



Characteristics of the Japan Bond Market

A. Definition of Corporate Bond

Article 2 (23) of the Companies Act defines a corporate bond. Bond means any monetary claim owed by a company by allotment under the provisions of the Companies Act and which will be redeemed in accordance with the provisions on the matters listed in the items of Article 676 (Determination of Matters on Bonds for Subscription).

B. Types of Bonds and Notes

The term bonds generally refers to debt securities issued by governments and other public entities as well as by private companies. The issuance of bonds is a means of direct financing, through which the issuer raises funds but, unlike equity financing, the issuer has an obligation to repay the principal at maturity.

Table 12 provides an overview of the types of bonds and notes in Japan, and their classification into the categories shown, while the individual types of bonds and notes are explained in greater detail over the subsequent sections.

Table 12: Overview of Types of Bonds and Notes Issued in Japan

Type of Issuing Institution	Typical Term Used (including abbreviation and Japanese characters)	Types and Varieties	Explanatory Remarks
Public	1. Japanese Government Bond (JGB: <i>koku-sai</i> , 国債) ^a	<ul style="list-style-type: none"> Interest-bearing: Fixed-rate (2yr, 5yr, 10yr, 20yr, 30yr, 40yr), Floating-rate (15yr), Inflation-indexed (10yr) JGB for Retail(Individual) Investor: Fixed-rate (3yr, 5yr), Floating-rate (10yr) Separate Trading of Registered Interest and Principal of Securities (STRIPS) 	
	2. Treasury Discount Bills (T-Bill) (国庫短期証券) (While maintaining their respective position in the financial system, TBs and FBs have been called and issued as T-Bill with an integrated manner in the market.) (“T-Bill” is the sum of “Treasury Bills (TBs)” and “Financial Bills (FBs)” with a maturity of 1 year or less and TBs and FBs have been jointly issued since February 2009.)	<ul style="list-style-type: none"> Treasury Bills (TBs) (6m, 1yr) (割引短期国債) Financing Bills (FBs) (2m,3m,6m, 1yr) (政府短期証券) 	<p>To finance fiscal expenditures (the same as JGBs with other maturities)</p> <p>To finance the National Treasury on a short-term basis or cover temporary fund shortage in a special account</p>

continued on next page

Table 12 continued

Type of Issuing Institution	Typical Term Used (including abbreviation and Japanese characters)	Types and Varieties	Explanatory Remarks
Public	3. Local governments bond or Municipal Bond (<i>chiho-sai</i> , 地方債)	<ul style="list-style-type: none"> Publicly offered Regional Bond (3yr–30yr) Citizen participatory-type Public Market Offering Bond (3yr–10yr) Privately Offered Regional Bond 	Issued by prefectures, municipalities (cities, towns, and villages)
		<ul style="list-style-type: none"> Local governments agency bond (Japan Finance Organization for Municipalities [JFM] bond) (<i>chihoukoukyoudantaikinyukikou-sai</i>, 地方公共団体金融機構債) 	The Japan Finance Organization for Municipalities was founded by all local governments (prefectures, cities, wards, towns, and villages).
	4. Government Agency Bond, etc. (<i>seifukankeikikan-sai tou</i> , 政府関係機関債等)	(Government-Guaranteed Bond) <ul style="list-style-type: none"> Japanese Government-Guaranteed Bond (2yr–40yr) (<i>seifuhosho-sai</i>, 政府保証債) 	
		(Non-Government-Guaranteed Bond) <ul style="list-style-type: none"> Fiscal Investment and Loan Program (FILP) Agency Bond (2yr–40yr) (<i>zaitokikan-sai</i>, 財投機関債) Government-Affiliated Corporation Bond (<i>hi-koubo-tokushu-sai</i>, 非公募特殊債) 	
(Non-Government-Guaranteed Bond) <ul style="list-style-type: none"> Local Public Corporation Bonds (<i>chihoukousha-sai</i>, 地方公社債) 			
Private	5. Corporate bonds (<i>shasai</i> , 社債)	<ul style="list-style-type: none"> a. Straight corporate bonds, etc. (<i>futsu-shasai</i>, 普通社債等) b. Asset-backed corporate bonds (<i>shisantanpogata-shasai</i>, 資産担保型社債) c. Convertible bonds (<i>tenkan-shasai</i>, 転換社債) 	
		6. Bank debentures (<i>kinyu-sai</i> , 金融債)	
Nonresident	7. Nonresident bonds (foreign bonds) (<i>hikyojusha-sai</i> , 非居住者債)	<ul style="list-style-type: none"> JPY-denominated foreign bonds (<i>endate-gaisai</i>, 円建て外債; <i>samurai-sai, tou</i>, サムライ債等) Asset-backed foreign bonds (<i>shisantampogata-hikyojusha-sai</i>, 資産担保型非居住者債) 	
Resident and Nonresident (Private)	8. Commercial paper	Short-term corporate bonds (See III. C. 2. (a) of this bond market guide)	

