


Law on Sales of Financial Products

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The "Law on Sales of Financial Products" was introduced on 1 April 2001 to protect private individual users of financial services from any damages. I would like to examine the Law as it is important for us who deal with real estate investment business.

Since around 1998, various discussions have been taking place concerning the Japanese financial reforms including the "development of cross-sectional financial infrastructure" and "creation of financial system which meets the global standards".

Conventional Japanese financial administration was often referred to as being "vertically divided", and did not have a unique regulation as administration differed according to the provider of financial products such as bank, security, and insurance. As a result, the users of financial products which did not fall under any of those categories were not sufficiently protected. This led to strong needs for a cross-sectional infrastructure in order to provide a wide variety of financial products in the future.

The user protections provided by the Law are: (1) requirement of financial service providers to provide customers with appropriate risk information, and (2) liability of financial service providers for any damages caused by their failure to follow such requirements, as a special case of the civil law. "To provide the appropriate risk information" indicates that the provider must inform the "risk of loss of principal", which seems very obvious to the sophisticated professional investors. However, this Law targets the private individuals who are not used to evaluating the risks by themselves and aims to eliminate vicious providers by requiring a provision of clear information.

As for real estate investment, acquisition of trust beneficiaries and execution of Tokumei Kumiai (TK) agreement fall under this regulation. Provider is obligated to provide the important information even in the vis-à-vis transaction.

In the direct investment of real estate, investment structure is tailor made on a case-by-case basis and vehicles such as trust beneficiary and TK will be used as a result. Therefore, it seems quite odd for us to provide such "important information" after thorough investigations. Also, our clients, the institutional investors, have already completed their risk analysis prior to the transaction, so

there will be many cases where it is needless to explain the obvious risks.

Even though this kind of inconvenience do exist as the Law was intended to cover the cross section of all the products and consumers, I would like to welcome this Law and hope it will provide fair and transparent environment to all investors, both national and international.