

## Minutes of the Eighth Meeting of the Working Group on Distributions of Securitized Products

### 1. Date

September 5, 2008 (Friday) 15:00 to 17:00

### 2. Place

JSDA Conference Room

### 3. Participants

As stated in Appendix 1

### 4. Agenda

- (1) Establishing procedures for evaluating, calculating, and communicating theoretical prices
- (2) Treatment of overseas securitized products
- (3) Hearings with originators

### 5. Summary of Proceedings

At the start of the meeting, the WG Chair made the following explanation of the WG's discussions schedule.

- There is no change in the WG's scheduled meeting times and topics of discussion from that indicated in the interim report. However, there is one change in the scheduled order of discussion of issues. Specifically, we have decided to discuss "the scope of securitized products" ahead of other issues, and want to make it the theme of the next meeting.
- We would like to hold hearings with financial information vendors and information system companies. As stated in the interim report, the content of the hearings will not be included directly in the self-regulatory rules—our purpose will be to use our findings to formulate self-regulatory rules based on a full understanding of the practical aspects of establishing systems for communicating information.

#### (1) Establishing procedures for evaluating, calculating, and communicating theoretical prices

In its interim report, the WG stated that establishing procedures for evaluating, calculating, and communicating theoretical prices would be based on the current JSDA guidelines. WG members expressed the following opinions on concrete measures regarding this issue.

- It would be appropriate to deal with the issue in accordance with on the current JSDA guidelines in the same manner to date.
- However, although the Supervision Guidelines and the JSDA guidelines have the same purpose, discrepancies exist in the expressions they use. Because they could lead to misunderstandings and confusion in practical application, some modifications must be made for these discrepancies.

The WG Chair said that there are probably few people with the opinion that the JSDA guidelines themselves should be revised in making some kind of modification for the discrepancies in the expressions used by the Supervision Guidelines and the JSDA guidelines. The WG Chair proposed that some method other than revising the JSDA guidelines should be used, and this proposal was approved.

A discussion followed on what type of method should be used to make provisions for the discrepancies in the expressions used by the two guidelines. To start with, the WG members gave the following opinions on the procedural issue of where to put text regarding the interpretation of the expressions.

- It would be best to include provisions into the self-regulatory rules for securitized products which are in the process of preparation that clarify the interpretation of the expressions.
- It is not absolutely necessary to include these provisions in the self-regulatory rules; they could also be included in a glossary in the final report or some method that indicated the consensus of the WG on the interpretation of these expressions.

Continuing on, the Secretariat announced that it would look into the possibility whether they are able to formulate self-regulatory rules which refer to the content of JSDA guidelines, and whether they are able to make interpretations of the language in JSDA guidelines in self-regulatory rules, and report the results at the next meeting. It was decided to again discuss where to put text on the interpretation of the expressions at the next meeting.

Next, there was a discussion of what the content of the text regarding the interpretation of the expressions should be. WG members gave the following opinions.

- It will be necessary for the text to deal with the differences in terminology between the guidelines, such as “association members” and “securities firms” and “theoretical price” and “market price.”
- While it is not directly stated in the Supervision Guidelines, the WG has reached a consensus that it is not absolutely necessary to include liquidity risk in theoretical price. In practical terms, when providing theoretical prices to clients, in most cases the firm does so with clarifying the assumptions and limitations on which the theoretical price is based. With regard to this process, the current JSDA guidelines state that when members decide that it is difficult to make a rational evaluation or calculation of the market price, they shall explain the situation to the client company and not provide the requested evaluated or calculated market price information. Since this is currently laid out as only a binary decision, I would like to see some explanation in practical terms that acts as an aid in deciding which course to take.

It was decided that the Secretariat would produce a proposal regarding what kind of content should be included in the text interpreting expressions used in the two guidelines and present it at the next meeting for discussion.

## (2) Treatment of overseas securitized products

WG members expressed the following opinions on the treatment of overseas securitized products.

- We should be able to deal with this issue in accordance with the “Perspectives on methods of communicating information” stated in the interim report.
- Among overseas securitized products, the Common Information Item List can be used for those securities that fall within its scope to communicate information, while information on securities that do not fall within the scope of Common Information Item List can be communicated using principles and rules.
- Since securitized products created overseas will not necessarily match all of the items on the Common Information Item List, it will probably be necessary to clearly explain this point to investors when distributing the products.
- The WG should use the regulations and guidelines currently being considered in the United States and Europe as a reference in dealing with overseas securitized products.
- In discussing overseas securitized products, it will be necessary to first clearly indicate whether the underlying assets of the products are overseas or the underlying assets are in Japan but the products have been issued overseas.

The WG Chair stated that it should be kept in mind that “overseas securitized products” were products issued overseas for which the underlying assets were also overseas. Continuing on,

the WG Chair said that based on the opinion of the majority of WG members, he would like to conclude that similar to domestic securitized products, treatment of overseas securitize products should be done in accordance with the “Perspectives on methods of communicating information” stated in the interim report. Members approved this conclusion.

In the interim report, it was mentioned that, “through the FSA, the WG’s final report would be submitted to various international discussion forums, such as the financial stability forum (FSF), and it was possible that the JSDA could enlist the collaboration of regulatory authorities from various countries to deal with the issue of overseas securitized products.” During the meeting, the FSA made the following comments on this point.

- Up to now, the activities of the WG have been introduced in the final reports of the FSF and International Organization of Security Commissions (IOSCO) and have been extremely favorably received in both cases.
- In a meeting between the Japanese and U.S. securities commissions, the FSA introduced the activities of the WG and the SEC has requested that they receive continuing updates. Moreover, at the same meeting, the FSA requested the collaboration of the SEC regarding overseas securitized products.

### (3) Hearings with originators

Using the document listed as Appendix 5, the Secretariat reported on questions from some WG members prior to the start of the originators survey currently underway and the WG’s answers.

Following the report, WG members gave the following supplementary explanations.

- In Section IV of the Common Information Item List “Asset Pools Used as Comparative Reference, Including Mother Pool, etc.,” there is nothing written in the current proposal about what products this could specifically apply to. Naturally, because of the phrase “used as comparative reference,” the purpose can be ascertained to a certain extent. In deciding what type of product should or should not be indicated as “Asset Pools Used as Comparative Reference, Including Mother Pool, etc.,” it was thought that despite the fact that the arbitrary and subjective aspects of the producers and providers of the information cannot be eliminated, distributors can be expected to make a common sense decision on their own if the goal of the producers and providers of information are taken into consideration. If the WG’s intention was to eliminate arbitrary and subjective aspects, it would be necessary to come up with an objective standard—and this would be difficult. Instead, it is more practical to rely on the sound judgment of the producers and providers of the information. Distributors are not prevented from collecting and communicating information on multiple, different pools for “Asset Pools Used as Comparative Reference, Including Mother Pool, etc.” In addition, in the comments column, it is indicated that Section IV may be omitted if there is no reference pool for comparisons such as the mother pool, etc., or if it could be determined that such comparison has no valuable meaning.
- Because the arbitrary and subjective aspects of the producers and providers of information cannot be completely eliminated in deciding “Asset Pools Used as Comparative Reference,” the WG’s responses must be as shown in the document listed as Appendix 5. Nevertheless, the important, basic principle of the WG is that distributors should consider why they are providing the information—which is to facilitate the understanding of investors and to contribute to their evaluation of investment risk— and act independently to that end. Distributors should ensure that they do not overstep the bounds of these principles and rules.

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