m = month, NHK = NHK Corporation (Japanese broadcaster), yr = year.

^a Ministry of Finance Japan. Debt Management Report. http://www.mof.go.jp/english/jgbs/publication/debt_management_report/index.htm

Source: ABMF SF1.

Public offerings of corporate bonds, asset-backed bonds and nonresident bonds (as indicated under Nos. 5, 6, and 7 in Table 12) are subject to disclosure requirements under the FIEA. All other bonds are exempt from FIEA disclosure requirements. For further details on disclosure requirements for such bond and note issuances, kindly refer to Chapter II.F–H.

1. Government Bonds

Government bonds are the securities issued by the central government of Japan. The central government pays the bondholders interests on the securities and repays the principal amount, which is referred to as redemption. Interest is payable on a semiannual basis, except for short-term T-Bill, and the principal amount is redeemed at maturity.

The JGBs currently issued can be classified into four categories:

- (a) medium-term notes (2-year and 5-year bonds);
- (b) long-term bonds (10-year bonds);
- (c) super-long-term bonds (20-year, 30-year, and 40-year bonds); and
- (d) JGBs for retail investors (3-year, 5-year, and 10-year bonds).

During FY2002 (ending on 31 March 2003), the government introduced the Separate Trading of Registered Interest and Principal of Securities (STRIPS) and (variable-rate) retail 10-year JGB programs. The principal and individual interest payment components of JGBs designated by the MOF as book-entry securities eligible to be stripped have been traded as separate zero-coupon government bonds. Subsequently, the government started issuing

- (a) 10-year Consumer Price Index-linked bonds;
- (b) 5-year and 3-year bonds for retail investors; and
- (c) 40-year fixed-rate bonds in FY2003, FY2005, and FY2007.

All medium-, long-, and super-long-term bonds and JGBs for retail investors (with 3-year or 5-year tenures) are bonds with fixed-rate coupons. With fixed-rate coupon-bearing bonds, the interest calculated by the coupon rate determined at the time of issuance is paid on a semiannual basis until the security matures and the principal is redeemed at face value.

JGBs for retail investors (10-year floating rate) are JGBs with coupon rates that vary over time according to certain rules. The 15-year floating-rate bonds, as well as the JGBs for retail investors (10-year) feature coupon rates that vary according to certain rules. New issuance has been put on hold for the 15-year floating-rate bonds, however.

Issuance has also been put on hold for Inflation-Indexed Bonds, which are securities whose principal amounts are linked to the Consumer Price Index as stated above. Thus, although their coupon rates are fixed, the interest payment also fluctuates. The outstanding amount of JGBs has steadily increased in the past 5 years, as shown in Table 13. For reference, the trading volumes of JGBs, by the main categories mentioned above, over an 11-year period (2005–2015) are illustrated in Figure 16 and the underlying numbers are provided in Table 14.

2. T-Bill

Treasury Bills (TBs) and Financial Bills (FBs) have been called and issued as T-Bill with an integrated manner in the market. “T-Bill” is the sum of “Treasury Bills (TBs)” and “Financial Bills (FBs)” with a maturity of 1 year or less and TBs and FBs have been jointly issued since February 2009. T-Bill are all discount notes, meaning that they are issued at a price lower than the face value. No interest payments are made, but at maturity the principal amounts are redeemed at face value.

