

As of April 2005

A Guide To The Deposit Insurance System

Outline of the System and Q&A



Deposit Insurance Corporation of Japan

Scope of deposit protection has been changed from April 2005

Concerning the scope of deposits which are protected under the deposit insurance system in Japan, a special arrangement for the blanket guarantee of deposit insurance was taken in 1996, taking into account the financial environment that financial institutions were saddled with a huge amount of non-performing loans and credit creating functions of the banking system were paralyzed. Subsequently, as Japan's financial system became more stabilized, some types of deposits, such as time deposits, were shifted to the limited coverage in April 2002.

From April 2005, the scope of deposits under the limited coverage has been extended and the deposits under full coverage has been only limited to "deposits for payment and settlement purposes" which satisfy all the following three conditions — "bearing no interest, being redeemable on demand and providing normally required payment and settlement services". Excluding those "deposits for payment and settlement purposes", the protection of current deposits, ordinary deposits and specified deposits, which formally had been under the blanket guarantee, is total up to a maximum principal of ¥10 million plus accrued interest thereon per depositor per financial institution.

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Part One Outline of the Deposit Insurance System



1. Outline of the Deposit Insurance System

(1) Roles and Functions of the Deposit Insurance System

The objective of the deposit insurance system is to protect depositors and other parties (referred to as "depositors" hereafter) and attempt to guarantee the fund settlement when a financial institution can no longer repay their deposits, thereby contributing to maintain financial stability.

The deposit insurance system in Japan is subject to the Deposit Insurance Law (enacted in 1971). Deposit Insurance Corporation of Japan (DICJ), which was established with funding from the government, the Bank of Japan, and private financial institutions, is a main body that operates the system with the purpose of operating Japan's deposit insurance system.

The duties the DICJ carries on can be broadly divided into the following: ① operations of the deposit insurance system as a public safety net to protect depositors; in particular, collection of deposit insurance premiums, financial assistance or reimbursement of insured deposits and claims, and inspections of financial institutions, ② assets management of failed financial institutions related to financial administrators, ③ resolution and collection of non-performing loans through entrustment to the Resolution and Collection Corporation (RCC), ④ capital injection to financial institutions, ⑤ pursuit of civil and/or criminal liability on the part of former executives of failed financial institutions. The RCC and the Second Bridge Bank of Japan, both DICJ subsidiaries, have been established for steadily execution of those duties.

The DICJ consists of 7 departments (the Planning and Coordination Department, the Treasury Department, the Financial Reconstruction Department, the Deposit Insurance Department, the Special Investigation Department, the Inspection Department, and the Osaka Operation Department), 35 divisions and 4 offices, with a total of 402 staff (as of January 1, 2005).

The Policy Board is DICJ's decision-making body for important issues upon carrying its duties. Currently it consists of eight Board Members (eight is maximum number) who have expertise/experience of finance, together with the Governor and four Deputy Governors of the DICJ.

(2) Insured Financial Institutions

The deposit insurance scheme covers financial institutions, as listed in the box below, whose headquarters are located in Japan.

The insurance coverage by the DICJ automatically begins when insured financial institutions accept deposits eligible to be insured. The deposit insurance is mainly financed by insurance premiums, which are paid annually by insured financial institutions to the DICJ, in accordance with their amount of deposits.

Banks (under the definition of the Banking Law), Long-term credit banks (under the definition of the Long-Term Credit Bank Law), Shinkin banks, Credit cooperatives, Labor banks, the Shinkin Central Bank, the Shinkumi Federation Bank, and the Rokinren Bank

(Note) Branches outside Japan of those financial institutions, government-affiliated financial institutions, and foreign banks' branches in Japan are not covered by this scheme. The Norinchukin Bank, Agricultural cooperatives, Fishermen's cooperatives, Seafood processing cooperatives, etc., are covered by the "Savings Insurance System of the Agricultural and Fisheries Cooperative Savings Insurance Corporation". Postal savings at Japan Post are guaranteed by the government. Securities companies are covered by the "Investor Protection Fund", while life insurance and non-life insurance companies are covered by their respective "Insurance Policyholder Protection Corporations".

(3) Scope of Insured Deposits, etc.

The scope of deposits insured under the deposit insurance is as follows.

Deposits, installment savings, installment contributions, money trusts with guaranteed principal (including loan trusts), and bank debentures (limited to custody products), as well as accumulating and asset-forming savings products using these deposits, and deposits related to the investment of fixed contribution pension reserves.

(Note) The following types of deposits are not covered: Foreign currency deposits, negotiable certificates of deposit, deposits accounted for in special international transaction accounts (deposits of Japan off-shore market accounts), deposits from the Bank of Japan (except treasury funds) and member financial institutions (except deposits related to the investment of fixed contribution pension reserves), deposits from the DICJ, bearer deposits, deposits under an alias or fictitious name, deposit to be re-lent to a third party, money trusts with no guaranteed principal, and bank debentures other than custody products.

(4) Amount of Coverage (Scope of Deposit Protection)

From April 2005 onward, deposits which come under the category of deposit for payment and settlement purposes - the deposits that meet three requirements - bearing no interest, being redeemable on demand and being normally required payment and settlement services- are protected in full (permanent measures). Meanwhile the protection of deposits other than those for payment and settlement purposes is protected up to a maximum of ¥10 million in principal plus related interest thereon per depositor per financial institution ^(Note).

Uncovered portion of the insured deposits (i.e. the portion of principal exceeding ¥10 million for insured deposits other than deposits for payment and settlement purposes) as well as uninsured deposits plus interest thereon may be partially payable in accordance with the state of assets of a failed financial institution.

(Note) In FY 2002, current, ordinary and specified deposits were protected in full as special deposits. Subsequently, by the FY 2002 amendment to the Deposit Insurance Law, current, ordinary and specified deposits were categorized deposits for payment and settlement purposes and had been protected in full only in FY 2003 and FY 2004.

		April 2002 - March 2005	April 2005 onwards
Deposits within the scope of protection	Current deposits	Full coverage	Full coverage for deposits for payment and settlement purposes, which bear no interest and meet other conditions (Note 1) (permanent measures)
	Ordinary deposits		
Deposits within the scope of protection	Specified deposits	Total up to a maximum principal of ¥10 million (Note 2) plus accrued interest thereon (Note 3) The portion in excess of ¥10 million will be paid, depending on the state of assets of a failed financial institution (subject to deductions)	
	Time deposits		
	Installment savings		
	Money trusts under the guarantee of principal		
	Bank debentures (custody products)		
Deposits outside the scope of protection	Foreign currency deposits	Not protected Payable depending on the state of assets of a failed financial institution (some may be unpaid)	
	Negotiable certificates of deposit		
	Money trusts under no guarantee of principal		

(Notes)

These deposits are referred to as "the Payment and Settlement Deposits".

(Note1) They must meet the three conditions; "bearing no interest, being redeemable on demand, and providing normally required payment and settlement services".

(Note2) For the time being, if financial institutions merge or take over all operations, for one year from the merger date, the protected amount will be "¥10 million multiplied by the number of financial institutions involved in the merger" (for example, ¥20 million if two institutions merge).

(Note3) The distribution of earnings on installment savings provisions and money trusts will be protected in the same way as interest, providing they meet certain conditions.

(5) Protection of Settling Obligations

The settling obligations^(Note) are obligations assumed by financial institutions concerning transactions involved in fund settlement conducted by financial institutions (exchange transactions, bills which can be cleared at the clearing house, transactions settled by presenting checks and those involving self-addressed checks drawn by financial institutions). For example, the obligations involved in a transaction where despite a customer transfer request lodged before the financial institution fails, funds received from the customer are still not transferred to a transferee, come under the settling obligations.

The settling obligations are fully protected.

(Note) The obligations arising from transactions entrusted by a financial institution or person who carries on financial business do not come under the settling obligations in principle. However, the obligations arising from transactions, which a financial institution did not conduct as its business, come under the settling obligations. The settling obligations which are not accounted for as deposits for payment and settlement purposes are called "Specified settling obligations". For example, the settling obligations which are accounted for as bank deposits or suspense receipts come under "Specified settling obligations".

(6) Deposit Protection Scheme

There are two methods of protecting deposits when a financial institution fails: ① a method of transferring business to other sound financial institution (assuming financial institution) and concurrently providing financial assistance (financial assistance method), and ② a method where the DICJ pays insurance proceeds directly to depositors (insurance pay-out method).

(7) Framework of Insurance Premiums

From FY1996 to FY2001, insurance premiums were divided into "ordinary premiums" and "special premiums (for protecting the full amount of deposits)". The latter were abolished at the end of FY2001 ^(Note 1). Ordinary premiums are used to fund operations such as financial assistance and insurance payments (pay-out) not exceeding the expected cost for the direct insurance payment to depositors (the pay-out cost ^(Note 2)).

(Note 1) Special premiums were used to fund an account set up especially to conduct financial assistance exceeding the pay-out cost (special financial assistance) and other special operations to cover the special arrangements for protecting full amount of deposits (in operation from FY1996 to FY2001). Insured financial institutions had to pay special insurance premiums (prescribed by the Cabinet Order as 0.036% of the balance of insured deposits).

(Note 2) The pay-out cost is calculated by deducting "the estimated amount of liquidating dividend" recoverable by the DICJ following the bankruptcy proceedings of the financial institution from the total estimated payment of the insurance proceeds plus estimated expenses incurred in paying the insurance proceeds.

- Pay-out cost = Estimated payment of insurance proceeds
+ estimated expenses incurred in paying insurance proceeds
– estimated amount of liquidating dividend

The premium rate is approved by the Commissioner of Financial Services Agency (mandated legally by the Prime Minister) and the Minister of Finance through the resolution of the DICJ Policy Board, and informed to public.

The premium is determined by multiplying the premium rate and the balance of insured deposits ^(Note 1) in the previous fiscal year together. (Since FY 2002, the balance figure has been changed to the average balance for business days during the previous fiscal year from the balance at the end of the previous years. Insured institutions must pay their premium to the DICJ within the first three months of each business year. Semi annual installments are also allowed ^(Note 2)).

(Note 1) For further information on insured deposits, see "Part I. (3) Scope of Insured Deposits" (p.4). The deposits under disguised ownership or under a fictitious name and deposits to be re-lent to a third party shall be subject to payment of premiums.

(Note 2) Concerning fully protected settling obligations during the period of FY 2004 to FY 2007, and concerning specified deposits coming under deposits for payment and settlement purposes or other deposits during the period of FY 2005 to 2007, respectively under the condition of obtaining the approval of the reason that it is difficult to grasp the average balance on business days by the Commissioner of Financial Services Agency, alternative calculation measures on the basis of the average balance on the final business day of each month are put into effect for the interim period.

In FY 2001 and FY 2002, deposits were classified into two categories - "Specific deposits" composed of current, ordinary and specified deposits and "Other deposits"; other than Specific deposits such as time and saving deposits - the premium rates were set for each category.

In FY 2001, the premium rates for both categories were set at 0.048 %; namely the same level as that in FY 2000, taking into account that FY 2001 was a period during which special arrangements for the blanket guarantee were taken and the special premium rate remained the same 0.036 % as the previous year by the Cabinet Order ^(Note).

(Note) The premium to be paid by financial institutions, in this case, is a total amount after multiplying the balance of all insured deposits by 0.048 % and that after multiplying the said balance by 0.036 %. Accordingly, the overall premium rate as imposed on financial institutions becomes 0.084 % (= 0.048 % + 0.036 %).

In FY 2002, while "Specific deposits" continued to be protected in full, "Other deposits" was shifted to the limited coverage which will be protected up to a total of ¥10 million in principal plus interest thereon. Despite circumstances where the scope of deposit protection is different, the premium rate for "Specific deposits" was set at 0.094 % and that for "Other deposits" at 0.080 %, taking the purport of the Deposit Insurance Law and the report by the Financial System Council in December 1999 into consideration ^(Note).

(Note) The premium to be paid by financial institutions, in this case, is the total of the amount obtained by multiplying the balance of "Specific deposits" by 0.094 % and that obtained after multiplying the balance of "Other deposits" by 0.080 %. Accordingly, the overall effective premium rate as imposed on financial institutions becomes 0.084 % (the weighted average according to the respective balance of deposits).

The insurance premium rates for FY2003 onwards are determined according to amendment of the Deposit Insurance Law in December 2002. However, for FY2003 and FY2004, "Specific deposits" were treated as "deposits for payment and settlement purposes" and received full protection, while "Other deposits" became "General deposits" and were subject to limited coverage. Such changes mean that protection framework is essentially the same as what applied in FY2002. Therefore, taking its consistency into account upon setting the difference between the rates for "deposits for payment and settlement purposes" and "General deposits," it was considered appropriate to employ a weighted average of "the rate that would result in the same insurance premium burden for each yen of insured deposits" and "the rate that would result if the rates for both were set at a uniform 0.084%." Moreover, considering both purport of the Deposit Insurance Law and that of the reports of the Financial System Council meetings of December 1999 and September 2002, the premium rate for "deposits for payment and settlement purposes" has been set at 0.090% and that for "General deposits" at 0.080%.

And, the insurance premium rates applicable in FY2004 remained unchanged as there were no major changes in the condition of other factors, including the financial condition of the DICJ.

Changes in Insurance Premium Rates

		Ordinary Premium Rate ①	Special Premium Rate ^(Note) ②	
On launch of the system in 1971		0.006%	—	
FY1982		0.008%	—	
FY1986		0.012%	—	
FY1996		0.048%	0.036%	Total ① + ② 0.084%
FY2001	Specific Deposits	0.048%	0.036%	0.084%
	Other Deposits	0.048%		
FY2002	Specific Deposits	0.094%	—	
	Other Deposits	0.080%		
FY2003	Payment and settlement Deposits	0.090%	—	
	General Deposits	0.080%		
FY2005	Payment and settlement Deposits	0.115%	—	
	General Deposits	0.083%		

(Note) Applied from FY1996 to FY2001 (Deposit Insurance Law, Supplementary Provisions, Article 19 paragraph 1)

2. Data Preparation etc. Required to Financial Institutions

(1) The Use of Data Preparation and Improvement of Data Processing Systems

Under the deposit insurance system, deposits are protected when a financial institution is no longer able to repay deposits. The deposit insurance system aims to protect depositors and to ensure transaction, thereby contributes to maintain financial stability. To this end, the DICJ needs to quickly identify insured deposits and work out the amounts of insured deposits due to each depositor. In case a same depositor holds two or more deposit accounts at a failed financial institution concerned, after aggregating them, it is then necessary to specify which deposit is recognized as the insured deposit in light of the priority order prescribed and to calculate the amount of the insured deposit for each depositor (the "name-based aggregation"). To ensure the reliability of this process, financial institutions are obliged under the Deposit Insurance Law to maintain data on depositors and improve their data processing systems.

(2) Operations at Financial Institutions

Financial institutions are obliged by law to continuously maintain depositors data needed for the name-based aggregation (of deposits held by a same depositor), as well as promptly submitting such depositors' data to the DICJ in the event of failure. The standardized format for data submitted to the DICJ by financial institutions is defined as the "DICJ Prescribed Format". This includes information such as the depositor's name written in "kana" (the Japanese syllabary), date of birth, address (in the case of a corporation, its name written in "kana", date of establishment and location), telephone number, account number, and principal of deposit and interest thereon.

If these data are not submitted to the DICJ immediately after a financial institution fails, it may take time for the name-based aggregation of deposits held by a same depositor, making it difficult to exercise quick deposit protection.

With amendment of the Deposit Insurance Law in December 2002, financial institutions has been bound to continuously improve computer systems to guarantee smooth repayments of deposits for payment and settlement purposes in the event of failure. Financial institutions are thus required to take prompt action in enhancing their computer systems.

(3) Operations at the Deposit Insurance Corporation

When a financial institution fails, the DICJ promptly receives depositors' data from the financial institution with the sets of magnetic tape, and aggregates deposits held by a same depositor, using the DICJ's information system.

