2. Liberalization of the Japanese Non-Life Insurance Market

The Japanese non-life insurance market entered an epoch-making era with the new Insurance Business Law which took effect on April 1, 1996. In addition, as an integral part of the Japanese financial system reforms (the Japanese “Big Bang”), a Financial System Reform Bill was approved in the Diet on June 5, 1998. In line with this, the reform of the non-life insurance rating organization system was implemented. The obligation for members to use the premium rates calculated by the rating organizations was abolished on July 1, 1998, thus accelerating deregulation and liberalization in the Japanese non-life insurance market. Major developments of liberalization in the Japanese non-life insurance market are as follows:

- This report formed the basis of the reform plans for the Japanese insurance business.
- In line with this report, and in order to conduct further research and study from a legal viewpoint, the Round-Table Conference for Legislative Reform was set up.
- In line with this report, the Ministry of Finance began drawing up legislation.
- The following are some points stated in the above agreement entitled “Measures by the Government of Japan and the Government of the United States regarding Insurance” (Measures).
  ① Mutual entry of life and non-life insurance companies into the third sector under certain restrictions.
  ② Introduction of a notification system.
  ③ Expansion of the scope of the file and use system.
  ④ Expansion of benchmark rates and free rates.
  ⑤ Introduction of a brokerage system.
- The former three laws, i.e. the Insurance Business Law, the Law concerning the Control of Insurance Soliciting, and the Law concerning Foreign Insurers were amended and consolidated in the new Insurance Business Law.
- The Policyholders’ Protection Fund for Non-Life Insurance Companies was established on April 1, 1996. The objective was to provide financial aid to a reliever insurance company taking over the insolvent company’s portfolio. The maximum amount of financial aid was 30 billion yen per one insolvent company.
- The brokerage system was introduced and the first examination of insurance brokers was carried out on July 22, 1996.
• On October 1, 1996, the six non-life insurance subsidiaries of life insurance companies and the eleven life insurance subsidiaries of non-life insurance companies began operations.

October 1, 1996 Measures for the further deregulation of the non-life insurance business in Japan announced by the Ministry of Finance.

• Major measures were as follows:
  ① Introduction of the direct selling system in voluntary automobile insurance.
  ② Expansion of the advisory rating scheme for loading premium rates of commercial fire insurance.
  ③ Expansion of the notification system.

November 11, 1996 Japanese Financial System Reform Plan (the Japanese “Big Bang”) put forward.

• Mr. Ryutaro Hashimoto, then Prime Minister of Japan, instructed the Minister of Finance and the Minister of Justice to discuss financial deregulation measures to be implemented by 2001.

December 24, 1996 The Japan-US Insurance Talks were concluded.

• Representatives of the Japanese and the U.S. governments met from December 1995 through December 1996 regarding the interpretation and application of the “Measures”. As a result of these consultations, each government decided to implement “Supplement Measures by the Government of Japan and the Government of the United States regarding Insurance” as an integral part of the “Measures”.

December 20, 1996 Fundamental Subjects Study Committee of the Insurance Council established.

• To respond to the Japanese “Big Bang”, and with the founding objective of deliberating fully on the further improvement of insurance deregulation, the Fundamental Subjects Study Committee was established as the Insurance Council’s working party.

• The Prime Minister’s advisory councils, such as the Economic Council and Administrative Reform Council, submitted their respective reports including deregulation measures in the non-life insurance sector in December 1996.


• The main subjects of the Insurance Council’s report were as follows:
  ① Liberalization measures, including the reform of rating organizations.
  ② Acceleration of mutual entry between financial institutions.
  ③ Introduction of the holding company system.
  ④ Insurance distribution by banks and other financial institutions.
  ⑤ Application of the market value method to trading accounts.

• In addition, a study group on the payment guarantee system, which was organized by the Ministry of Finance, submitted its interim report on June 13, 1997. Its final report was compiled on December 5, 1997.
Automobile insurance policy with differentiated premium rates was marketed on September 3, 1997. This policy was in line with the Administrative Guidelines issued by the Ministry of Finance on June 30, 1997.

The introduction of the Payment Guarantee System is aimed at ensuring the protection of policyholders and defining rules concerning their protection in the event of an insurance company going bankrupt, including cases where reliever insurance companies do not appear.

Following the discussions in the Insurance Council, a draft bill concerning the payment guarantee system was drawn up and included in the Financial System Reform Bill.

The Financial System Reform Bill amends en bloc 24 financial related laws, such as the Insurance Business Law, the Law concerning Non-Life Insurance Rating Organizations, the Banking Law, and the Securities & Exchange Law.

Some of the key issues related to insurance system reform laid out in the Bill were as follows:
1. Creation of Policy-holders Protection Corporation
2. Introduction of an early warning measure for the insurance business
3. Reform of the rating organization system
4. Holding of subsidiaries by insurance companies, etc.

The revisions of the Insurance Business Law took effect on December 1, 1998, while the revisions of the Law concerning Non-Life Insurance Rating Organizations came into effect on July 1, 1998.

With the approval of the Financial System Reform Bill, non-life insurance companies were allowed to distribute investment trusts directly to customers on December 1, 1998, on the condition of registering with and obtaining approval from the Commissioner of the Financial Supervisory Agency.

The Financial Supervisory Agency is independent and separate from the existing Ministry of Finance, and takes over the inspection and supervisory functions of the Ministry of Finance, such as the issuance and withdrawal of licenses, approval of products/services, and issuance of orders to improve/suspend the business operations of financial institutions (incl. insurance companies).

At the same time, the Ministry of Finance has also been reorganized.

Following the enforcement of the revised Law concerning Non-Life Insurance Rating Organizations, the obligation for members to use the premium rates calculated by the rating organization was abolished.

<table>
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<tr>
<th>Date</th>
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<tr>
<td>December 5, 1997</td>
<td>Report concerning the Payment Guarantee System submitted to the Insurance Council.</td>
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<tr>
<td>June 5, 1998</td>
<td>Financial System Reform Bill approved by the Diet.</td>
</tr>
<tr>
<td>June 22, 1998</td>
<td>Financial Supervisory Agency created.</td>
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The rating organization shall calculate a “reference risk premium rate” for fire, personal accident, nursing care, and voluntary automobile insurance. The rating organization shall also calculate a “standard premium rate” for the Compulsory Automobile Liability Insurance and earthquake insurance on dwelling risks.

Under the former system, the Policyholders’ Protection Fund for Non-Life Insurance Companies could not come into effect unless reliever insurance companies appeared in the event of a non-life insurance company becoming insolvent. In addition, it was necessary to define rules concerning the protection of policyholders.

The Corporation shall carry out the following types of business activities:
1. To provide financial aid to a reliever insurance company.
2. To undertake the insurance contracts of an insolvent non-life insurance company which is a member of the Corporation, and to administer and/or deal with these insurance contracts.
3. To collect contributions from the member companies.
4. To provide loans to the member companies, etc.

The early warning measure is an administrative trigger which will be put into action in accordance with the solvency margin ratios, one of the indices that the supervisory authorities utilize in order to judge the management soundness of an insurance company.

The number of non-life insurance products to which the notification system applies was expanded effectively from August 13, 1999, and in principle, non-life insurance products for commercial risks have moved from the approval system to the notification system.

With the entry of insurance companies to the banking business through their subsidiaries allowed from October 1, 1999, a regulation concerning measures to prevent harmful effects on policyholders arising from the entry was introduced effective from October 29, 1999.

The allowance of the entry of insurance companies to the banking business resulted from the enforcement of the Financial System Reform Bill on December 1, 1998.