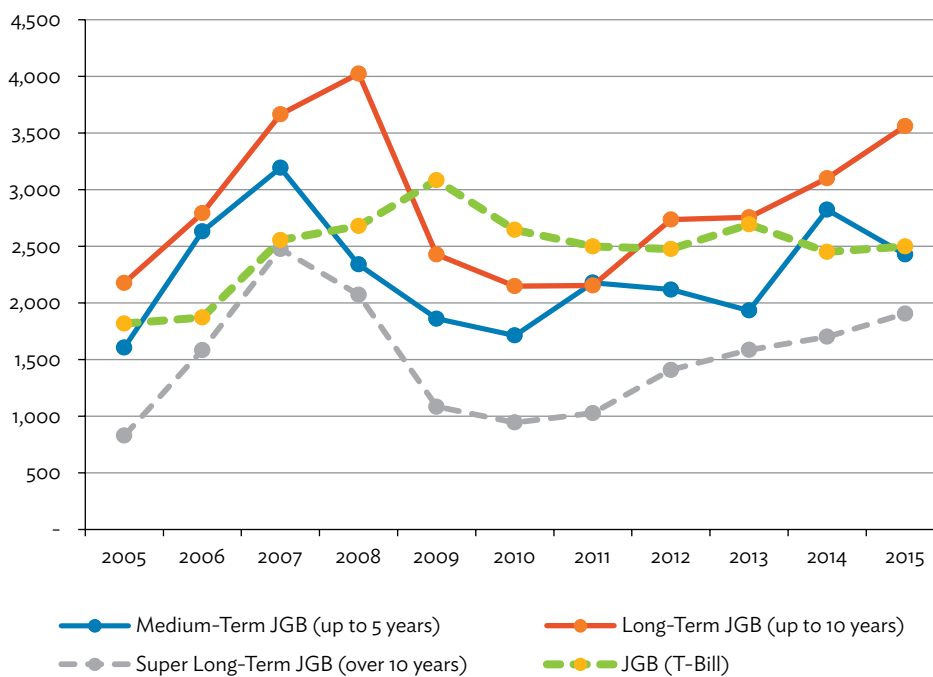
In contrast to JGBs, the outstanding amount of T-Bill over the most recent 5-year period has declined (Table 13).

Table 13: Japanese Government Bonds Outstanding (JPY trillion)

	2011	2012	2013	2014	2015
JGBs	676.9	715.3	760.7	802.7	830.0
JGBs for Retail Investors	23.4	20.3	17.8	14.9	11.2
JGBs (T-Bill)	30.0	30.0	30.0	28.1	25.7
JGBs Total	730.3	765.5	808.5	845.7	866.9
Excluding JGB Holdings by the BOJ	66.6	59.2	52.3	34.4	27.6

BOJ = Bank of Japan, JGB = Japanese Government Bond.
 Note: Data as of end of December for each calendar year.
 Source: Japan Securities Dealers Association. <http://www.jsda.or.jp/shiryotoukei/hakkou/files/hakkougakushoukanngaku.xls>

Figure 16: Trading Volume of Japanese Government Bonds by Category (JPY trillion)



JGB = Japanese Government Bond.
 Note: Data as of end of December for each calendar year.
 Source: Japan Securities Dealers Association (JSDA)—Trading Volume of Over-the-Counter Bonds.
<http://www.jsda.or.jp/shiryotoukei/shurui/files/srb.xls>

Table 14: Trading Volume of Japanese Government Bonds by Category (JPY trillion)

	Medium-Term JGBs (up to 5 years)	Long-Term JGBs (up to 10 years)	Super-Long-Term JGBs (over 10 years)	JGBs (T-Bill) (with a maturity of 1 year or less)	TOTAL
2005	1,606	2,175	829	1,818	6,428
2006	2,631	2,794	1,585	1,872	8,882
2007	3,193	3,666	2,477	2,555	11,890
2008	2,339	4,025	2,073	2,681	11,118
2009	1,860	2,429	1,084	3,084	8,458
2010	1,712	2,150	944	2,647	7,452
2011	2,179	2,155	1,028	2,498	7,860
2012	2,118	2,737	1,408	2,476	8,739
2013	1,934	2,756	1,585	2,694	8,969
2014	2,824	3,101	1,701	2,449	10,075
2015	2,427	3,560	1,907	2,500	10,393

JGB = Japanese Government Bond.

