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MEMORANDUM

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Transition Provisions in the New Regime of the Financial Instruments and Exchange Law

This memorandum outlines in summary form certain aspects of the transition to the new securities regulatory regime embodied in the Financial Instruments and Exchange Law of Japan (the “Law”).

More specifically, the Law, upon the effective date thereof (the “Effective Date”; currently expected in September 2007), will expand the scope of regulated products and activities currently subject to the coverage of the Securities and Exchange Law of Japan (the “SEL”). As a result, companies engaged in formerly unregulated businesses may suddenly become subject to regulation under the new regime. Examples may include fund managers, entities engaged in the handling of interests in various forms of trusts, entities engaged in the handling of various forms of derivatives transactions and others.

The newly imposed requirements may include notification and/or registration obligations, among others, and failure to meet these new regulatory demands in a timely fashion may place a formerly compliant entity in violation of Japan's securities laws. Accordingly, due care to the transition provisions outlined below is strongly recommended.

I. Expansion of the Scope of Regulated Products

The Financial Services Agency of Japan (the “FSA”) has crafted the Law to respond to the existence of gaps in the coverage of the regulatory regime imposed under the SEL. In particular, the definition of “securities” under the Law has been expanded to include beneficial interests in trusts in general, as well as holdings of so-called “collective investment schemes” (i.e., investment funds). Furthermore, while the SEL regulated only “securities-related” derivatives transactions, the Law covers derivatives transactions with much broader scope.[*] The following table generally illustrates the expansion in regulatory coverage under the Law:

Products regulated under the SEL	Products regulated under the Law
- Japanese government bonds - Local government securities - Corporate bonds - Shares - Investment trusts	- Japanese government bonds - Local government securities - Corporate bonds - Shares - Investment trusts

[*] The derivative transactions newly covered by the Law generally consist of (i) financial futures transactions currently covered by the Financial Futures Trading Law (the “FFTL”) and (ii) those which are not currently regulated under Japanese law, such as credit derivatives.

Products regulated under the SEL	Products regulated under the Law
- Securities-related derivatives transactions, etc.	- Interests in trusts in general - Holdings of collective investment schemes (comprehensively defined[†]) - Various derivatives transactions (e.g., foreign currency margin trading, currency and interest rate swaps, weather derivatives transactions, credit derivatives transactions), etc.

II. Transition Provisions

Taking into account the fact that expansion of the scope of regulated instruments ("Newly-Regulated Instruments") and the scope of regulated activities ("Newly-Regulated Activities") may cause previously unregulated entities to become subject to regulation, the Law contains provisions for handling of this transition. These may be subdivided into general provisions for all entities handling Newly-Regulated Instruments and provisions for Newly-Regulated Activities in relation to collective investment schemes, regardless of whether or not such schemes are Newly-Regulated Instruments. Both are discussed in further detail below. [‡]

(Please note that entities which are already regulated under the SEL and other laws that will be merged into the Law, such as the FFTL and the Investment Advisory Business Law, are subject to a separate set of transition provisions. These generally deem such entities to be registered (*touroku*) under the Law to continue to engage in the activities in which they currently engage, but require such entities, for reporting purposes only, to submit documents similar to the application documents for a new registrant within three months following the Effective Date.)

[†] Holdings of arrangements ("so-called collective investment schemes") with the following characteristics are regarded as securities under the Law: (i) receives investment of money, etc. from other parties; (ii) engages in business using such assets; and (iii) distributes proceeds, etc. from such business to investors. The specific legal structure of the arrangement is irrelevant, as is the type of business engaged in using the invested assets. (Information in this footnote and the table above is adapted from the FSA Newsletter dated August, September, 2006: http://www.fsa.go.jp/en/newsletter/2006/09.pdf.)

[‡] A recently released draft Cabinet Order further extends the coverage of transition provisions to include entities engaging in Newly-Regulated Activities in respect of non-Newly-Regulated Instruments, as further discussed in II.C. below.

A. Transition Provisions for All Entities Handling Newly-Regulated Instruments

Any previously unregulated entity handling a type of instrument that becomes newly subject to coverage under the Law will be permitted, pursuant to Article 17, Paragraph 1 of the Transitional Provisions of the Law Amending a Part of the Securities and Exchange Law, etc. (the "Transitional Provisions"), to continue to engage in such business for a holdover period of six months following the Effective Date. If the entity wishes to continue to engage in such business following the end of this holdover period, it will generally be required to file an application for registration (*touroku*) with the FSA as an entity engaging in the financial instruments business in Japan. Following this filing, the entity will be permitted to continue to engage in the relevant business pending notice from the FSA in response to its application. If the FSA's response is affirmative, then ongoing business will be permitted. If the FSA's response is negative and the entity receives a notice of such response from the FSA, then the relevant business must be ceased on the day when the entity receives the notice.

B. Transition Provisions for Newly-Regulated Activities in relation to Collective Investment Schemes

In addition to the above-described general provisions regarding transition, the Law includes specific transition provisions for Newly-Regulated Activities in relation to collective investment schemes. Such provisions newly impose regulation on both (1) the management of such schemes by the schemes themselves and not by an investment advisor or manager (*jiko unyou*) ("Self-Management") and on (2) the placement of interests in such schemes by such schemes themselves and not by an agent or intermediary (*jiko boshu*) ("Self-Placement") (both currently unregulated under the SEL).