The DICJ also conducts on-site inspections on financial institutions according to an order of the Commissioner of the Financial Services Agency, to confirm that financial institutions are adequately maintaining data on depositors and improve data processing systems.

3. Treatment of Deposits, etc., when a Financial Institution Fails ^(Note)

(Note) Unless specified otherwise, the description of this section is applicable to both methods—the financial assistance and insurance pay-out methods respectively (see p.16) as long as it is not specified.

(1) Outline

a. Scope of Deposit Protection

The amount of insured deposits protected by deposit insurance when a financial institution fails is the full amount for deposits for payment and settlement purposes. For other insured deposits, it is the total of principal up to ¥10 million, plus interest thereon, per depositor per financial institution. In addition, insured deposits exceeding the coverage, as well as uninsured deposits, may be payable as a liquidating dividend or repayment obtained through disposal or collection of a failed financial institution's assets, while it may be subject to deductions depending on the state of assets of a failed financial institution. Also, when a depositor has borrowings from the failed financial institution, the deposits may essentially be recovered by offsetting deposits and other claims against loans and other debts.

b. Securing Depositors' Access to Deposits in the case of Failure

The following measures are available to ensure the convenience of depositors in the case of failure.

① Under the financial assistance method, deposits and others may be paid within the range of coverage, even during the period of a business transfer, etc., from a failed financial institution to an assuming financial institution. ② Partial payments (limited to ¥600,000 per ordinary deposits account) may be made to cover the immediate living expenses of depositors, when it is anticipated that insurance payments will not begin for a considerable length of time. Also, ③ the DICJ may purchase a portion in excess of ¥10 million in principal per depositor of the insured deposits other than those for payment and settlement purposes, foreign currency deposits as well as interest thereon, at a sum multiplied by a certain rate (estimated proceeds payment rate) which has been determined after taking into account the estimated amount of liquidating dividend of a failed financial institution and other factors, and pay the same sum to the depositors. This is called the "purchase of deposits and other claims" (estimated proceeds payment). When the liquidation dividends and other money recovered by the DICJ exceed the purchased amount, the surplus is also paid to the depositors (settlement payment).

(2) Treatment of Insured Deposits

Before paying insured deposits within the range of the coverage, total amount of deposits held by a same depositor must be aggregated and the amount of insured deposits for each depositor must be determined.

a. Name-based Aggregation of Deposits Held by a Same Depositor

When a financial institution fails, several deposits held by a same depositor in the failed financial institution must be aggregated in order to determine the insured deposit amount for each depositor.

Depositors are treated as single depositors if they are individuals, corporations, or "non-juridical associations or foundations". In the case of other organizations (referred to below as "voluntary organizations") which will not be treated as single depositors, deposits held are divided into the various individuals' share and deposits are aggregated for each individual's amount. Those arrangements are illustrated in more detail below.

① Individuals

Even among a same family, husband and wife, or parents and children are treated as individual depositors and their deposits are aggregated in accordance with each depositor's name since they all have their own respective legal status. However, deposits that only nominally use a name of other family member are not protected by the insurance.

In the case of individual business proprietors, both deposits for business and non-business purposes are aggregated as being held by a same person.

② Corporations and non-juridical associations

As for deposits under the name of an organization which is recognized as a corporation or falls under the category of a "non-juridical association or foundation", the organization is treated as a single depositor. Generally, to be qualified as a "non-juridical association or foundation", the organization has to fulfill certain conditions. These include being organized as a group and having regulations or other clearly stipulated rules of administration. In reality, individual cases should be judged by each financial institution according to actual situation of each organization. (Please see Q32.)

③ Voluntary organizations

Deposits under the name of a voluntary organization, which is not a corporation or is not recognized as "non-juridical associations or foundations" are aggregated together with the other deposits held by each member of the organization.

That is, when a financial institution fails, a voluntary organization must promptly submit a set of information of its members (names, dates of birth, and share of deposits etc.) to the failed financial institution.

b. Calculation of Insured Deposit Amount

When the principal of insured deposits other than deposits for payment and settlement purposes exceeds ¥10 million and two or more deposits were realized as the result of aggregation, the principal of ¥10 million is identified in the following order of priority, as stipulated in the Deposit Insurance Law.

- ① Deposits that are not subject to collateral
- ② Deposits of shorter maturity
- ③ Deposits with the lower interest rate when there are two or more deposits of the same maturity
- ④ Deposits designated by the DICJ when there are two or more deposits with the same interest rate
- ⑤ Deposits designated by the DICJ when two or more deposits are subject to collateral

Moreover, when there are deposits related to the investment of reserves from defined contribution pension plan, the insured deposit amount includes the depositor's portion of the reserve. In this case, however, the deposits under the individual name shall have priority over those of the depositor's portion of the reserve.

c. Repayment of Insured Deposits (Financial Assistance Method)

Under the financial assistance method (Please see p.16), after calculating the insured deposit amount for each depositor through the name-based aggregation of deposits held by a same depositor, the DICJ notifies the failed financial institution of the result. The failed financial institution then prepares to repay deposits based on the data.

(Note) When civil rehabilitation or corporate reorganization proceedings have been instigated with respect to a failed financial institution under the Law concerning Special Cases of Reorganization Proceedings for Financial Institutions, and it has been decided that loans will be made by the DICJ in order to repay insured deposits, a court of law may stipulate types of deposits due for repayment and grant permission to repay insured deposits, after consulting the DICJ as to the types of deposits, based on an application by the failed financial institution (the debtor in the process of rehabilitation in the case of civil rehabilitation proceedings, or the receiver in the case of corporate reorganization proceedings).

Time needed to start repayments depends on how quickly preparations, including depositor's data, are well made. The DICJ is highly expected to implement repayment of the insured deposits as soon as possible.

d. Insurance Pay-Out (Insurance Pay-Out Method)

In case of the insurance pay-out method (see p.22), a depositor is supposed to fill out and submit the insurance claim form, which is mailed to each depositor after a failure, to the DICJ together with his/her identification document. The depositor may then, in principle, receive payment of the insurance proceeds by bank transfer.

e. Partial Payments

When it is anticipated that insurance payments or the repayment of insured deposits would take a considerable length of time, partial payments may be made to cover the immediate living expenses and other costs for depositors of the failed financial institution. The DICJ decides to make these payments through a resolution of the Policy Board within one week after the insurable contingency occurs.

As stipulated by the Cabinet Order, partial payments are made against the balance of ordinary deposits (principal only) of each depositor, up to a limit of ¥600,000 per account.

When the insurance is subsequently paid, this partial payment is deducted from the insurance payment to the depositor in question.

Changes of Limits on Insurance Payments and Partial Payments

	Insurance Payments	Partial Payments
On launch of the system in 1971	¥1 million	
June 1974	¥3 million	—
July 1986	¥10 million	¥200,000
April 2001	Principal ¥10 million+ interest thereon, etc. ^(Note)	¥600,000

(Note) From April 2005, the deposit for payment and settlement purposes (deposits which meet three conditions - bearing no interest, being redeemable on demand and providing normally required payment and settlement services) is fully protected.

(3) Treatment of Uninsured Deposits

a. Estimated Proceeds Payment

Deposits other than insured deposits would be paid as tenders or dividends through bankruptcy/rehabilitation proceedings, depending on the states of assets of a failed financial institution.

Since depositors take part in the bankruptcy/rehabilitation proceedings as ordinary creditors, it can take a considerable time to receive these tenders or dividends. Therefore, the system of estimated proceeds payment has been set up for the following deposits for the convenience of depositors.

Namely, for the portion of principal in excess of ¥10 million per depositor, plus interest thereon in the case of insured deposits other than deposits for payment and settlement purposes, or for uninsured foreign currency deposits and their interest, the DICJ may, when it has decided to implement estimated proceeds payment, make such payments in the form of purchasing these claims, on the requests by depositors. In such cases, the purchase price is calculated by multiplying the claims by a rate determined in consideration of the estimated dividend (the estimated proceeds payment rate), etc. This does not, however, apply to deposits pledged as collateral. Depositors actually can recover part of their claims at an early stage with this system and do not have to wait for tenders or dividend payments.

These estimated proceeds payments may be made when either of the failure resolution methods, namely the financial assistance method, or the insurance pay-out method is adopted.

$$\text{Estimated proceeds payment (amount paid to depositors)} = \text{Amount of principal exceeding ¥10 million and foreign currency deposits, plus interests thereon, etc.} \times \text{Estimated proceeds payment rate}$$

b. Settlement Payment

The DICJ takes part in bankruptcy proceedings and receives repayment or dividend payments from a failed financial institution for deposits and other claims purchased depositors via estimated proceeds payment. If the amount recovered from purchased deposits and other claims exceeds the estimated proceeds payment even after deducting expenses needed for the purchase, the surplus is to be paid additionally to the depositors. This is called "settlement payment".

$$\text{Settlement payment (additional amount paid to depositors)} = \text{Amount recovered by the DICJ} - \text{Costs needed for purchase} - \text{Estimated proceeds payment}$$

Conceptual diagram of treatment of deposits at failure of a financial institution

		Up to ¥10 million	Over ¥10 million	
Deposits covered by deposit insurance	Payment and settlement Deposits ^(Note) (Current deposits, Ordinary deposits bearing no interest, etc.)	Full Coverage (Permanent measures) Full protection for principal (Space within the bold lines indicates deposit insurance protection)		
	Other Deposits (Ordinary deposits bearing interest, Time deposits, Installment savings, Money trust under the guarantee of principal, Bank debentures, etc.)	Limited Coverage Total up to a maximum principal of ¥10 million plus accrued interest	Estimated proceeds payment (Item a. of previous page) Amount of principal exceeding ¥10 million and foreign currency deposits, plus interests thereon, etc. × Estimated proceeds payment rate	Settlement Payment (Item b. of previous page)
Uninsured deposits	Foreign currency Deposits	deposits, plus interests thereon, etc. × Estimated proceeds payment rate		
	Negotiable certificates of deposit, Money trust under no guarantee of principal, etc.	Payable in accordance with the state of assets of failed financial institutions.		

(Note) The deposits that meet the following conditions: 1. bearing no interest; 2. being redeemable on demand; 3. providing normally required payment and settlement services.

Flow of Main Operations for Estimated Proceeds Payment and Settlement Payment

- ① Occurrence of insurable contingency (see p.23)
 - Suspension of repayment of deposits by a financial institution (Category 1 Insurable Contingency)
 - Revocation of financial institution's license, decision on starting bankruptcy proceedings, or resolution to dissolve (Category 2 Insurable Contingency)
- ② Notification of contingency (failed financial institution DICJ, or FSA DICJ)
- ③ Submission of depositor data through the "DICJ Prescribed Format" (failed financial institution DICJ)
- ④ Name-based aggregation (of deposits held by a same depositor), calculation of insured deposit amount, etc. (DICJ)
- ⑤ Purchase of deposits and other claims, determination of estimated proceeds payment rate (DICJ)
- ⑥ Approval of estimated proceeds payment rate (FSA Commissioner & Minister of Finance DICJ)
- ⑦ Public announcement about the period of repurchase etc. through the Official Gazette etc. ^(Note 1) (DICJ)
- ⑧ Notification of estimated proceeds payment to each depositor ^(Note 2) (DICJ Depositors)
- ⑨ Submission of Estimated Proceeds Payment Claim Forms (Depositors DICJ)
- ⑩ Payment of estimated proceeds payment to depositors (DICJ Depositors)

(Note 1) In the case of Settlement Payment, the procedures 7-10 will be executed.

(Note 2) In cases where the DICJ entrusted financial institutions to organize estimated proceeds payment, the notice set forth in 8 is not given, and the procedures set forth in 9 and 10 are taken at the counter of entrusted financial institutions.

c. Offsetting

(a) Outline

When a depositor has a debt from a failed financial institution, deposits may be offset against the debt if the depositor expresses the intention to offset. A depositor may offset deposits against debts for both the financial assistance and insurance pay-out methods. However, it should be noted that depositors may not offset in the following cases:

(b) Deposit contracts and offsetting

Depositors must follow the requisite procedure vis-à-vis a failed financial institution based on the Civil Code and deposit contracts, and must also express an intention to offset to offset their deposits.

It should also be noted that offsetting is not available in the following cases, unless there are clear provisions in the deposit contract.

- ① When the maturity date of a deposit has not come yet
However, offsetting may be available when its contract stipulates that the deposit can be an object for offsetting before its maturity.
- ② When a deposit is pledged to a failed financial institution as collateral
However, offsetting may be available when its contract stipulates that the deposit can be an object for offsetting even in such cases.

Concerning the mentioned above, following the Report by the Finance System Council in December 1999, financial institutions have been changing their deposit contracts of deposits to make offsetting available.

(c) Some cases offsetting is not available

It should also be noted that offsetting may not be available even if the above requirements are met. The following are examples in which offsetting is not available.

- ① When offsetting is not allowed with a special provision of the loan agreement.
- ② When a failed financial institution is under bankruptcy legislation, the scope of offsetting may be limited by laws. In this case, it is assumed that failed bank resolution would be executed under the civil rehabilitation procedures. However, offsetting is not available in cases such as when the period for registration of claims for civil rehabilitation proceedings has already concluded, or when the liability to be offset has been assumed after realizing that the financial institution has suspended payment of deposits.
- ③ When a request to the DICJ to purchase deposits and other claims (estimated proceeds payment) or to receive the payment of insurance on the deposits to be offset has been made, and the DICJ has acquired said deposits and other claims before the offsetting, said deposits cannot be an object for offsetting.

(4) Operations of Financial Institutions after Failure

When a financial institution fails, financial administrators shall be appointed by the Commissioner of the Financial Services Agency under the financial assistance method (for more details, see the following section, 4. Methods for Failure Resolution). Financial administrators shall conduct operations to ensure a certain level of business so that they shall execute smooth business transfer to an assuming financial institution maintaining the corporate value of failed financial institutions. Therefore necessary works: ① the name-based aggregation (of deposits held by a same depositor), and ② the separate management of insured deposits and uninsured deposits shall be done beforehand. Once these works are completed, financial administrators shall manage the fundamental operations such as ① repayment of deposits up to the covered amount and receiving new deposits after the failure, ② some settlement operations, and ③ lending to customers who are in good faith and sound.

If a certain period of time for the necessary preparations, business operation may be tentatively suspended for the preparation.

a. Deposit Operations

Failed financial institutions have to avoid repaying deposits from suspended accounts and to maintain deposit/withdrawal records of each deposit account, when they repay deposits based on the name-based aggregation (of deposits held by a same depositor). In order to take these measures, it is necessary for failed financial institutions to have their computer system adaptable to these operations. If the computer system can not meet these requirements immediately, deposits repayment may be limited or delayed at such institutions.

Meanwhile, the December 2002 amendment to the Deposit Insurance Law provides that financial institutions shall take necessary measures in advance such as maintaining an electronic information processing system in good order to ensure smooth repayment of deposits for payment and settlement purposes.

b. Settlement Operations

With a view to ensuring the stability of the settling function, the Deposit Insurance Law was amended in December 2002 to ensure that certain settling transactions in process are protected by the deposit insurance system as a settling obligation. Specifically, the full amount is now protected even when accounted for as suspense receipt or in the case of cashier's checks. With this amendment, almost all payment and settlement transactions in process after April 2003 are guaranteed to be executed ^(Note).

(Note) Protection may not be available in some exceptional cases, such as fund transactions of financial institutions for their own purposes. Also, when a financial institution fails, it may not be able to execute settlement under the existing system of domestic exchange and bill clearing houses. In such cases, the funds or bills in those cases will be returned.

After it fails, a financial institution concerned is supposed to come to continue the business under the Civil Rehabilitation Law, aiming at the transfer of business, etc. in many cases. In such cases, among settling transactions which will be newly accepted after the failure, all of those which are conducted using insured deposits or deposits newly accepted are to be executed without fail. This respect does not have any change before and after the above-mentioned Deposit Insurance Law revision.

c. Loan Operations

It would be assumed highly likely that a failed financial institution would be under civil rehabilitation procedures. Nevertheless, it is still considered possible to continue lending to sound borrowers, based on their record of debt repayment and the certainty of collection evaluated by financial administrators.