Note: Data as of end of December for each calendar year.

Source: Japan Securities Dealers Association—Trading Volume of Over-the-Counter Bonds. <http://www.jsda.or.jp/shiryotoukei/shurui/files/srb.xls>

3. Local Government Bonds

Local governments and municipalities borrow funds on deeds from banks or issue debt securities in the market. Sometimes, they are called municipal debt. Those issued in the bond market are generally called local government bonds. Of these, securities that are placed with an unspecified number of investors are called publicly offered municipal bonds.

These bonds are issued as a single entity, but some bonds are issued as a joint issue with several local governments. In contrast, those placed privately with local banks and other financial institutions are called privately placed municipal bonds.

Table 15 provides details on local government bonds outstanding over the most recent 5-year period.

Table 15: Local Government Bonds Outstanding by Type (JPY trillion)

	2011	2012	2013	2014	2015
Municipal bonds (publicly offered)	51.0	54.3	56.9	58.1	58.9
Municipal bonds (privately placed)	17.8	16.4	14.9	13.3	12.1
Local Government Bonds Total	68.7	70.7	71.8	71.4	71.0

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

4. Government Agency Bonds

Government agency bonds are debt securities issued by various government-affiliated entities, such as incorporated administrative agencies. Agency bonds are divided into

- (a) government-guaranteed bonds that are backed by the full faith and credit of the government,
- (b) FILP-agency bonds that are issued by fiscal investment and loan agencies that do not enjoy such guarantee, and
- (c) government-affiliated corporation bonds.

The three categories of debt securities mentioned above are sometimes collectively called public sector bonds, and their outstanding values from 2011 to 2015 are presented in Table 16.

Table 16: Government Agency Bonds Outstanding by Type (JPY trillion)

	2011	2012	2013	2014	2015
Government-guaranteed bonds (public offering)	35.1	35.6	36.6	36.5	35.2
FILP-agency bonds (public offering)	28.7	30.5	31.8	32.4	32.9
Government-associated organization bonds (private offering)	7.5	7.2	6.2	4.7	3.9
Bonds issued by the public corporations related to the regional governments (public offering)	0.7	0.8	0.9	0.9	1.0
Bonds issued by the public corporations related to the regional governments (private offering)	0.4	0.4	0.4	0.3	0.3
Government Agency Bonds Total	72.4	74.5	75.9	74.9	73.2

FILP = Fiscal Investment and Loan Program.

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

5. Corporate Bonds

Except for issuances by SMEs via private placement, the issuance of corporate bonds in Japan is still limited to fairly high-rated companies in specific sectors such as electric power and telecommunications, and Japan Rail Group companies. In addition to nonfinancial enterprises, banks and consumer finance companies may also issue corporate bonds in accordance with the Companies Act.

Table 17 illustrates how the value of outstanding corporate bonds has generally remained stable over the last 5 years.

6. Bank Debentures

Over the same period, the outstanding value of bank debentures has steadily decreased, as shown in Table 18. Bank debentures are debt securities issued by certain banking institutions—JA Bank, Shoko Chukin Bank, and Shinkin Central Bank—under special laws and play a fundraising role as an alternative to deposits. They are principally issued as either 5-year interest-bearing or 1-year discounted debentures.

Table 17: Corporate Bonds Outstanding by Type (JPY trillion)

	2011	2012	2013	2014	2015
Corporate bonds (public offering)	62.1	61.2	60.8	59.8	57.9
Corporate bonds (public offering)— general mortgage bonds	0.0	0.0	0.0	15.4	14.3
Corporate bonds (private offering)	8.6	8.6	8.6	8.0	8.7
Corporate bonds (private offering)— general mortgage bonds	0.0	0.0	0.0	1.4	1.4
Total	70.7	69.8	69.4	84.6	82.3

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

Table 18: Bank Debentures Outstanding (JPY trillion)

	2011	2012	2013	2014	2015
Bank debentures—Interest-bearing (public offering)	14.0	13.1	12.2	11.5	11.3

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

7. Nonresident Bonds (Foreign Bonds)

Table 19 indicates that the value of foreign bonds issued in Japan fluctuated little over the period 2011–2015. Foreign bonds are defined as debt securities issued in Japan by non-Japanese resident issuers. Those denominated in Japanese yen, in particular, are separately classified as JPY-denominated foreign bonds or Samurai Bonds.