Regulation of the management of such schemes (*unyou*), including Self-Management will incorporate a transition mechanism. Specifically, any entity (*unyou gyousha*) engaged in the management (including Self-Management) of a collective investment scheme other than a scheme limited to "professionals"[§] will, provided solicitation in respect of such scheme has started prior to the Effective Date, be permitted to continue to manage such scheme until the termination thereof in accordance with its governing documents. Any such entity will, however, be required to file a notification (*todokede*) with the FSA of its continuing management of the relevant scheme within three months following the Effective Date. The form of the notification to be filed with the FSA is substantially the same as those to be filed by those who engaged in the management of collective investment schemes limited to professionals (discussed below). Upon filing of such notification, the relevant entity will become subject to certain new (but limited) regulations which will be applicable to schemes limited to professionals as if it engaged in the management of a scheme limited to professionals (e.g., a prohibition on any make-up for losses experienced by investors), but this additional regulatory burden will not be as extensive as that for the manager of a scheme for non-professionals that commences solicitation of investments following the Effective Date.

[§] For this purpose, a collective investment scheme limited to professionals is one as to which solicitation and investment are limited to one or more Qualified Institutional Investors (as defined in the Law) and not more than 49 non-QII investors.

As you will understand, any entity that wishes to engage in the management (including Self-Management) of a collective investment scheme for non-professionals, solicitations in respect of which have not commenced prior to the Effective Date, will be subject to the registration (*touroku*) requirement mentioned in II.A. above.

In the case of an entity engaged only in the management (including Self-Management) of collective investment schemes limited to professionals, such entity will be permitted to continue to engage in such business following the Effective Date (regardless of whether the solicitation has commenced prior to or after the Effective Date). Such entity will, however, be required to file a notification with the FSA within three months following the Effective Date, and upon such filing will become subject to the same limited regulations mentioned above.

Regulation of Self-Placements does not have the benefit of similar transition provisions and will commence immediately upon the Effective Date, with no holdover period. Accordingly, any scheme proposing to engage in a Self-Placement following the Effective Date generally will be required to register (*touroku*) with the FSA as a person engaging in the financial instruments business (the second financial instruments business, which generally consists of the handling of sales of and solicitations with respect to securities with lower liquidity and market derivatives) in Japan prior to initiating such Self-Placement. (See Article 29 and Article 2, Paragraph 8, Item 7 of the Law.) As the FSA will only begin to accept such registration applications on or after the Effective Date, there will be a period during which no Self-Placement may take place, i.e., the period between the Effective Date and the registration date. However, so long as a collective investment scheme (the definition of which is itself expanded in the Law to cover a broader range of financial products) falls within the Newly-Regulated Instruments, and placement of the relevant scheme has been commenced by the Effective Date, then a six month holdover period, similar to II. A. above, under Article 17, Paragraph 1 of the Transition Provisions, will enable the placement of the scheme for six months, pending the FSA's response to the application, and the application for Self-Placement registration described under this II. B. may be made within such period.

C. Transition Provisions for Entities Engaging in Newly-Regulated Activities with respect to non-Newly Regulated Instruments

Transitional coverage is further expanded, pursuant to a draft Cabinet Order recently released for public comment,[**] to entities engaging in Newly-Regulated Activities (i.e., Self-Management and Self-Placement) with respect to non-Newly Regulated Instruments. (An example of a non-Newly Regulated Instrument for this purpose would be interests in Japanese Limited Liability Partnerships, which are currently regulated "Securities" under the SEL.) As a consequence of this expansion, an entity engaging in Self-Management or Self-Placement of such non-Newly Regulated Instruments prior to the Effective Date will be permitted to continue to engage in such activity for a holdover period of six months following the Effective Date.

[**] Such release was made on April 13, 2007, and may be viewed in its entirety at http://www.fsa.go.jp/news/18/syouken/20070413-3/03-2.pdf. Our discussion assumes that this draft Cabinet Order is adopted substantially in the form of the current draft.

Any such entity wishing to continue this activity beyond the six-month holdover period will be required to file an application for registration (*touroku*) with the FSA as an entity engaging in the financial instruments business in Japan. Following this filing, the entity will be permitted to continue to engage in the relevant business pending notice from the FSA in response to its application. If the FSA's response is affirmative, then ongoing business will be permitted. If the FSA's response is negative and the entity receives a notice of such response from the FSA, then the relevant business must be ceased on the day when the entity receives the notice. Again, as you will understand, any entity wishing to engage in a Newly-Regulated Activity with respect to a non-Newly Regulated Instrument commencing after the Effective Date will be subject to the registration requirements described in II.A. above.

As described, the transition to a more broadly regulated environment in Japan under the Law may present pitfalls for entities not alert to the increased scope of such regulation. We hope that the foregoing has helped to alert you to some of the issues involved.

Please note that this memorandum is not intended to provide a comprehensive analysis of the transition provisions under the Law, but rather to call your attention to certain specific issues thereunder. In the event that we can provide advice in further detail with respect to these or related matters, please do not hesitate to contact us.

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