with the same content as the IRP” to be used as the UIDF or we would require in the self-regulatory rules a format “② the exact” IRP to be used as the UIDF. Furthermore, should ② be chosen, in addition to using the self-regulatory rules to determine even the written format of the UIDF, an issue would arise regarding the management of the UIDF because of the CMSA is an independent organization from the JSDA. Therefore, the WG would have to consider some measures to deal with the relationship. It was also pointed out in the Interim Report that if the IRP of the CMSA is included in the JSDA’s regulations “as is,” the WG would have to carefully consider the differences in the legal nature and the significance between the IRP and the self-regulatory rule, while the IRP is a standardized form used voluntarily by members of the CMSA which is a private entity, and the self-regulatory rules are based on the FIEA. The Interim Report also points out that in selecting the disclosure items, the JSDA should investigate carefully and independently (including ongoing revisions following formation of the rules).
- Based on the discussions following the formulation of the Interim Report, we are leaning toward not an “as is” form of the IRP, but one “with the same content (information items). In other words, among the information items in the CMSA’s IRP, if the JSDA finds some items unnecessary it will exclude them, and if it finds some items lacking, it will include them in the SIRP.
- However, even through the SIRP will be decided solely by the JSDA, it will be important to maintain consistency with the CMSA’s IRP, which is produced using feedback from an extensive base of CMBS market participants. Therefore it will also be important to maintain close collaboration with the CSMA when revising the SIRP in future.

There were no objections to the explanation given by the WG Chair. In addition, the representative of the CMSA agreed to report at the next WG meeting on what stance the CMSA would take regarding collaboration with the JSDA when it make its periodic reviews of the SIRP.

D. Investigations of how to ensure accuracy of information provided by distributors

The WG Chair made the following statement.

- Among the actions distributors can take to ensure the accuracy of information are representations and warranties by the provider of information, due diligence about originators, comforting by a third party indicating that the received information has been correctly reflected (Agreed Upon

Procedure (AUP)), and legal checks by legal counsel of arrangers regarding the location, etc. of risk in the basic scheme or structure.

- Actions beyond the above, for example, distributors rechecking all the information, are not practical in terms of their capabilities. Similarly, the Supervision Guidelines cannot be expected to require that much.

WG members had the following responses to a question by the WG Chair as to whether such actions could be requested of distributors even if they were not arrangers.

- When distributors are not arrangers, there can be some difficulty in getting access to the underlying assets. Therefore, we need to endeavor to ensure the accuracy of information through the types of methods stated by the WG Chair.
- The main method of dealing with accuracy is using representations and warranties by the originators.

WG members had the following other opinions.

- When underwriting a product, each company carries out an information check according to its underwriting screening standards, but perhaps there are some problems with asking to bear the responsibility as distributor for this.
- There are limits to checking for information accuracy irregardless of whether a distributor is an arranger or not. Nevertheless, distributors could be asked to take on responsibility for using common sense to check for obvious errors, such as performance figures being in the wrong line and profits and losses being mixed up.
- As a distributor, even if we do our best to ensure the accuracy of the information, in the end, we have to depend on the information producers, such as originators. With AUPs as well, the accountants are not responsible to investors. Distributors can only clearly indicate the source of the information and make it clear that their check on accuracy is not necessary sufficient. I think this situation is not only applicable to securitized products.

The WG Chair made the following proposals, which were approved.

- Let us include in the final report actions that distributors should carry out to ensure accuracy of information, such as representations and warranties by the provider of information, due diligence about originators, comforting by a third party indicating that the received information has been correctly reflected (AUP), and legal checks by legal counsel of arrangers regarding the location, etc. of risk in the basic scheme or structure.
- For those actions, why don't we say that they apply whether or not the distributor is an arranger and at both point of distribution and afterward?

(2) Treatment of guarantees

The Deputy WG Chair gave the following explanation of in what cases products would be excluded from coverage under the self-regulatory rules when they had guarantees attached based on being deemed “products for which the location and specific nature of risk is (including the risk arising from underlying assets of said securitized product) clear, and it is possible for investors to recognize such risk.” It had been decided in the previous meeting to continue the discussion on the treatment of securitized products with guarantees as a point in question regarding the definition of securitized products.

- I want to propose that products for which the location and nature of specific risk (including the risk arising from underlying assets of said securitized product) is clear, and it is possible for investors to recognize such risk as the result of guarantees, etc. be limited to cases where said securitized product is deemed to be the same as securities, etc. issued by the entity providing the guarantees, etc.
- The reason for this proposal is even if only the credit risk is being guaranteed, when there is the possibility of a change in the maturity date it cannot be said that the “the location and nature of

the risk is clear.” Moreover, it indicates a product where the maturity date is guaranteed as originally scheduled.

The WG Chair proposed that the treatment of securitized products with guarantees be roughly as explained, although it was possible that in future some minor revisions would be made. The proposal was approved.

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