Nonresident bonds that are profile listed on the TPBM can be included among JPY-denominated foreign bonds, but it is not appropriate to call these Samurai Bonds because Samurai Bond issuers are required to observe full disclosure in Japanese, while an issuer profile listed on the TPBM only need to observe the TSE's disclosure requirements (possibly in English).

Table 19: Nonresident Bonds Outstanding by Type (JPY trillion)

	2011	2012	2013	2014	2015
JPY-denominated foreign bonds— Samurai Bonds (public offering)	9.9	9.6	9.1	9.6	9.4
JPY-denominated foreign bonds— Samurai Bonds (private offering)	1.1	1.5	1.6	1.7	1.7
Asset-backed Samurai Bonds (private offering)	0.1	0.1	0.1	0.0	0.0
Total	11.2	11.2	10.8	11.3	11.1

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

C. Money Market Instruments

Money market instruments are short(er)-term debt instruments issued by either the Japanese government or the private sector. Money market instruments are generally limited to instruments with a maturity of less than 1 year.

Money market instruments are traded in the OTC market, scripless (since dematerialized by default), and settled in either BOJ-Net (T-Bill) or JASDEC (commercial paper).

(1) Issued by the Government of Japan

T-Bill:

T-Bill are the main short-term instrument issued by the MOF in the money market to address short-term funding needs (for more details, see section B.2 in this chapter).

(2) Issued by the Corporate Sector

Commercial paper:

Commercial paper refers to short-term corporate bonds issued on a book-entry basis only. Corporate paper transactions are governed by the Act on Book-Entry Transfer of Bonds, Shares, etc. (Act No.75 of 2001).

The major product attributes of commercial paper include the following:

- (i) Eligible commercial paper issuers are corporates, investment companies, or special purpose companies (SPCs), among others. Foreign corporations, are also eligible to issue commercial paper.
- (ii) So far, commercial paper may only be denominated in Japanese yen.
- (iii) The total amount of the commercial paper issue is underwritten by agreement.
- (iv) Commercial paper is mainly issued through financial institutions (as underwriting or agent financial institution), but direct commercial paper (without the use of an intermediary) issuance is also possible.
- (v) The total amount of each issue cannot be less than JPY100 million, while the value of each individual commercial paper note should be equal to or in excess of JPY100 million and a multiple of JPY1 million.
- (vi) Commercial paper should be issued in Japan and with an original issue discount.
- (vii) The principal maturity term is less than 1 year.
- (viii) The issues may not be secured by collateral.
- (ix) A credit rating is not mandatory but most of commercial paper is rated a-1 or better.
- (x) Although a prospectus is not required to be delivered when soliciting prospective investors, the financial institution (underwriter or agent, and JSDA member) and the issuer shall have to agree to produce a briefing memo regarding the information about the issuer and the conditions of the commercial paper and the financial institution shall have to deliver the briefing memo to a prospective investor upon soliciting the commercial paper.
- (xi) Commercial paper is settled in JASDEC on a delivery-versus-payment (DVP) basis, like other debt securities. In addition, the total issue amount can be subdivided into smaller lots of the value of each commercial paper note (equal to the minimum unit of transfer) in the secondary market.

Commercial paper are issued and sold on a private placement basis, which refers to the action of soliciting the purchase of newly issued securities and does not fall under a public offering of securities. For details on the types of private placements typically used in the Japanese bond market, please refer to section F in the previous chapter.

At the same time, in the event that a commercial paper issuance consists of less than 50 notes and each note is not further divisible, placing such commercial paper is deemed as complying with the necessary transfer restrictions by default, and no reselling restriction contract between financial institution and investor needs to be executed to satisfy such conditions.