4. Methods of Failure Resolution

(1) Financial Assistance Method and Insurance Pay-Out Method

There are two methods of failure resolution. Under the pay-out method, insurance is paid directly to each depositor. Under the "financial assistance" method, on the other hand, all or part of the operation (business) of a failed financial institution is transferred to an assuming financial institution, which then receives financial assistance. Both methods offer the same scope of deposit protection under the deposit insurance system. Under the pay-out method, however, a failed financial institution would not function as a financial institution due to bankruptcy proceedings being concurrently carried out. Meanwhile under the financial assistance method some financial functions of a failed institution are transferred to an assuming institution and maintained.

In the report of the Financial System Council in December 1999, the policy "When a financial institution fails, it is important to apply a failure resolution method with the smaller cost as well as to minimize confusions associated with such failure". Therefore, the financial assistance method should have the first priority as a method of failure resolution method. The pay-out method should be avoided as far as possible."

(2) Financial Assistance Method

a. Outline

The financial assistance method is to give financial assistance (including monetary grant) within the scope of pay-out costs to ensure smooth transfer of business in case where a failed financial institution transfers business to or merges with the assuming financial institution under current bankruptcy laws. Moreover, if necessary, in order to take over the business of a failed financial institution on a temporary basis, the business may be transferred to a bridge bank established by the DICJ. Financial assistance is given in the form of monetary grants, lending or depositing of funds, purchase of assets, guarantee of liabilities, debt assumption, subscription of preferred shares, the so-called loss sharing and so on. Financial administrators have a great role to the operations and management of failed financial institutions.

b. Operations of Financial Administrators

(a) Financial Institutions under Management

When the business of a financial institution deteriorates, the Commissioner of the Financial Services Agency ^(Note) may issue an order for the management of its operations and assets by financial administrators. Financial institutions subject to such an order are called "financial institutions under management".

(Note) Trust by the Prime Minister. When a financial institution in question is a labor bank or the Rokinren Bank, the order may be issued by the Commissioner of the Financial Services Agency and the Minister of Health, Labor and Welfare.

Before this decision would be made, one of the conditions ① to ④ on the next page must be met, as well as one of ㉑ or ㉒.

- ① When it is deemed that a financial institution's liabilities are in excess of its assets.
 - ② When it is deemed that a financial institution will possibly suspend repayment of deposits.
 - ③ When repayment of deposits is suspended.
 - ④ When it is deemed that financial institution's liabilities will possibly be in excess of its assets, based on notification from the institution.
- Ⓐ When management of the financial institution's operations is extremely inappropriate.
 - Ⓑ When no measure such as merger, etc., is taken and the whole suspension of operations or dissolution of the failed financial institution could be a great obstacle against the smooth flow of money in the area or sector in which the institution operates, as well as hindering the convenience of its users or customers.

Financial institutions are under obligation to notify the Commissioner of the Financial Services Agency when their liabilities are in excess of their assets or when it is possible that the repayment of deposits may be suspended.

(b) Management by Financial Administrators

Financial institutions under management are managed by financial administrators appointed by the Commissioner of the Financial Services Agency.

The financial administrators are exclusively authorized to execute operations, manage and dispose assets on behalf of a financial institution under management. They may also, according to a request by the Commissioner of the Financial Services Agency, make reports on the state of operations, assets, etc., of the institution, prepare its business plans, and temporarily maintain and continue its operations. Moreover, they may also take steps towards a prompt business transfer to an assuming financial institution, as well as filing civil litigation or criminal charges to clarify the liability of former executives for the business bankruptcy.

Lawyers, certified public accountants, or financial experts are usually appointed as financial administrators. However, the DICJ, with its accumulated know-how in failure resolution, may also act as a financial administrator.

(c) Application of Civil Rehabilitation Legislation

Under the limited coverage system, deposits and claims other than insured deposits are refunded in accordance with the state of assets of a failed financial institution. When a financial institution fails, therefore, it is very important to protect its assets by limiting repayment of deposits and other operations of the financial institution, for the equal treatment among these depositors and claimants and prevention of the outflow of the assets. To this end, bankruptcy legislation is applied. Specifically, from the point of occurrence of an insurable contingency, it is assumed that civil rehabilitation proceedings would be applied with respect to the failed financial institution, then, under supervision by a court of law, insured deposits and sound assets are transferred to an assuming financial institution, etc., while it is assumed that other deposits and claims would be refunded in accordance with the asset balance of the failed financial institution.

c. Business Transfers, Mergers, etc.

(a) Outline

Business transfers to sound financial institutions (assuming financial institutions), mergers, and other means are used as ways of protecting deposits in a failed financial institution, as well as maintaining its financial functions.

The Deposit Insurance Law stipulates the following methods.

- **Merger with an assuming financial institution**
- **Business transfer to an assuming financial institution (including partial transfer)**
- **Transfer of insured deposits to an assuming financial institution**
- **Purchase of shares of a failed financial institution by an assuming financial institution or assuming bank holding company**

(b) Financial Assistance Scheme

The DICJ provides financial assistance to assuming financial institutions and others, undertaking business transfer, merger, etc., when a financial institution fails. Financial assistance ensures that mergers or other operations are completed smoothly and that deposits are passed over to the assuming financial institution and protected in the end. Financial assistance is provided within the limits of the pay-out cost in principle to assuming financial institutions whose eligibility has been approved in advance.^(Note) (See Q41 on the "pay-out cost")

(Note) For further information on financial assistance exceeding pay-out costs (response to financial crisis), see "Part One Outline of the Deposit Insurance System 5. (3) Financial Assistance Exceeding the Pay-out Cost" (p.25).

The system of financial assistance includes the followings.

① Financial assistance to assuming financial institutions, etc.

Financial assistance such as monetary grants may be provided when partially transferring business (consisting of insured deposits, sound assets, and others) or transferring insured deposits to an assuming financial institution. An assuming financial institution and a failed financial institution may also apply jointly to the DICJ for the purchase of non-performing assets that cannot be transferred to the assuming financial institution.

② Financial assistance to failed financial institutions

When a failed financial institution partially transfers business to an assuming financial institution, assets and liabilities which were not transferred to an assuming financial institution remain in the failed financial institution. In this case, the DICJ is empowered to provide financial assistance (limited to monetary grants) to a failed financial institution so that creditors who had liabilities which were not transferred do not suffer any disadvantages from the business transfer concerned^(Note).

Specifically speaking, in cases where the assets of a failed financial institution depreciate and consequently the rate of payment to creditors of assets and liabilities remaining in a failed financial institution falls down further as compared with the anticipated rate of payment to the creditors concerned before transferring business, the DICJ may grant money to a failed financial institution to avoid such circumstances.

(Note) The Deposit Insurance Law states this in words "to achieve parity among creditors of a failed financial institution."

③ Additional financial assistance

The DICJ may provide additional financial assistance in case that the DICJ received a request from an assuming financial institution after initially providing financial assistance upon business transfers, mergers, etc., at the stage where the unliquidated claim assessment has been completed.

The methods of financial assistance outlined include the followings.

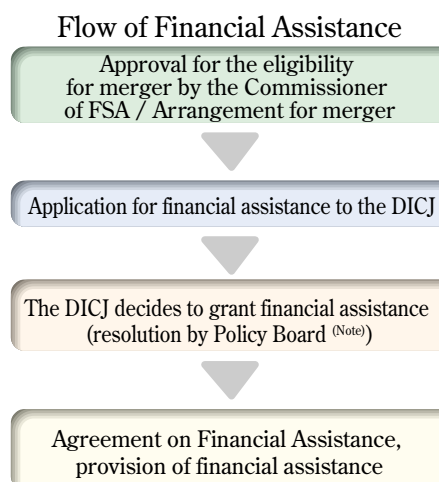
- Grants
- Guarantees of debts
- Subscription of preferred shares, etc.^(Note1)
- Loss sharing^(Note2)
- Loans or deposits of funds
- Subscription of debts
- Purchases of assets

(Note1) Subscription of preferred shares, etc.: the DICJ may subscribe preferred shares, etc., of assuming financial institutions and others, with the approval of the Commissioner of the Financial Services Agency and the Minister of Finance. The aim of this measure is to prevent a fall in the capital adequacy ratio of assuming financial institutions due to business transfer, merger, etc. A management plan detailing measures for guaranteeing the soundness of financial position, among others, must be submitted to the DICJ when applying this measure.

(Note2) When an assuming financial institution or other assuming entity incurs losses on loan claims assumed from a failed financial institution due to a failure to repay all or part of such loans following business transfer, the DICJ may enter an agreement to provide partial compensation (loss sharing). The agreement must include a provision to the effect that, if the assuming financial institution makes profits following business transfer, part of those profits are to be paid to the DICJ (profit sharing).

(c) Procedure for Financial Assistance

An assuming financial institution or other assuming entity may apply to the DICJ for financial assistance after the Commissioner of the Financial Services Agency has approved eligibility for mergers, etc., or has arranged mergers, etc. On receiving the application, the DICJ decides whether to grant financial assistance, as well as the amount and method of financial assistance, and other matters, with the decision by the Policy Board. When deciding to grant financial assistance, the DICJ enters the "financial assistance agreement" with the assuming financial institution or other body as well as with the failed financial institution, and provides financial assistance on this basis.



(Note) For subscription of preferred shares, etc., the approval of the Commissioner of the FSA and the Minister of Finance is necessary in addition to a resolution by the Policy Board.

d. Business Succession through the Bridge Bank System

(a) Establishing Bridge Banks

A bridge bank is a bank which provisionally takes over the operations of a failed financial institution when a financial institution to assume operations of the failed financial institution concerned does not appear for the time being. The main purpose of the bridge bank is to assume deposits (insured deposits, etc.), loan assets, and others, from the failed financial institution and temporarily maintain and continue its operations, while seeking a re-assuming financial institution to hand over the businesses which the bridge bank temporarily assumed from the failed financial institution.

The Commissioner of the Financial Services Agency makes decisions to let the DICJ set up bridge banks as subsidiary companies and to transfer the business from financial institutions under management, etc. (Currently, the Second Bridge Bank of Japan has been established with 100% capitalization from the DICJ.)

(b) Confirmation of assuming assets

Financial administrators of financial institutions under management select assets to be managed by a bridge bank from the loan claims and other assets of the failed financial institution. The purpose is to achieve a smooth succession of business from the financial institution under management and the sound and proper management by the bridge bank. These assets are then assumed by the bridge bank, under the condition that confirmation with the Commissioner of the Financial Services Agency according to the published standards that it would be appropriate for the bridge bank to own such assets.

Meanwhile, assets being not assumed by the bridge bank are to be sold to the Resolution and Collection Corporation (RCC) and other asset management companies.

(c) Management of Bridge Banks

A bridge bank conducts operations under DICJ's instruction and advice, after the DICJ and the financial institution under management have concluded an agreement on the business transfers, etc. The DICJ draws up guidelines for the bridge bank's administrative work in handling deposits, loans, and other operations. The purpose of these guidelines is to ensure the sound and proper management, in line with the objectives of the bridge bank in temporarily maintaining and continuing such operations. The guidelines are then announced following approval by the Commissioner of the Financial Services Agency.

The DICJ may also provide loans to and guarantee the borrowings of the bridge bank, and compensate for its losses incurred in executing operations, as stipulated in the Cabinet Orders (the amount of losses incurred by the transfer of purchased assets, or total losses calculated for the current term, whichever is smaller).

In principle, the DICJ is to complete business management of a bridge bank within two years from the date of the management order issued to the first financial institution under management whose operations were assumed by the bridge bank. This is to be done through merger of the bridge bank, transfer of its whole business, transfer of shares, dissolution through a resolution at a general meeting of shareholders, or other means. However, when it is not possible to complete management within two years due to unavoidable circumstances, this may be extended by another one year.

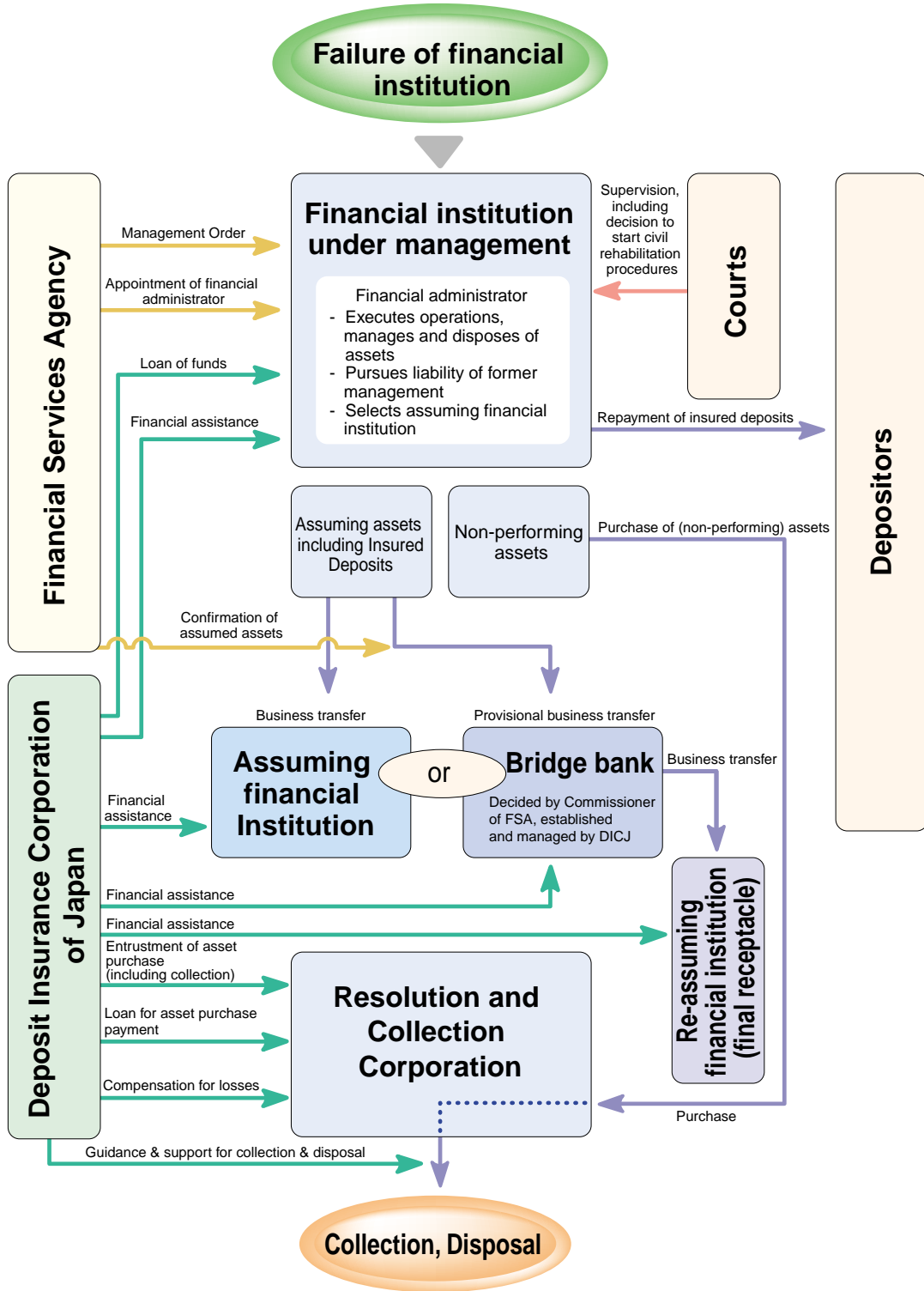
(d) Re-transfer from Bridge Banks to Assuming Financial Institutions

A bridge bank must aim for a speedy business succession to assuming financial institutions or other body by means of merger, transfer of the whole business, or transfer of shares.

When transferring the business to an assuming financial institution or other body, financial assistance may be provided (limited only to asset purchase, subscription of preferred shares etc., and loss sharing).

(Reference)

Outline of the flow of failure processing via the financial assistance method (example)



(3) Insurance Pay-Out Method

a. Outline

Under the insurance pay-out method, the DICJ pays insurance directly to the depositors of a failed financial institution. There are two categories of insurable contingency to which the method is to be applied. Insurance payments are made against claims filed by depositors once preparations such as the name-based aggregation of deposits held by a same depositor are completed. Moreover, if the insurance pay-out method is adopted, bankruptcy proceedings ^(Note) are expected to be used for resolution of the failed financial institution. This means that the financial functions of a failed financial institution would be terminated.

(Note) In case of bankruptcy proceedings, liquidity operations such as the disposal of assets and payment of dividends to creditors (including depositors holding non-insured deposits) are executed under management by a trustee in bankruptcy to be appointed by the court.

Category 1 Insurable Contingency: Suspension of repayment of deposits by a financial institution

In this case, the DICJ decides whether or not to make insurance payment within one month after the occurrence of the insurable contingency, subject to a resolution by the Policy Board (if necessary, this period may be extended up to one month).

Category 2 Insurable Contingency: Revocation of a financial institution's operating license ^(Note), decision on starting bankruptcy proceedings, or resolution to dissolve the institution

Insurance payments are made as a matter of course, without any decision by the DICJ.

(Note) For Shinkin banks (or the Shinkin Central Bank) or labor banks (or the Rokinren Bank), revocation of the business license. For credit cooperatives or the Shinkumi Federation Bank, a dissolution order.

The DICJ receives the data on deposits as stipulated in the "DICJ Prescribed Format" from a failed financial institution immediately after the insurable contingency. The DICJ then calculates the amount of insurance due after the name-based aggregation (of deposits held by a same depositor).

The amount of insurance payable to each depositor in the financial institution subject to the insurable contingency is the total principal of insured deposits in the institution on the date of the insurable contingency, plus interest thereon. Except in the case of payment and settlement deposits, which are fully protected, the principal should not exceed ¥10 million per depositor, as prescribed by the Cabinet Order (however, insurance payments on deposits pledged as security may be deferred until the lapse of the right of pledge).

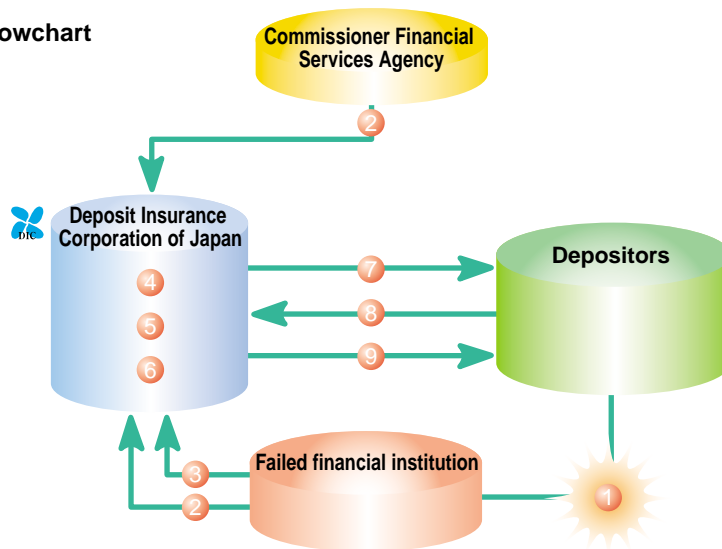
b. Procedure for Insurance Payment

When a Category 1 Insurable Contingency has occurred, the DICJ decides on the insurance payment and details of announcement (the period, place, method, and the handling hours of the payment), subject to a resolution by the Policy Board. The public announcements are placed in the Official Gazette, etc. to notify the depositors concerned of the details of insurance payments.

As for Category 2 Insurable Contingencies, the insurance payment is made without the resolution of the Policy Board. Therefore, in this case the DICJ is only to decide the details of public announcement and follow the procedure for placing notices.

Furthermore, the Insurance Payment Notification and Claim Form indicating the amount of insurance due are sent, to each depositor together with other details. Depositors may then claim and receive insurance payments by submitting the completed Claim Form, along with personal identification documents, to the DICJ.

Insurance Payment Flowchart



- ① Occurrence of insurable contingency
 - Suspension of repayment of deposits by financial institution (Category 1 Insurable Contingency)
 - Revocation of financial institution's operating license, decision on starting bankruptcy proceedings, or resolution to dissolve (Category 2 Insurable Contingency)
- ② Notification of contingency (failed financial institution → DICJ, or Commissioner of FSA → DICJ)
- ③ Submission of data on depositors using the "DICJ Prescribed Format" (failed financial institution → DICJ)
- ④ Calculation of the insurance (DICJ)
- ⑤ Decision on insurance payment ^(Note) and details of public announcement (DICJ)
(Note) Only needed for Category 1 Insurable Contingencies, i.e. suspension of repayment of deposits by a financial institution
- ⑥ Public Announcements (DICJ)
- ⑦ Insurance Payment Notification (DICJ → depositors)
- ⑧ Claim for the insurance payment (depositors → DICJ)
- ⑨ Payment of the insurance (DICJ → depositors)

5. Financial Crisis Management

(1) Outline

The Prime Minister may, when deeming that an extremely serious threat is posed to the maintenance of financial stability in Japan or a region where financial institutions are conducting operations, confirm the need to implement exceptional measures, as stipulated in Article 102 of the Deposit Insurance Law, following discussions by the Financial System Management Council.

a. Measures against Financial Crisis

The following 3 measures may be instituted in response to financial crisis, in accordance with various categories of financial institution.

Article 102, para. 1	Category of Financial Institution	Details of Measures	Remarks
Item 1 Measures	All financial institutions (except those under Item 2 Measures)	Capital injection (subscription of shares, etc., by DICJ to recover the capital adequacy ratio of financial institutions)	<ul style="list-style-type: none"> ○ DICJ subscribes shares, etc., on receiving an application from a financial institution that has been authorized for Item 1 Measures. ○ When applying, the financial institution submits a plan for improved business viability.
Item 2 Measures	Failed or insolvent financial institutions	Financial assistance exceeding the pay-out cost	<ul style="list-style-type: none"> ○ Financial institutions authorized for Item 2 Measures are immediately made subject to an order for management by a financial administrator.
Item 3 Measures	Insolvent banks, etc., categorized as failed financial institutions	Acquisition of shares by DICJ (special crisis management)	<ul style="list-style-type: none"> ○ Item 3 Measures may only be authorized when it is deemed that a very serious threat to the maintenance of financial stability in Japan or a region where financial institutions are conducting operations cannot be avoided using Item 2 Measures.

b. Financial System Management Council

The Financial System Management Council is to be set up to follow up inquiries by the Prime Minister. It deliberates on guidelines for response to financial crisis (such as large-scale and sequential failures of financial institutions) and other serious matters, and promotes the implementation of measures by relevant government bodies based on this deliberation.

The Council is chaired by the Prime Minister and consists of the Chief Cabinet Secretary, the Minister for Financial Services, the Commissioner of the Financial Services Agency, the Minister of Finance, and the Governor of the Bank of Japan.

(2) Capital Injections to Financial Institutions

When the DICJ receives an application from a financial institution that has received authorization of the need for capital injection (subscription of shares, etc.) to recover its capital adequacy ratio, the DICJ may make capital injections (subscription of shares, etc.) in accordance with decisions by the Commissioner of the Financial Services Agency ^(Note) (subject to the consent of the Minister of Finance). Shares and other forms of capital subject to the subscription by the DICJ include common shares, preferred shares, subordinated bonds, and other forms of capital.

(Note) When the financial institution subject to the measure is a labor bank or the Rokinren Bank, the decision must be made by the Commissioner of the Financial Services Agency and the Minister of Health, Labor and Welfare.

(3) Financial Assistance Exceeding the Pay-Out Cost

When the need for financial assistance exceeding the pay-out cost is recognized, the Commissioner of the Financial Services Agency ^(Note) immediately decides to issue an order for management by financial administrators to such financial institution. When there is a business transfer or merger between the institution and an assuming financial institution, the DICJ may provide financial assistance exceeding the pay-out cost. It is now possible to protect the full amount of deposits in such cases.

(Note) When the financial institution subject to the measure is a labor bank or the Rokinren Bank, the decision is made by the Commissioner of the Financial Services Agency and the Minister of Health, Labor and Welfare.

(4) Special Crisis Management

When special crisis management is authorized, the DICJ acquires the shares, etc., of the bank or other institution in question, based on the decision by the Commissioner of the Financial Services Agency. It also appoints directors and auditors for the bank under special crisis management based on nominations by the Commissioner of the Financial Services Agency.

As well as managing the business, the newly appointed executives are obliged to take requisite steps in accordance with civil and criminal law to clarify the management liability of the institution's former management. The special crisis management of the institution is to be completed as soon as possible, for example by transferring its business to an assuming financial institution. In this case also, it is now possible to protect the full amount of deposits by concurrently providing financial assistance exceeding the pay-out costs.

6. Collection of Non-Performing Loans and Pursuit of Liability

(1) Purchase and Collection of Non-Performing Loans

Purchasing the assets of failed financial institutions is one form of financial assistance to assuming financial institutions. The DICJ, on accepting an application, entrusts the purchase of the said assets (including collection, etc.) to the Resolution and Collection Corporation (RCC), a 100% subsidiary of the DICJ. The RCC then purchases non-performing assets and others from the failed financial institutions, and subjects them to collection, disposal, or other operations.

Based on a Resolution and Collection Agreement with the RCC, the DICJ ① provides the RCC with guidance and advice necessary to execute collecting operations, and ② inspects the assets of the debtors where it is likely to be concealed, by exercising the investigative powers given to the DICJ, and provides support for the collection recovery of debts by the RCC through uncovering the hidden assets related to the loans and other claims purchased from the failed financial institutions. The DICJ has conducted these operations in order to minimize the public costs by maximizing the collection of debts through the coordination with the RCC.

(2) Pursuit of Liability against Failed Financial Institutions, etc.

The DICJ and the RCC pursue the civil and criminal liability of former management who has caused a financial institution to fail or devious debtors who obstruct the recovery of claims.

The first means to this end is the pursuit of liability on the part of former executives by a financial administrator, which the DICJ may be appointed as a legal entity. The financial administrator is required to clarify the civil and criminal liability of former executives of failed financial institutions.

Another form of the pursuit of liability may be done by the RCC. The RCC is commissioned by the DICJ to purchase non-performing loans, etc., of failed financial institutions and conducts collection and other operations. The RCC takes over compensation claims against former executives of failed financial institutions on grounds of breach of a good manager's duty of due care, etc. When offenses are suspected on the part of former management of a failed financial institution or debtors etc. the RCC reports to the DICJ and takes necessary steps towards filing criminal charges.

The DICJ may itself pursue civil and criminal liability when appointed as a financial administrator of a failed financial institution. Otherwise, it provides the RCC with necessary guidance and advice for the pursuit of liability. More precisely, the DICJ, in collaboration with the RCC, is engaged in filing charges on grounds of breach of trust, etc., as well as litigation to demand compensation for damages against former management and others responsible for causing a financial institution to fail. It also initiates criminal accusations of auction interference, obstruction of compulsory execution, and others, against devious debtors who obstruct the recovery of claims or conceal assets.

2


Part Two Q&A



I The Scope of Deposit Protection from April 2005 Onward

Q 1

How is the scope of deposit protection change from April 2005? What is the difference between the scope of protection up to March 2005 and that from April 2005 onwards?

1. From April 2005, the full amount of deposits next page payment and settlement purposes has been protected (see Note 1 next page). Meanwhile other insured deposits are covered up to a maximum principal of ¥10 million plus interest thereon per depositor per financial institution. 
2. Uncovered portion of the insured deposits (i.e. the portion of principal exceeding ¥10 million for deposits other than deposits for payment and settlement purposes), as well as uninsured deposits plus interest thereon may be payable depending on the asset situation of a failed financial institution. Specifically, those covered by the purchase of deposits and other claims by the DICJ (for further details, see Part One Outline of the Deposit Insurance System, 3. (3) Treatment of Uninsured Deposits, p.12) will be payable in the form of the purchase price, based on requests by depositors. Deposits not covered by the purchase of deposits and other claims, and deposits for which there has been no request for purchase, would be payable as tenders (liquidation proceedings) or dividends (civil rehabilitation or corporate reorganization) during the insolvency proceeding of the failed financial institution.
3. In the two years from April 2003 to the end of March 2005, the full amount for current deposits, ordinary deposits, and specified deposits (the same as in FY2002) was fully protected. Meanwhile, other time deposits etc, were covered up to a maximum principal of ¥10 million plus interest thereon per depositor per financial institution (limited coverage).

○Outline of Deposit Protection

		April 2002 — end of March 2005	April 2005 onwards
Insured deposits	Current deposits Ordinary deposits Specified deposits	Full coverage	Full coverage for deposits for payment and settlement purposes ^(Note 1) (Permanent measures)
	Time deposits Installment savings Money trusts under the guarantee of principal etc.		
Uninsured deposits	Foreign currency deposits Negotiable certificates of deposit Money trust under no guarantee of principal etc.	Not protected Payable depending on the asset situation of the failed financial institution (some may be unpaid)	

(Note1) These must satisfy the three conditions of (1) bearing no interest, (2) being redeemable on demand and (3) providing normally required payment and settlement services.

(Note2) For the time being, when financial institutions form mergers or receive the transfer of all operations (business), for the first year only, the protected amount will be "¥10 million multiplied by the number of financial institutions involved in the merger and other forms of consolidation" (for example, ¥20 million if two institutions merge).

(Note3) The distribution of earnings on installment savings provisions and money trusts will be protected in the same way as interest, providing they meet certain conditions.

Q 2

What are "deposits for payment and settlement purposes"?

Deposits for payment and settlement purposes are defined as deposits meeting the following three conditions — ① bearing no interest ^(Note), ② being redeemable on demand and ③ providing normally required payment and settlement services. Current, non-interest-bearing ordinary and some specified deposits come under the category of deposits for payment and settlement purposes.



(Note) Please ask at the counter of financial institutions about whether or not a deposit with gifts, a so-called deposit with a cash prize and a preferential deposit by points system satisfy the requirement of non interest bearing as deposits for payment and settlement purposes.

II Outline of the Deposit Insurance System

Q 3

What is the settling obligation which is fully protected by the deposit insurance?

1. The Ordinance defines a settling obligation as obligation assumed by financial institutions ^(Note 1) as a result of fund settlement transactions ^(Note 2) where they exchange checks and drafts and settle their daily balance.

For example, the obligation arising from a transaction where a financial institution received a transfer request from a customer before failure, but funds accepted from the customer were not still transferred to a transferee, comes under the settling obligation.

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(Note 1) The Ordinance provides that the settling obligation means (1) obligations arising from entrustment by persons other than those carrying on financial business (see * below), (2) obligations arising from transactions other than those made by financial institutions as their business, (3) obligations arising from transactions other than those made by persons carrying on financial business as their business (see * below) and which are entrusted by the person concerned, and (4) obligations arising from transactions involved in self-addressed checks drawn by a financial institution

* Persons carrying on financial business

Financial institutions provided for in the Deposit Insurance Law / Japanese branches of foreign banks / Agricultural Cooperative Associations / The National Federation of Agricultural Cooperative Associations / Fisheries Cooperative Associations / The National Federation of Fisheries Cooperative Associations / Fish Processors' Cooperative Associations / The Federation of Fish Processors' Cooperative Associations / The Central Cooperative Bank for Agriculture and Forestry / The Central Bank for Commercial & Industrial Cooperatives

(Note 2) The Ordinance provides that the fund settlement transaction means (1) exchange transactions, (2) drafts that can be cleared at the clearing house, transactions made by presenting checks, (3) transactions involved in self-addressed checks drawn by a financial institution.

2. The following transaction is taken up as a concrete example. A transaction involves a customer transfers via an ATM after 3:00 in the afternoon. The funds paid into the ATM are accounted for as specified deposits or suspense receipts of the financial institution concerned on that day, and the remittance of the funds concerned is actually made to the recipient on the following business day. Accordingly the transaction is not completed on the same day.

Q 4

What is the fully protected settling obligation assumed by financial institutions upon exchange transaction?

Funds that have been received from a client (or the client's handling bank) by a financial institution in order to undertake transactions to move funds between remote persons without directly transporting cash, based on a request from a client, but which have not yet been paid to the due recipient (or the recipient's handling bank), or funds for the payment of expenses, connected with the said transactions.

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(Examples)

- Funds received from a client based on a request for transfer, remittance, and account transfer.

(Note)

1. Does not include funds received from clients or funds for payment to clients in connection with work such as the sale and purchase of negotiable securities, receipts of deposits, or loans of funds, or other funds pertaining to administrative processing internal to financial institutions.
2. Limited to yen denomination funds in the case of foreign bills sold, foreign bills payable, and others.
 - Funds received in connection with work such as monetary revenues by national and local governments, agency loans, mediation in the sale and purchase of negotiable securities, custody of share subscriptions, and relay of settlement funds among financial institutions.
 - Payment funds to honor debts arising from tie-ups between financial institutions and others pertaining to cash remittance and withdrawal work, debit card service work, and other work through mutual use of ATM cash machines.

Q 5

What is the fully protected settling obligation assumed by financial institutions upon transactions based on presentation in clearing houses of bills, checks, or other securities and certificates that can be settled according to the amount indicated on them?

Payment funds (including clearing for non-members) with a view to fund settlements between financial institutions etc., based on the presentation of bills, checks and others in clearing houses.

(Examples)

- Funds paid for settlement based on exchange presentation
- Funds paid for settlement accompanying the return of dishonored bills
- Deposit for filing an objection against a dishonored bill

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What is the fully protected settling obligation assumed by financial institutions upon transactions involved in self-addressed checks issued by financial institutions?

Funds used to furnish payments based on presentation of a check received as the purchase price when a financial institution has sold to a client said check issued to itself.

(Examples of application)

- Funds used to furnish payments based on presentation by the recipient
- Funds used to furnish payments based on presentation by the sender




What are the "transactions made by financial institutions as their business", which are excluded from a settling obligation?

Continuous or repetitive transactions undertaken intentionally by a financial institution, except transactions arisen as by-products of their business operations.

(Examples of transactions undertaken as business)

- Fund transactions between financial institutions

(Examples of transactions not undertaken as business)

- Payment of charges for water, heat and lighting, administrative commission costs




Are the government bonds and others entrusted to a failed financial institution insured by the deposit insurance system?

Transfer or custody operations involved in securities such as government bonds handled by financial institutions do not relate to the deposit insurance system.

The rights involved in securities managed by financial institutions belong to security holders. Even if a financial institution has failed, those securities are not merged with the other general property of a financial institution. Accordingly, it is considered that security holders' rights involved in the government bonds and others entrusted to financial institutions are not affected by the failure of the financial institution concerned.



III Maintaining the Depositor Data in Good Order

Q 9

For what purpose is the name-based aggregation (of deposits held by a same depositor) done?

1. The maximum amount of insured deposits protected by deposit insurance is the full amount for deposits for payment and settlement purposes, while for other insured deposits; it is the total of principal up to ¥10 million, plus interest thereon, per depositor per financial institution. Accordingly, when a same depositor holds two or more accounts with a failed financial institution, after putting together these accounts, it becomes necessary to specify which deposit is recognized as the insured deposit in light of the priority order prescribed and to calculate the amount of insured deposit for each depositor (the "name-based aggregation").
2. The DICJ does the work of the name-based aggregation (of deposits held by a same depositor) based on the data provided by a failed institution. If accurate depositor data ^(Note) are not promptly submitted by a failed financial institution, calculating the amount of insured deposits and the following procedures are not implemented smoothly.



To this end, financial institutions are obligated to always maintain the depositor data and system in good order by the Deposit Insurance Law so that they are able to submit the depositor data necessary for the name-based aggregation (of deposits held by a same depositor) without delay after failure.

(Note) Depositor's name written in kana, date of birth, address (in the case of a corporation, its name written in kana, date of incorporation, location), telephone number and so on.

Q 10

What must a financial institution keep in mind to do in order to maintain depositor data in good order?

If a financial institution has failed, it is necessary for the DICJ to immediately conduct the name-based aggregation (of deposits held by a same depositor) and to calculate the amount of insured deposits for each depositor based on the depositor data submitted by a failed financial institution. To this end, financial institutions are obligated under the Deposit Insurance Law to always maintain the depositor data and system in good order in conformity with the "DICJ Prescribed Format" ^(Note) so that they are able to submit the depositor data without delay in response to the DICJ request.



(Note) The "DICJ Prescribed Format" is the data format prepared by the DICJ under the Ordinance, specifying the depositor data items included and specifications for them. Items to be filled in include depositor's name written in kana, date of birth, address (in the case of a corporation, its name written in kana, date of incorporation, location), telephone number, balance of the deposit account as of the date of occurrence of the insured contingency, amount of interest, information on the deposit as collateral and so on. These are vital pieces of information for the DICJ to exe-

cute the name-based aggregation (of deposits held by a same depositor) and to calculate the amount of deposits for which estimated proceeds payment is made and the amount of deferred payment of the insurance proceeds.

Q 11

Upon maintaining the depositor data in good order, what is it necessary for a financial institution to do concerning the deposit for payment and settlement purposes?

The Ordinance provides that from April 2005 onward financial institutions shall add information to identify which deposit account comes under that of "deposits for payment and settlement purposes" to the depositor data which are submitted to the DICJ at the time of failure. It is necessary for financial institutions to always maintain the depositor data and system in good order to perform such obligation.

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Q 12

In the case where a financial institution failed to maintain sufficient depositor data in good order, what effect does it have on depositors?

1. The DICJ executes the name-based aggregation (of deposits held by a same depositor) to calculate the amount of the insured deposits for each depositor based on depositor data submitted by a failed financial institution. Accordingly, if there is any deficiency in depositor data or if it is incomplete, the DICJ requests the failed financial institution to resubmit the data and it then has to re-aggregate deposits held by the same depositor. Consequently, it sometimes takes a long time to pay insurance proceeds or repay the insured deposits to the depositor concerned.
2. When resolving failure problems by the financial assistance method, if the DICJ is unable to aggregate deposits held by a same depositor, it would be impossible to determine the amount of deposits which should be taken over by an assuming financial institution. Consequently it would be impossible to give financial assistance to the assuming institution and a smooth business transfer would thus be hindered.
3. As mentioned above, it would be inevitable that any delay in maintaining the depositor data in good order would have a widespread influence on those involved. Therefore, financial institutions are obligated under the Ordinance to continually maintain the depositor data and system in good order in conformity with the "DICJ Prescribed Format" as prepared by the DICJ.

To this end, financial institutions may make an inquiry to depositors about the date of incorporation of a corporation, the date of birth of an individual and so on.

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Q 13

On what matters in particular does the DICJ make an on-site inspection at an office of a financial institution?

The Deposit Insurance Law provides that if deemed necessary, the Commissioner of the Financial Services Agency may make the DICJ examine and inspect a financial institution.

The scope of inspections that may be undertaken by the DICJ is defined in the said law, namely, the DICJ may conduct inspections to check ① that payment of insurance premiums is being made properly, ② that measures are being implemented to prepare databases, system and other relevant measures for the name-based aggregation (of deposits held by a same depositor), including the measures for repaying deposits for payment and settlement purposes smoothly at the time of failure, as obligatory to financial institutions, ③ the estimated amounts to be repaid on deposits and other claims when a financial institution failed ^(Note).



(Note) The system of estimated proceeds payment (see p.12) for deposits other than those insured is set up to ensure the convenience of depositors when a financial institution has failed. If, upon making such estimated proceeds payment, an on-site inspection is deemed necessary, the DICJ examines the amount that would be estimated as receivable on receivables such as deposits in light of the financial position of the financial institution concerned; assuming bankruptcy proceedings had been taken.

The DICJ began inspecting depositor name databases since August 2001, and from January 2003, in addition to examining the said aggregation, expanded its inspections to include insurance premiums as mentioned in the above ①.


The DICJ has made public items to check during the inspections on premiums and depositor name databases used for the name-based aggregation of deposits held by a same depositor.

(For further information, please access the DICJ website at <http://www.dic.go.jp>.)

IV Treatment of Insured Deposits When a Financial Institution Fails


Q 14

Who and how calculates the amount of deposits protected by insurance? How long does it take to calculate this amount?

1. The amount of deposits protected by insurance is the full amount for deposits for payment and settlement purposes, and ¥10 million plus interest thereon per depositor per financial institution for other insured deposits. Failed financial institutions submit data on depositors to the DICJ, which uses these data for the name-based aggregation (of deposits held by a same depositor), total the amount of deposits and calculate the amount of insured deposits. 
2. If, during these operations, a depositor is found to have total deposits in excess of ¥10 million in principal (excluding deposits for payment and settlement purposes), the deposits will be selected up to a principal of ¥10 million in accordance with the order of priority among several deposits designed to calculate the amount of insured deposits as stipulated in separate legislation (see Q15).
3. The time needed for the name based aggregation (of deposits held by a same depositor) will depend on a number of factors, including the scale of the failed financial institution and the level of organization of depositor data in the failed financial institution. The DICJ is making preparations to enable it to calculate the insured amount of deposits as quickly as possible after a financial institution fails.

Q 15

If, after the name-based aggregation (of deposits held by a same depositor), a depositor has deposits in excess of ¥10 million (excluding deposits for payment and settlement purposes, for which the full amount is covered), what procedure is used to calculate the insured deposit amount?

1. See Part One Outline of the Deposit Insurance System, 3. (2) b. Calculation of Insured Deposit Amount (p.10). 
2. When a depositor has two or more deposits, the order of priority for calculating the insured deposit amount will follow the examples shown below.


(1) Regular deposits

Type	Subject to Collateral?	Maturity	Interest Rate (%)	Priority
Ordinary deposit	No	—	0.002	1
Time deposit	No	1/9/2005	0.015	2
Time deposit	No	1/9/2005	0.020	3
Time deposit	No	1/12/2005	0.010	4
Time deposit	Yes	1/6/2005	0.050	5

- (2) Deposits for payment and settlement purpose (current deposits; ordinary deposits not accruing interest; etc.)
These are treated separately, since their full amount is covered.

Q 16

How are deposits as collateral treated when calculating the insured deposit amount and repaying deposits?

1. In the order of priority for calculating the insured deposit amount, deposits as collateral (deposits to which a pledge, fixed pledge or other collateral right has been ascribed with respect to borrowings or other debts) are given lower priority than those not as collateral. 

2. In the case of the financial assistance method (see Part One Outline of the Deposit Insurance System 4. (2) Financial Assistance Method, p.16), upon repaying insured deposits, the deposits as collateral is deferred by the failed financial institution. Unless offsetting procedures are taken by the depositor no later than the date of transferring business, deposits as collateral that are counted as insured deposits are transferred to the assuming financial institution in principle ^(Note). In case a depositor subsequently desires to be released of the collateral concerned, they should enquire at the assuming financial institution concerned.

Meanwhile, unless offsetting procedures are taken by a depositor, it is considered that in many cases, the amount of deposits as collateral not counted as insured deposits will be partially cut during the insolvency proceedings of the failed financial institution. For detailed information on the offsetting procedures, inquiries should be made to the failed financial institution.

(Note) In principle, from the side of the failed financial institution (e.g. its financial administrator) does not make an offer of offsetting. (See Q 24)

3. In case of the insurance pay-out method also (see Part One Outline of the Deposit Insurance System 4. (3) Insurance Pay-Out Method, p.22), upon payment of insurance proceeds, the DICJ similarly defers the payment of deposits as collateral. Specific details should be confirmed on the "Insurance Payment Schedule and Notification of Deferred Payment" that is mailed when payment of insurance proceeds is made.

Q 17

How are multipurpose accounts (which combine different types of deposits with loans) treated when calculating the insured deposit amount?

- Concerning multipurpose accounts in which ordinary, time, and other different types of deposits are combined with an automatic loan secured by time deposit ^(Note), whether or not the deposit is covered by insurance is first judged for each deposit comprising the said multipurpose account, the name-based aggregation (of deposit held by a same depositor) is done and the insured deposit amount is calculated for each depositor.

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(Note) The automatic loan means the loan that, when the balance of ordinary deposits in a multipurpose account is negative, is automatically triggered by pledging the time deposit set in a multipurpose account as collateral.

- If there is a balance of the automatic loan (including accrued interest) when a financial institution failed, the amount corresponding to the automatic loan amount is treated as deposits as collateral ^(Note). In terms of the order of priority for selecting insured deposits, the said balance is lower in priority than that of non-collateral deposits.

(Note) A deposit contract provides for time deposits set in multipurpose accounts to be treated as deposits as collateral for automatic loans when they are deposited. However, if there is no balance of the automatic loan, without the time deposit being treated as deposits as collateral, a depositor may have them repaid after cancellation or redemption date.

- If, upon repaying the insured deposits, there is a balance of automatic loans secured by time deposits, the failed financial institution will defer repayment of the time deposits. In this case the scope of deposits for which repayment is deferred is the amount after multiplying the balance of loans by a certain rate of deferring payment. However, this varies depending on the terms and conditions of the multipurpose account agreement.

Q 18

How are depositors informed about the treatment of insured deposits? What should I do if I think the amount received is wrong?

1. The treatment of insured deposits noticed to depositors depends on the method of failure resolution.
 - ① With the financial assistance method (see Part One Outline of the Deposit Insurance System, 4. (2) Financial Assistance Method, p.16), information is available at branches of the failed financial institution, and elsewhere.
 - ② With the insurance pay-out method (see Part One Outline of the Deposit Insurance System, 4. (3) Insurance Pay-Out Method, p.22), the DICJ sends out insurance payment notifications, claim forms and other documents to depositors.
More details on these points will be notified via the DICJ website, the branches of failed financial institutions, the media and elsewhere as soon as they are decided.
2. The DICJ calculates the insured deposit amount on the basis of depositor data submitted by the failed financial institution. If the amount received appears to be wrong, it is conceivable that the name, date of birth, or other data submitted by the depositor to the failed financial institution are incorrect (for example, a change of surname has not been notified, or the phonetic reading of a name in kana script has been wrongly registered). These details should first be confirmed with the failed financial institution.
3. Once a request for amendment to depositor data is received from a failed financial institution, the DICJ will then recalculate the insured deposit amount after confirming the details.



Q 19

Is it impossible to receive repayments of deposits or payments of insurance proceeds before calculation of the amount of the insured deposit is completed? What procedures could depositors take in such cases?

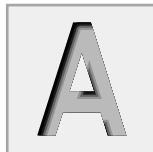
When an amount of the insured deposit cannot be calculated, the failed financial institution or the DICJ may make an inquiry to the depositors concerned about the depositor data ^(Note) necessary for calculation. In this case, such depositor may not be able to receive repayments of deposits or payments of insurance proceeds until the calculation of the deposit amount is completed.



(Note) Depositor's name written in kana, date of birth, address (in the case of a corporation, its name written in kana, date of incorporation, location), telephone number and so on.

Q 20

In the name-based aggregation, what is the definition of "a same depositor"? What requirements have to be met by a "non-juridical association or foundation" to be treated as a single depositor for aggregation?

- 
1. Individuals, corporations, and "non-juridical associations or foundations" are treated as a single depositor respectively. Since a voluntary organization other than "non-juridical association or foundation" is not treated as a single depositor, deposits are divided according to equity for each member, and following aggregation with the other deposits of each member, the amount of the insured deposit is calculated.
 2. In order to come under the definition of a "non-juridical association", an organization is required "that it is organized as a group, that it observes the rule of majority decision, that the existence of the group is not effected by changes in its membership, and that important points for a group are stipulated, including the method of representing the organization, the running of general meetings, and the management of assets" (Supreme Court Ruling of 15/10/1964). Specifically, a financial institution determines whether an organization comes under the category of a non-juridical association ^(Note), taking into account the real state of affairs of an individual association.

Moreover, "the assets of a non-juridical association belong collectively to its members, who do not naturally have common equity rights and no rights to demand apportionment" (Supreme Court Ruling of 14/11/1957). It is considered that if common equity rights or rights to demand apportionment are stipulated in the articles of association, the organization does not come under the category of a non-juridical association.

Meanwhile, in order to be recognized as "a non-juridical foundation", it is necessary "that it has basic assets that are separate and independent from individual assets, and that it has an organization for the management thereof" (Supreme Court Ruling 4/11/1969).

(Note) It is generally necessary that an association qualifying as a "non-juridical association or foundation" has articles of association put in writing. Even if an association has no articles of association put in writing, however, in the case where a customary practice prevails concerning operation of the association and this customary practice is established in the form of articles of association which are not put into writing, the association may be exceptionally recognized as an association coming under "a non-juridical association or foundation" (Supreme Court Ruling 8/2/1980). Furthermore, in case where articles of association existed previously when the association was established but are not found at present, this fact alone does not disqualify the association from coming under the category of "a non-juridical association or foundation". It is necessary focus on whether an association has articles of association when judging whether an association comes under "a non-juridical association or foundation".

3. The choice of which association a non-corporation organization comes under, "a non-juridical association or foundation" or other voluntary organization, is judged on a case by case basis by the financial institution that has dealings with the organization concerned according to the above criteria, and the data on the aggregation of deposits are prepared based on such judgment.

Meanwhile, branches of corporations and "non-juridical associations or foundations" are usually aggregated as an identical depositor with the head office and any other

branches. Exceptionally if a branch meets all the requirements mentioned in the above 2, and if it is recognized as independent of the head office, the branch may be aggregated as a single depositor separate from the head office. Of course, in order that a financial institution can judge whether this treatment applies, it is necessary for the branch to submit its articles of association or other relevant documents to the financial institutions with which it has dealings, and to prove that the provisions of the articles of association as well as the real state of affairs of the branch meet the requirements mentioned in the above 2.

Q 21

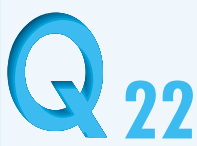
When financial institutions have their business integrated under a single financial holding company, is each financial subsidiary of the holding company then regarded as a single financial institution? What happens in the case of a merger?

1. When any financial subsidiaries have their business integrated under a financial holding company, each subsidiary is treated as a single financial institution, as long as it is a bank or other type of financial institution that has a head office in Japan and has obtained a banking license (see Part One Outline of the Deposit Insurance System, 1. (2) Insured Financial Institutions, p.3).
2. When financial institutions merge, they become a single financial institution. Deposits that were deposited in each of them individually before the merger are therefore added together for deposit insurance purposes.
3. For the time being, however, when financial institutions form mergers or receive the transfer of all operations (business), for the first year only, the maximum amount of principle protected by insurance will be ¥10 million per depositor multiplied by the number of financial institutions involved in the merger or transfer, plus interest ^(Note), excluding deposits for payment and settlement purposes, for which the full amount is covered.




(Note) This action represents special measures under the "Special Measures Law concerning the Promotion of Organizational Restructuring of Financial Institutions" (Organizational Restructuring Special Measures Law).

Offsetting



What are the procedures for offsetting deposits against loans? What is the deadline for completing these procedures?

1. To offset deposits against loans, depositors have to proactively follow the requisite procedure towards the failed financial institution based on the Civil Code, deposit contracts, loan agreements and have to express an intention to offset. Details of such procedures are usually stipulated in deposit contracts and/or loan agreements. The general procedure, however, is that depositors, having confirmed their own claims (deposit and other instruments) and debts (loans), append their deposit passbook, certification, to the Notice to Offset (indicating which deposits are to be offset against which loan), and submit these to the failed financial institution (by mailing the requisite documents or presenting them at a branch).
- 
- Since specific procedures have to be conducted in line with the deposit contracts, loan agreements with individual financial institutions, each case is subject to those conditions.
2. The period during which offsetting is possible depends on how the bankruptcy proceedings of the failed financial institution are processed.
- When they are processed under the Civil Rehabilitation Law, for example, offsetting is only possible within the period for registration of claims (more exact information on this period will be notified via the branches of the failed financial institution, and elsewhere). When proceedings are processed under the Bankruptcy Law, on the other hand, please contact the failed financial institution for specific deadlines.
3. Meanwhile, offsetting is no longer possible when a depositor requests the payment of deposit insurance from the DICJ, or when the DICJ has purchased deposits and other claims based on a request from the depositor. Therefore, offsetting procedures should be completed before this time.

Q 23

Does any difference in the amount of deposits received arise depending upon how loans are offset against deposits?

1. If a depositor holds deposits covered by the deposit insurance as well as those not covered by the insurance, in some cases considerable difference arises in the final amount received depending upon against which deposit the loans are offset.



In case of offsetting against deposits covered by the deposit insurance, the amount of deposit which is cut depending upon the financial position of a failed financial institution is limited to a non-insured portion in excess of ¥10 million in principal. Meanwhile when offsetting against deposits not covered by the said insurance, such as negotiable and foreign currency deposits, the whole amount of the deposit is subject to partial cut. Therefore, it is generally considered that the final amount received becomes larger when offsetting debts such as loans against deposits not covered by the said insurance.

2. In case a depositor does not hold deposits not covered by the deposit insurance and if the amount of deposits exceeds the maximum protected by the said insurance, the final amount received on a portion in excess of the maximum amount is partially cut in the same manner as mentioned in the above 1. Therefore, it is generally considered that the final amount received by a depositor often increase when offsetting debts such as loans against an amount of deposits equivalent to a portion not covered by the said insurance system, namely, an amount in excess of the maximum.

3. In the case of the above 2, concerning the decision against which deposit is it advantageous for a depositor to offset debts against, the amount of interest on deposits, loans and so on varies depending upon which deposit is offset against which debts (loans) or upon when it is offset. Therefore, this is an issue which depositors themselves should consider on a case by case basis.

When offsetting debts such as loans against the deposit specified once as the insured deposit by the name-based aggregation (of deposits held by the same depositor), a depositor has to wait to receive payment of insurance proceeds or repayment of the insured deposit^(Note) until an amount of the insured deposit is re-calculated and specified once again.

(Note) It goes without saying that on deposits offset a depositor cannot receive payment of insurance proceeds or repayment of the insured deposit.

Q 24

Offsetting

Is an offer of offsetting made by a failed financial institution? What explanations will be made on offsetting procedures?

1. The depositor's rights vary greatly depending upon which choice a depositor makes; namely offsetting against insured deposits or requesting estimated proceeds payment. It is not permitted, in principle, to offset from the side of a financial institution that had commenced bankruptcy proceedings because tenders not in the form of dividend are offered in the case of bankruptcy proceedings and tenders not based on rehabilitation or reorganization plans in case of civil rehabilitation or corporate reorganization proceedings are offered. Accordingly, an offset is not affected in principle from the sides of a failed financial institution, that is, a financial administrator or trustee in bankruptcy.

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Therefore, a depositor may offset by making a declaration of intention to offset to the failed financial institution in line with the procedures prescribed as required, taking into account the depositor's debt position under the provisions of the Civil Code as well as deposit contracts and loan agreements, which are entered into between the depositor and the financial institution.

A declaration of intention to offset must be made in accordance with the stipulations of the deposit contract, loan agreement, etc. However, to prevent any disputes from arising at a later stage, it would be wise to mail the "Notice of Offset" by contents-certified mail with a proof of delivery. When delivering the Notice directly at the counter, it would be better to take a receiver's receipt.

2. The DICJ will provide information on offsetting procedures to depositors by delivering it at the counter of a failed financial institution or through the website of the DICJ or mass media in accordance with the deposit contracts and loan agreements of a failed financial institution. For detailed information on individual procedures, please make an inquiry to the relevant contact person of the failed financial institutions.

Q 25

Offsetting

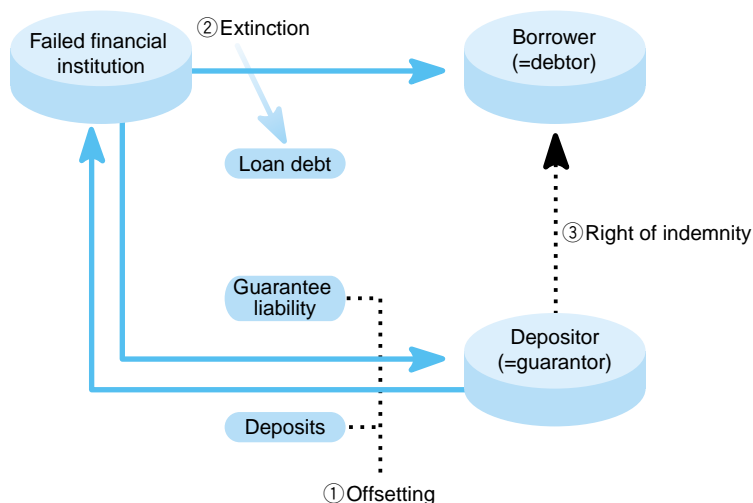
When a depositor has guaranteed a person's debts in connection with a loan from a failed financial institution, can the depositor offset his/her own deposits against the loan in question?

A guarantor who has guaranteed another person's loan from a failed financial institution may not offset his/her own deposits against the loan. This is because the debtor and the guarantor are not the same person, and the deposit claim and loan debt are not counterbalanced.

A

However, if a depositor (= guarantor) uses his or her own deposits to offset guarantee liability, as shown in the diagram below, the effect will be the same as if the loan in question were offset by the deposits. That is, by offsetting the guarantee liability with

the guarantor's own deposits depending on the offset amount, the loan debt of the guaranteed party (borrower = debtor) is also extinguished. This also means, as a result, that the depositor (= guarantor) acquires a right of indemnity against the borrower (= debtor).



When a guarantor offsets his or her own deposits against guarantee liability, as in the diagram above, especially the following points should be noted.

- This form of offsetting is irrespective of the loan repayment deadline. However, the guarantor makes the judgment to offset his or her own deposits against the guarantee liability and thus acquire the right of indemnity, without any demand from the lender for fulfillment of the guarantee liability, due to the borrower's defaulting on the debt, for example. As such, obtaining the borrower's consent in advance will help prevent friction with the borrower at a later stage.
- In cases when ① the borrower also has deposits in the failed financial institution, and has an intention to offset, and ② there is more than one guarantor, and there is similarly an intention to offset, the question arises as to which offsetting should have priority. In such cases, discussing the matter fully between the borrower and the guarantor, or between the guarantors, and obtaining agreement among the parties involved will help prevent friction at a later stage.

Offsetting

Q 26

Is it possible to offset deposits against repurchasing obligations for an amount specified in a discounted bill before maturity?

If a banking transaction contract provides that a depositor assumes repurchasing obligations in the amount of the bill, after confirming performance of the obligations, a depositor may offset the deposit against the obligation concerned.

A

Q 27

Offsetting

I have fallen into arrears with loan repayments. Is it possible to offset deposits against arrears on loan repayments?

Even if falling into arrears with the repayment of loans, a depositor may offset them with deposits. However, upon offsetting, your financial institution may demand interest and late payment charges under the loan agreement. Such interest and late payment charges are also actually considered to be deducted from the amount of deposits.

A

Q 28

Offsetting

Has it become possible to offset time deposits before maturity against arrears on loan repayment? If so, is it possible to offset them against housing loans which are still not due for repayment?

1. It is originally prohibited to offset deposits against loans unless the due dates of both come respectively. Therefore, in the case the respective due date does not come, it was not formerly possible to offset deposits for which the maturity date was set, such as time deposits and installment savings, against loans. However, financial institutions recently made an amendment to a deposit contract so that even time deposits for which the maturity date is yet to come can be offset at the time of occurrence of insured contingency.
2. In case a deposit contract is amended, even if a repayment date is not due, provided a declaration of the intent to waive the time benefit is made to a failed financial institution from the side of debtor (depositor), it becomes possible to offset deposits against housing loans. However, among housing loans, those which can be offset against deposits are limited to those made by a failed financial institution itself, and housing loans which Housing Loan Corporations, the Government Pension Investment Fund (former the Pension Welfare Service Public Corporation) and life insurance companies have made, cannot be offset against deposits.

A

If a depositor waives the time benefit on an amount in excess of that necessary for offsetting, the maturity date of the remaining loans would come. It is necessary to consult with the failed financial institution about the scope and manner of waiving the time benefit and about how the interest accruing between the time of waiving the time benefit and the initial maturity date should be treated.

When there is a balance of borrowing such as housing loans after offsetting, unless there is a change in credit standing, the balance is considered to be treated in the same manner as usual partial repayment.

(For more detailed information on whether offsetting will be possible, please see "Part One Outline of the Deposit Insurance System 3. (3) c. Offsetting, p.13).

Offsetting

Q 29

Could a failed financial institution close down its branches, thereby preventing offsetting procedures?

A financial administrator or trustee in bankruptcy would otherwise give notice of procedures in the case a branch was closed down. It is considered that a depositor will have to take procedures against the branch or head office to which operations have been transferred.

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Repayment of Insured Deposits

Q 30

Once the insured deposit amount is calculated, how are the deposits actually received?

1. With the financial assistance method, the repayment of deposits can be received from the failed financial institution, up to the maximum insured deposit amount, as soon as the institution has finished work in accordance with civil rehabilitation or other procedures. Such work would include separating deposits that may be paid from other deposits whose payment must be stopped.

The start time for repayment of deposits, the place, and other details will be announced via the DICJ website, branches of the failed financial institution, the media, and elsewhere.


2. When failure is resolved using the insurance pay-out method, meanwhile, the DICJ makes insurance payments (for details of the time of payment and how to claim, see Part One Outline of the Deposit Insurance System, 4. (3) Insurance Pay-Out Method, p.22, and Q56).

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Repayment of Insured Deposits

Q 31


If repayments of deposits are to be made by a failed financial institution, when will repayment be received? What method will be used for repayment, and will it be possible to make withdrawal with ATM?

1. When the DICJ has received depositor data from the failed financial institution and calculated the insured deposit amount by aggregating the individual deposit accounts of depositors, it notifies the failed financial institution of the result. 
2. Having received this notification, the failed financial institution prepares to repay deposits including the work of separating deposits that may be paid from other deposits whose payment must be stopped, based on these results. When doing so, payment on deposits as collateral is deferred until the collateral right is cancelled, or the claim secured by the collateral is extinguished.
As for the treatment when loans are offset by deposits as collateral, see the section on offsetting (see Part One Outline of the Deposit Insurance System, 3. (3) c. Offsetting, p.13).
3. As a legal procedure, meanwhile, when civil rehabilitation proceedings have been started for a failed financial institution, for example, authorization to repay must be issued by a court of law, after consulting the DICJ (see Part One Outline of the Deposit Insurance System, 3. (2) c. Repayment of Insured Deposits (Financial Assistance Method), p.11).
4. The time taken before repayment commences varies depending on the state of preparations; including the preparation of depositor data by a failed financial institution. However, as soon as all preparations are completed and the necessary procedures are taken, business will restart at the counter or using an ATM and repayment will swiftly take place.
5. Under the deposit insurance system, meanwhile, no repayments can be made for deposits that are not covered by insurance (such as deposits under an alias). Therefore, the depositor's identity may be checked when repaying deposits or closing accounts.

Repayment of Insured Deposits

Q 32

Through what procedures are the deposits of "voluntary organizations" repaid? In the case that it takes a long time to aggregate deposits with those of each member, does individual member have an advantage of fast repayment?


1. The deposits of a "voluntary organization" are divided into those of each member comprising the organization itself. After aggregating those and other deposits held by each member, the amount of the insured deposit is calculated. When your financial institution has failed, the representative of the voluntary organization, in response to the request of a failed financial institution, submits data on each member comprising the organization such as a depositor's name written in kana, the date of birth and amount of equity. 
2. Because it is expected to take a long time to submit data on members, before the breakdown of members of the voluntary organization are given, the work involving aggregating only other deposits held by each member must initially be done and repayment for them made.
3. Additional data on the members of a "voluntary organization" may be submitted at a later date. In such cases,
 - ① if depositors have not yet received repayment, the insured deposit amount will be re-calculated and the deposits repaid; or
 - ② even if depositors have already received payment, the insured deposit amount will be re-calculated and if there is any remainder in the insured deposit amount, additional repayment will be made.

Repayment of Insured Deposits

Q 33

Can time deposits in a failed financial institution be cancelled before the maturity date?

As for time deposits protected by insurance, early cancellation before the maturity date can be accepted at a customer service counter.

However, the procedure might be slightly different from that of normal cases, for example, there may be more rigorous confirmation of identity. 

Repayment of Insured Deposits

Q 34

I have deposits used collateral for borrowing. Will the repayment of insured deposits and the payment of insurance proceeds for the whole amount of deposits as collateral be deferred, even if the balance of loans is smaller than the amount of deposits as collateral?

1. In the case of the financial assistance method, until the security interest is released or the claims pledged as collateral (loans) expire due to repayment or offsetting, the repayment of insured deposits on deposits as collateral is deferred.

In such cases, the scope for deferring the repayment of insured deposits varies depending upon the conditions at the time of setting the security interest.

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2. Likewise, in the case of the insurance pay-out method, until the secured interest is released or the claims pledged as collateral (loans) expire due to repayment or offsetting, payment of the insurance proceeds for the insured deposits is deferred.

In such cases, the scope for deferring the payment of insurance proceeds varies depending upon the conditions at the time of setting the security interest. It should be confirmed with the "Insurance Proceeds Payment Schedule and Notice of Deferred Payment" mailed by the DICJ at the time of making payment of the insurance proceeds.

V Treatment of Uninsured Deposits When a Financial Institution Fails

Q 35

What is the procedure for receiving estimated proceeds payment?

1. When making estimated proceeds payment, the DICJ will, after obtaining approval of the estimated proceeds payment rate from the Commissioner of the Financial Services Agency and the Minister of Finance, decide and publicly announce the period and place of purchase, the method of payment, and other details.
2. To make estimated proceeds payment, the DICJ will first mail the "Request Form for Purchase of Deposits and Other Claims" and other related documents to depositors who are eligible for estimated proceeds payment. As the procedure for requesting such a purchase, depositors need to complete the relevant parts of the Request Form, attach documents to confirm identity (e.g. a copy or excerpt of the family register, certification of name seal) and send it back to the DICJ.



Moreover, in the case the DICJ entrusted financial institutions with estimated proceeds payment, the procedures are to be taken at the counter of the financial institution concerned.

Q 36

When receiving estimated proceeds payment, what proportion of deposits can be recovered? How long will it take to receive the payment?

1. The estimated proceeds payment is calculated on the basis of the estimated liquidating dividend of the failed financial institution, among other factors. Therefore it varies depending on the degree of asset devaluation of the failed financial institution, and it is difficult to predict in advance the proportion of deposits that will be recovered.
2. As for the time taken to receive estimated proceeds payment, the DICJ aims to achieve this at the earliest possible juncture. To do so, however, the DICJ must first complete work such as ① ascertaining the amount of deposits subject to estimated proceeds payment, based on depositor data submitted by failed financial institutions, and ② assessing the financial situation of the failed financial institution in order to calculate the estimated proceeds payment rate. The time needed for this work differs according to the state of readiness of depositor data, the asset scale of the failed financial institution, and so on. It is considered that it takes the number of days which is usually needed to complete such work after the DICJ obtained such information.



3. For deposits and other claims purchased from depositors by the DICJ via estimated proceeds payment, the DICJ takes part in bankruptcy proceedings and receives tenders or dividend payments from the failed financial institution. If the amount recovered from purchased deposits and other claims exceeds the estimated proceeds payment amount even after deducting expenses needed for the estimated proceeds payment, the surplus will be paid additionally to depositors in the form of "settlement payment".

Q 37

When receiving estimated proceeds payment for foreign currency deposits, how is the rate for yen conversion decided?

Foreign currency deposits, when subject to the purchase of deposits and other claims when making estimated proceeds payment, are first converted to yen denomination using the exchange rate applicable, usually the Telegraphic Transfer Buying Rate (TTB), on the date of the decision to start insolvency proceedings (the date of the decision to start bankruptcy proceedings, or the date of the decision to start civil rehabilitation proceedings). The amount in yen is then multiplied by the estimated proceeds payment rate before making the purchase.

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Q 38

If a depositor failed to take procedures for requesting estimated proceeds payment, how would be deposits of the depositor treated? In such cases, what difference arises as compared with the case of procedures for requesting estimated proceeds payment being taken?

1. When purchasing deposits and other claims by estimated proceeds payment, the DICJ will make a public announcement of this transaction after deciding the purchase period and other items through a resolution of the Policy Board (see Q35). Depositors may request purchase only within this purchase period, except for cases where the DICJ recognizes that a depositor failed to request within the purchase period due to natural disasters and any other unavoidable events.
2. In case a depositor failed to request the purchase of deposits and other claims by estimated proceeds payment within the period prescribed, if the civil rehabilitation proceedings are underway against a failed financial institution, those deposits and other claims will be listed in the Table of Depositors as prepared by the DICJ and will be notified to a court under the Law concerning Special Cases of Reorganization Proceedings for Financial Institutions.

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Accordingly, the depositor takes part in bankruptcy proceedings by appointing the DICJ as a proxy and awaits the payment of tenders or dividends. In such cases, expenses incurred in payment such as remittance charges and the like shall be borne by each depositor.

3. Unlike the above, in case a depositor requested the purchase of deposits and other claims by estimated proceeds payment within the prescribed period, it becomes possible for a depositor to recover some of the deposits earlier without awaiting payment of tenders and dividends. In such cases, in addition to remittance charges, expenses incurred in purchasing loans such as interest on the DICJ borrowing shall be deducted at the time of adjustment payment (see "Part One Outline of the Deposit Insurance System 3. (3) b. Settlement Payment", p.12).



When having a borrowing suitable for offsetting, how can be estimated proceeds payment requested?

1. The decision to offset is purely a matter for the depositor's own judgment. However, deposits and other claims are purchased for an amount calculated by multiplying the amount of purchasable deposits by a rate (the estimated proceeds payment rate) decided in consideration of the estimated liquidating dividend of the failed financial institution, among other factors. As such, the estimated proceeds payment may be subject to partial deductions. Generally, therefore, offsetting deposits against borrowings before requesting purchase is thought to be more advantageous to depositors.
2. If, after offsetting, there is a balance of deposits that are subject to the purchase of deposits and other claims, a depositor may request the DICJ to purchase the balance within the period of purchase.

VI Methods of Resolving Failures

Financial Assistance Method

Q 40

When deposits in a failed financial institution are transferred to an assuming financial institution via the financial assistance method, is the full amount of the deposits protected?

- Under the financial assistance method as in the case under the insurance pay-out method, of deposits covered by insurance, the amount of deposits protected by insurance is the full amount for deposits for payment and settlement purposes, and ¥10 million per depositor per financial institution, plus interest thereon, for other insured deposits. Therefore, deposits in excess of this amount and deposits not covered by insurance are not transferred to the assuming financial institution. Instead, they are payable in the form of an estimated proceeds payment or tenders during the insolvency proceedings of the failed financial institution, depending on the asset situation of the failed financial institution. They may therefore be subject to deductions.
- However, if the Prime Minister deems that, unless steps are taken for financial assistance in excess of the pay-out cost for failed financial institutions or financial institutions with liabilities in excess of assets, an extremely serious threat ("systemic risk") would be posed to the maintenance of financial stability in Japan or a region where financial institutions are conducting operations, exceptional steps may be taken to protect the full amount of deposits following discussions by the Council for Financial Crisis.

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Financial Assistance Method

Q 41

How is the pay-out cost calculated when the financial assistance is executed within the pay-out cost?

- The pay-out cost is the estimated cost needed to pay insurance to the depositors of a failed financial institution.
- Specifically, it is calculated by subtracting an "estimated liquidating dividend" (recoverable by the DICJ through the bankruptcy proceedings of the financial institution, with respect to the deposits and other claims ^(Note) purchased by the DICJ via insurance payments) from the estimated insurance payment plus the estimated cost of insurance payment.

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(Note) By law, the DICJ purchases insured deposits equivalent to the amount of insurance due when a request for payment of insurance is made.

(Equation for calculating the pay-out cost)

- Pay-out cost = Estimated insurance payment
+ estimated cost of insurance payment
– estimated liquidating dividend

Financial Assistance Method

Q 42

How long does it take to resolve failure using the financial assistance method?

1. When resolving failure by the financial assistance method, in order to transfer business from a failed financial institution to an assuming financial institution, the DICJ has to carry out work such as ① calculating the insured deposit amount based on depositor data submitted by the failed financial institution, ② ascertaining the financial situation of the failed financial institution in order to provide financial assistance to the assuming financial institution, and ③ searching for an assuming financial institution via the financial administrator of the failed financial institution, and selecting assets, for transfer.
2. The time needed for this work differs according to the state of readiness of depositor data, the asset scale of the failed financial institution, and so on. However, the DICJ aims to resolve failures as quickly as possible, by applying the measures stipulated in the Deposit Insurance Law.

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Financial Assistance Method

Q 43

What is the system for transferring insured deposits?

"Transfer of insured deposits" refers to the transfer of those deposits and interests thereon of a failed financial institution that are protected by insurance to an assuming financial institution.

When it takes a long time to ascertain the asset quality upon transferring the assets of a failed financial institution, such as borrowings, to an assuming financial institution, payment of the deposits concerned may be swiftly received by transferring the insured deposits to the assuming financial institution before the asset quality is ascertained and by providing financial assistance by the DICJ in return for such a transfer.

However, because it is assumed that a failed financial institution repays the insured deposits earlier, the decision of whether to transfer the insured deposits is made judging whether the necessity on a case by case basis.

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Financial Assistance Method

Q 44**In which case, is the loss sharing applied?**

1. The loss sharing was introduced as part of financial assistance in the Amended Deposit Insurance Law of May 2000. Its main purpose is to speed up failure resolutions.

The main content of loss sharing is that, when an assuming financial institution or other body incurs losses on loan claims assumed from a failed financial institution due to a failure to repay all or part of such loans, the DICJ may enter an agreement to provide partial compensation (loss sharing agreement).

2. The agreement must include a provision to the effect that, if the assuming financial institution makes profits on claims subject to the agreement, part of those profits are to be paid to the DICJ (profit sharing).
3. When implementing loss sharing agreements, special accounts management is required for the loss or profit, and the costs of administrative management and others must also be taken into account. Thus, the judgment as to whether to conclude an agreement should be based on the necessity of each individual case, taking into account the wishes of the assuming financial institution.

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Financial Assistance Method

Q 45

I understand that the DICJ may make loans to failed financial institutions. When would this be applied?

The DICJ makes loans in order to avoid situations in which failure cannot be resolved smoothly, when financing becomes difficult for the failed financial institution. The following three cases are provided for in the Deposit Insurance Law.

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- ① On receiving an application from a failed financial institution for the loan of funds needed to repay insured deposits, the DICJ may, when deeming it necessary to implement repayment before the transfer of business, loan funds to the limit of the total amount of insured deposits.
- ② On receiving an application from a financial institution for the loan of funds needed to prevent a decline in the values of loan claims or other assets held by that financial institution due to the discontinuation of lending, and thereby avoiding detrimental impact on the interests of depositors, the DICJ may, when deeming it necessary, loan funds to the necessary limit.
- ③ In the Amended Deposit Insurance Law of December 2002, moreover, the DICJ was authorized to make loans of funds needed for repaying settlement debts, when deeming this necessary.

Operations of Financial Institutions after Failure

Q 46

How do the operations of financial institutions change after they have failed?

1. The Commissioner of the Financial Services Agency may issue an order for the management of a financial institution and choose a financial administrator under certain conditions when ① the institution's liabilities are deemed to exceed its assets, ② it is deemed possible that the institution may suspend the repayment of deposits, ③ the repayment of deposits has actually been suspended, and ④ it is deemed possible that the institution's liabilities may exceed its assets, based on notification from the institution.

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In this case, the right to execute any operations, manage and dispose its assets on behalf of the financial institution under management belongs exclusively to a financial administrator. This individual temporarily executes and continues operations of the financial institution under management, while it elects the assets to transfer, and aims to transfer the business to an assuming financial institution within six months since a failure. (If an assuming financial institution is not found, business is temporarily transferred to a bridge bank. See Q51.)

2. As for those financial institutions under the system, after completing work of aggregating deposits, calculating insured deposit amounts and distinguishing deposits which should be suspended from pay-outs, the basic operations below will be implemented for the said deposit accounts.

- ① repaying deposits within the insured range ^(Note 1) and accepting new deposits following the failure ^(Note 2), and
- ② settlement operations (see Part One Outline of the Deposit Insurance System, 3. (4) b. Settlement Operations, p.15), as well as
- ③ issuing loans based on a judgment that the purpose of use is appropriate and repayment is possible. ^(Note 3)

For deposits for payment and settlement purposes ^(Note 4), in particular, the full amount is covered. Therefore, repayment should be possible under the same conditions as before the failure, under the proviso in 4. below.

(Note1) When civil rehabilitation or corporate reorganization proceedings have been instigated with respect to a failed financial institution under the Law concerning Special Cases of Reorganization Proceedings for Financial Institutions, and it has been decided that loans will be made by the DICJ in order to repay insured deposits, a court of law may stipulate types of deposits due for repayment and grant permission to repay insured deposits, after consulting the DICJ as to the types of deposits based on an application by the failed financial institution (the debtor in the process of rehabilitation in the case of civil rehabilitation proceedings, or the receiver in the case of corporate reorganization proceedings).

(Note2) It is assumed that failed financial institutions are processed under the Civil Rehabilitation Law. However, they may receive permission from a court of law for conversion to claims for common benefits during the period from the application to start civil rehabilitation proceedings until the decision to start proceedings. After the decision to start proceedings, conversion to claims for common benefits is carried out for the operations of failed financial institution, i.e. the debtor in the process of rehabilitation. Thus it becomes possible to make repayment and acceptance of new deposits in either case.

(Note3) Financial institutions under management are assumed to be subject to civil rehabilitation proceedings, under which these operations are positioned as business that should basically be continued by the financial institution.

(Note4) Deposits that meet the three conditions of (i) bearing no interest, (ii) being redeemable on demand, and (iii) providing normally required payment and settlement services (i.e. ordinary deposits bearing interest are not included).

3. The timing of these operations, and whether they are continued before and after failure, depends on the completion of certain preparations as outlined above (namely the calculation of the insured deposit amount, followed by the separate management of deposits that can be paid as against those for which payment should be suspended). If a certain period of time is required for these preparations, the above operations may be suspended.

4. Meanwhile, appropriate steps need to be taken to prevent fraud and other misconduct and measures such as confirming identity may be applied if necessary when repaying deposits.


Q 47**What preparations are made for the basic operations of financial institutions to be continued after failure?**

1. In a financial institution immediately after failure, a financial administrator makes necessary arrangements to maintain its basic operations as a financial institution. The most typical and crucial of these include measures to prevent repayment of deposits from deposit accounts that are subject to suspension of payments (based on the results of aggregation of deposits and calculation of insured deposits), measures to file records on incoming and outgoing payments for each deposit account, and means to maintain computer systems.
2. These measures are essentially implemented to prevent inappropriate discharge of assets, even while appropriately repaying the deposits of failed financial institutions that have come under management.
3. At present, computer systems are used to process operations in most financial institutions. The work of implementing these measures, therefore, needs to be done on the computer system of the financial institution under management, in order to continue or recommence its basic operations as a financial institution.

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Q 48

Is it possible to withdraw deposits from a failed financial institution?

1. Given that the full amount of deposits for payment and settlement purposes ^(Note 1) is protected, repayments and other operations are expected to be possible ^(Note 2) within the limits set out below, as long as the necessary preparations (including the aggregation of deposits, calculation of the insured deposit amount, and, based on these prerequisites, the separate management of deposits that can be paid as against those for which payment should be suspended) have been completed appropriately.
- 
- ① Current deposits, ordinary deposits not accruing interest, etc. ^(Note 1): Repaid as before failure, under the proviso in 2. below
 - ② Ordinary deposits accruing interest, time deposits etc.: Repaid for deposits of ¥10 million or less, under the proviso in 2. below (for deposits before maturity, this is limited to cases in which there is dissolution clause in the deposit agreement, or when the failed financial institution has agreed to dissolve and the permission of a court of law has been obtained)
 - ③ Repayment of new deposits after failure ^(Note 3)
 - (Note 1) Deposits that satisfy the three conditions of (i) bearing no interest, (ii) being redeemable on demand, and (iii) providing normally required payment and settlement services (i.e. ordinary deposits bearing interest are not included).
 - (Note 2) When civil rehabilitation or corporate reorganization proceedings have been instigated with respect to a failed financial institution, and it has been decided under the Law concerning Special Cases of Reorganization Proceedings for Financial Institutions that loans will be made by the DICJ in order to repay insured deposits, a court of law may stipulate types of deposits due for repayment and grant permission to repay insured deposits, after consulting the DICJ as to the types of deposits, based on an application by the failed financial institution (the debtor in the process of rehabilitation in the case of civil rehabilitation proceedings, or the receiver in the case of corporate reorganization proceedings).
 - (Note 3) Failed financial institutions are assumed to be restructured under the Civil Rehabilitation Law. However, new deposits, which have been accepted during the period from the date of filing for commencement of civil rehabilitation proceedings to a court until the date upon which the commencement of the said proceedings is decided, can be repaid by getting the permission of a court, and new deposits which have been accepted after the date upon which commencement of the said proceedings is decided, can be repaid under the relevant laws.
2. Meanwhile, appropriate steps need to be taken to prevent fraud and other misconduct, and measures such as confirming identity may be applied if necessary when repaying deposits.

Operations of Financial Institutions after Failure

Q 49

Is it possible continuously to borrow working funds from a failed financial institution?

Even after the civil rehabilitation proceedings have commenced, a failed financial institution may continue the business of lending. In such cases, the new lending criteria are set under the guidance of a financial administrator, and loan applications made from a depositor who needs working funds will be examined based on the new loan criteria.

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Operations of Financial Institutions after Failure

Q 50

How are borrowings from a failed financial institution treated? Is it supposed to be able to continuously borrow money upon the terms (period, interest rate, etc.) which were previously applicable to the existing lending contract?


1. Even when a failed financial institution is restructured under laws concerning corporate restructuring such as the civil rehabilitation law and others, the terms of the existing loan contract which was entered into before failure are basically maintained.
2. However, when entering into a new loan contract or renewing the existing loan contract, the terms of the existing loan contract could be changed in the same way as transactions with an ordinary financial institution; taking into account economic conditions and the financial position of the borrower.

A

Bridge Banks

Q 51

What is the purpose of setting up bridge banks? What are their main functions?

1. Bridge banks are defined as "banks whose main purpose is to take over the operations of a financial institution under management through the transfer of business, transfer of insured deposits, or merger, and to temporarily maintain and continue the said operations, and which are established as subsidiaries of Deposit Insurance Corporation of Japan". 
2. Bridge banks are established to provisionally handle cases when a financial institution fails but no assuming financial institution appears. They assume insured deposits, loan assets, and others from failed financial institutions placed under the management of a financial administrator, and temporarily maintain and continue their operations, while at the same time looking for financial institutions to act as assuming bodies for those operations (= re-assuming financial institutions).
3. Furthermore, the bridge banks are established as banks that have obtained banking licenses under the Banking Law, through capitalization from the DICJ (see Part One Outline of the Deposit Insurance System, 4. (2) d. Business Succession through the Bridge Bank System, p.20). The maximum term of a bridge bank is two years from the date of the management order issued to the first failed financial institution whose operations were assumed by the bridge bank (however, when management operations not completed within two years due to unavoidable circumstances, this may be extended by a further year).

Bridge Banks

Q 52

How are assets selected for transfer to the bridge bank?

Of the loan claims and other assets held by a financial institution under management, the financial administrator selects those that are to be passed over to the bridge bank. The selected assets are then assumed by the bridge bank, after confirmation by the Commissioner of the Financial Services Agency that they are appropriate as assets to be held by the bridge bank, and a succeeding or re-assuming financial institution is sought.

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The criteria for this confirmation have already been published in the Notification of the Financial Services Agency and the Ministry of Finance.

(Note) The Notification of the Financial Services Agency and the Ministry of Finance

The suitability for assuming assets will be judged after classifying debtors as follows, according to their fulfillment of debts on loans.

- ① Normal Assets suitable for assumption
- ② Caution needed In principle, assets suitable for assumption if repayments of principal, have been fulfilled in line with initial agreements
- ③ Potentially bankrupt In principle, assets not suitable for assumption
- ④ Substantially bankrupt..... As above
- ⑤ Bankrupt..... As above

Bridge Banks

Q 53

I have borrowings from a failed financial institution. Can I borrow from a bridge bank on the same terms applicable before failure?

1. The loan assets to debtors assumed by the bridge bank from a financial institution under management may be continued, provided that the borrowers are viable, having taken into account the state of fulfillment of debts, the certainty of recovery, and so on, in accordance with operational guidelines determined by the DICJ.
2. These operational guidelines are to be prepared by the DICJ and published with the approval of the Commissioner of the Financial Services Agency, from the perspective of ensuring the sound and appropriate running of the work of assuming deposits, loaning funds and other operations, in line with the purpose of the bridge bank (namely, to temporarily maintain and continue the operations of the financial institution under management).

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Bridge Banks

Q 54

Will services such as bank transfer and direct debit be taken over by the bridge bank?

1. The purpose of a bridge bank is to take over the operations of a financial institution under management and to temporarily maintain and continue said operations. As such, the bridge bank will take over individual agreements with corporate and other customers regarding bank transfers, direct debits, having followed the requisite procedures.

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However, when the consignor of a direct debit (public/private entities) does not wish direct debit services with the bridge bank to be continued, depositors and others may have to accept the suspension of such services.

2. Meanwhile, when the depositors themselves do not wish bank transfer and direct debit services to be continued, they are free to enter agreements with other financial institutions.

Bridge Banks

Q 55

What sort of financial assistance will the DICJ extend to financial institutions that take over assets and deposits through entire business transfer, etc. from a bridge bank?

1. Certain measures (purchase of assets by the DICJ, subscription of preferred stocks, etc., and loss sharing) have been made available to assist re-assuming financial institutions that accept the entire business transfer, etc. from a bridge bank.

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2. The specific details of each measure are as follows.


- ① Purchase of assets: Of the assets assumed by a re-assuming financial institution from a bridge bank, the DICJ purchases those deemed suitable for purchase in order to assist re-assumption (for example, assets that are deemed difficult or impossible to collect, or whose value is deemed to have fallen). In practice, this purchase is entrusted by the DICJ to the Resolution and Collection Corporation (RCC).
- ② Subscription of preferred stocks: the DICJ may subscribe the preferred stocks and other forms of capital of re-assuming financial institutions and others, with the approval of the Commissioner of the Financial Services Agency and the Minister of Finance. The aim of this is to prevent a fall in the capital adequacy ratio of re-assuming financial institutions due to the assumption of assets.

- ③ **Loss sharing:** When loan claims assumed by a re-assuming financial institution from a bridge bank deteriorate over a certain period following entire business transfer, etc., and the re-assuming financial institution incurs losses thereby, the DICJ may provide partial compensation for these (loss sharing). If, conversely, this gives rise to profits, part of the profits is to be paid to the DICJ (profit sharing). For loan claims deemed suitable for loss sharing to assist re-assumption, the DICJ and the re-assuming financial institution enter an agreement to this effect following a request by the re-assuming institution.

Insurance Pay-Out Method

Q 56


When will insurance pay-out be available?

1. Depositors will be sent the Insurance Payment Notification and Claim Form indicating the amount of insurance due, together with other details. Depositors may then claim and receive insurance payments by submitting the completed Claim Form, along with identification documents, to the DICJ. 
2. The time needed until the payment of insurance will differ according to the scale of the failed financial institution, the state of readiness of depositor data, and so on. However, preparations are being made to enable payments to be made as quickly as possible.

Insurance Pay-Out Method

Q 57

When processing failures by the insurance pay-out method, what happens to the financial institution in question?

As explained under methods of resolving failures of financial institutions (see Part One Outline of the Deposit Insurance System, 4. Methods of Failure Resolution, p.16), when resolving failures with the insurance pay-out method, the failed financial institution is liquidated via bankruptcy proceedings, and its financial functions are extinguished. 

Therefore, all deposit transactions with the failed financial institution are stopped, and deposits covered by insurance are paid out directly to the depositors as insurance payments after aggregating deposits and completing other necessary work.

Meanwhile, for deposits in excess of the insured deposit amount and uninsured deposits, a certain amount is received in the form of an estimated proceeds payment, or as dividends during the bankruptcy proceedings of the failed financial institution (see Part One Outline of the Deposit Insurance System, 3. (3) Treatment of Uninsured Deposits, p.12).

Q 58

Insurance Pay-Out Method

What happens if a depositor concerned misses to make the insurance claim?

- A**
1. The DICJ will send depositors the Insurance Payment Notification and Claim Form indicating the amount of insurance due, together with other details. To claim insurance, depositors should sign and name-stamp the Insurance Payment Claim Form, and submit it to the DICJ. When doing so, requisite documents enabling confirmation of identity should also be presented.
 2. The period for payment of insurance will be determined and publicly announced by the DICJ, subject to a resolution by the Policy Board (see Part One Outline of the Deposit Insurance System, 4. (3) Insurance Pay-Out Method, p.22). Depositors may only claim insurance payments during this period.
This condition may be waived, however, if the DICJ accepts that there were unavoidable circumstances (such as a natural disaster) that prevented the claim from being made within the payment period.
 3. Depositors will not be able to receive insurance payments unless they are under unavoidable circumstances. In such cases, deposits and other claims will be listed in the "Table of Depositors" prepared by the DICJ and notified to a court of law, in line with the Law concerning Special Cases of Reorganization Proceedings for Financial Institutions, while bankruptcy proceedings concerning the failed financial institution are underway.
Accordingly, the depositor takes part in bankruptcy proceedings through the proxy of the DICJ and awaits the payment of dividends.
In this case, because dividends are paid according to the financial position of a failed financial institution, some of the deposits are often presumed to be cut.

Q 59

Insurance Pay-Out Method

What procedures must be taken to receive partial payments? How long does it take to receive partial payments following the failure of a financial institution?

- A**
1. When receiving partial payments, a depositor will be required to take procedures involving them presenting a bankbook of ordinary deposits and registered seal and submitting the "Partial Payment Claim Form" (this form is available at the counter) to the counter of the financial institution entrusted by the DICJ, such as a failed financial institution, then requesting partial payments. Partial payments are paid as soon as the preparations prescribed such as payment procedures and others are finished, once the DICJ has decided to make such partial payments.
 2. Once the payment of partial payments has been decided, the period, place and method of paying partial payments, and other matters prescribed by the Cabinet Order will be made public by carrying in the Official Gazette and furthermore will be displayed in the office of the failed financial institution.

VII Financial Crisis Management

Q 60

Against what type of financial institution are measures for financial crisis management taken?

If the Prime Minister recognizes that unless such measures are taken, there is the risk of an extremely serious risk to maintaining the credit strength of the financial industry in Japan or the region where the financial institution carries on business, the measures for financial crisis management ^(Note) are invoked through the resolution of the Financial System Management Council. "Whether there is the threat of causing an extremely serious risk to maintaining the credit strength of the financial industry" is comprehensively judged taking into account individual and concrete circumstance through strict procedures.

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(Note) Concerning against what financial institutions the measures for financial crisis management are invoked, please see a list of Part One Outline of the Deposit Insurance System 5. (1) a., p.24. (Special crisis management measures (Item 3 Measures) are invoked only against banks, etc.)

VIII Collection of Non-Performing Loans and Pursuit of Liability

Q 61

How does the DICJ collect non-performing loans of failed financial institutions?

1. The DICJ entrusts the purchase and collection of non-performing loans of failed financial institutions to the Resolution and Collection Corporation (RCC, a 100% subsidiary of the DICJ).
2. Under an agreement with the RCC, the DICJ provides wide-ranging guidance and advice to support the collection of non-performing loans.

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The DICJ makes rigorous investigation efforts to uncover the hidden assets of devious debtors who are likely to attempt to conceal their assets, by exercising the investigative powers given by the laws. Through these operations, the DICJ provides powerful support for the RCC in maximizing the collection of debts.

Q 62

What are the functions of the RCC which was commissioned from the DICJ to collect non-performing assets?

1. The Resolution and Collection Corporation was established as a 100% subsidiary of the DICJ (capitalization ¥212 billion) through a merger between the Housing Loan Administration Corporation (HLAC), originally established with the aim of resolving failures of seven former housing loan companies (so-called "Jusen companies"), and the Resolution and Collection Bank (RCB), which had been resolving failures of financial institutions, in April 1999.
2. The main business of the RCC includes ① collection of claims transferred from 7 former Jusen companies, ② purchase and collection of non-performing loans, etc., from failed financial institutions, ③ purchase and collection of non-performing loans from sound financial institutions, etc. and ④ subscription of shares, etc., to fund capital injections for financial institutions.
To enable it to pursue these operations more forcefully, the RCC acquired a servicer's license in June 1999, and authorization for conducting trust business in August 2001.
3. Moreover, in line with government policies since FY 2001, the RCC has been dealing with debtor enterprises which have bright rehabilitation prospects by focusing on every detail and aiming to maximize the debt collection by making them rehabilitated.

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Q 63

How does the DICJ pursue the civil and criminal liability of former executives of failed financial institutions and devious debtors?

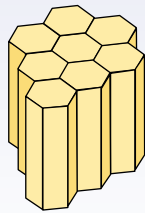
The pursuit of liability undertaken by the DICJ and the RCC can be broadly divided into ① the pursuit of civil and criminal liability of former executives of failed financial institutions, and ② the pursuit of criminal liability against devious debtors.



- ① The pursuit of liability of former executives involves, for example, initiating civil litigation for damages suffered by a failed financial institution due to illegal loans and other wrongdoings, made by former executives (the president and other executives) of the failed financial institution, or, as criminal liability, making accusations or complaints to investigative bodies concerning aggravated breach of trust and other offences.

To this end, either the DICJ, by making preliminary investigations as part of its operations when it is the financial administrator, or the RCC, by exercising its competence, taken over from failed financial institutions, to demand compensation for damages from former executives, or in the process of its collection of loan claims, investigates the factual relationship, and based on the facts ascertained in this process, initiates civil litigation or makes criminal accusations and complaints.

- ② The pursuit of criminal liability against devious debtors involves making complaints to investigative bodies concerning illegal acts by these debtors, when they are discovered to have concealed assets or obstructed fair auction procedures.



For more information about the deposit insurance system in Japan,
please visit the DICJ website at
<http://www.dic.go.jp>.



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