As Table 20 indicates, the outstanding value of commercial paper in the Japanese market did not substantially change between 2011 and 2015. In fact, the distribution of the outstanding value by issuer type was also reasonably consistent, as illustrated in the 10-month period in 2015 displayed in Figure 17.

Table 20: Commercial Paper Outstanding (JPY trillion)

	2011	2012	2013	2014	2015
Commercial paper (private placement)	16.5	16.2	15.0	16.4	16.4

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

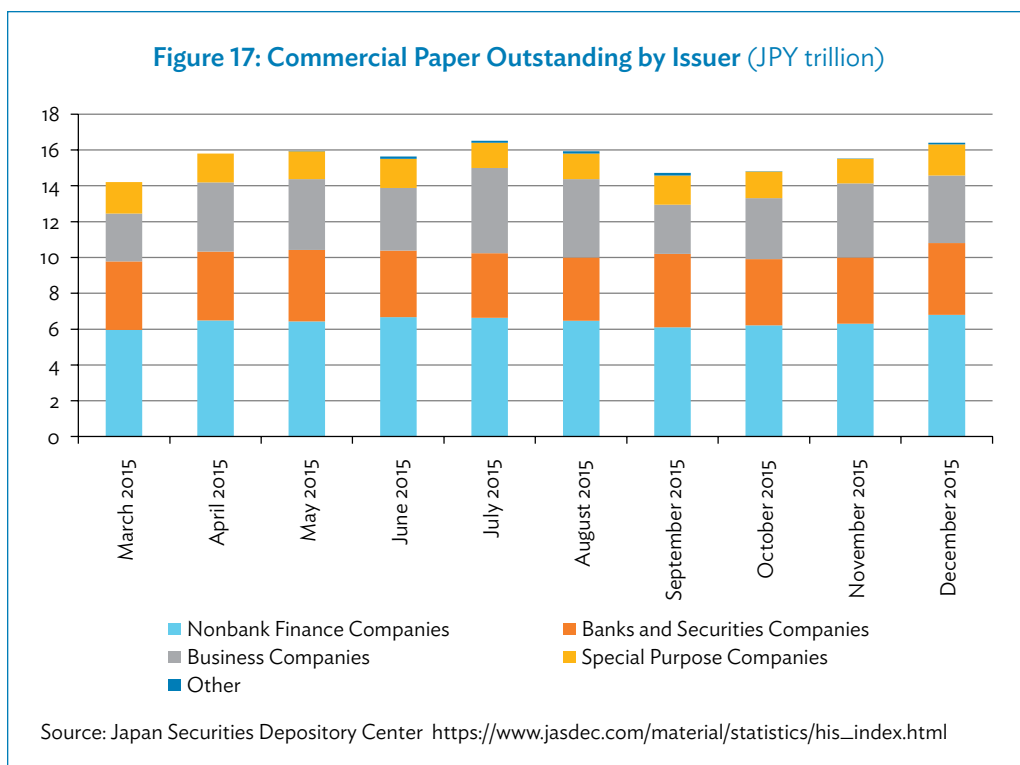


Table 21: Commercial Paper Outstanding by Issuer (JPY trillion)

	Mar 2015	Apr 2015	May 2015	Jun 2015	July 2015	Aug 2015	Sep 2015	Oct 2015	Nov 2015	Dec 2015
Nonbank Finance Companies	6.0	6.5	6.4	6.7	6.6	6.5	6.1	6.2	6.3	6.8
Banks and Securities Companies	3.8	3.8	4.0	3.7	3.6	3.5	4.1	3.7	3.7	4.0
Business Companies	2.7	3.9	4.0	3.5	4.7	4.4	2.7	3.4	4.1	3.8
Special Purpose Companies	1.8	1.6	1.5	1.6	1.4	1.4	1.6	1.5	1.4	1.7
Other	0.0	0.0	0.0	0.1	0.1	0.1	0.2	0.0	0.0	0.1
Total	14.2	15.8	15.9	15.6	16.5	15.9	14.7	14.8	15.5	16.4

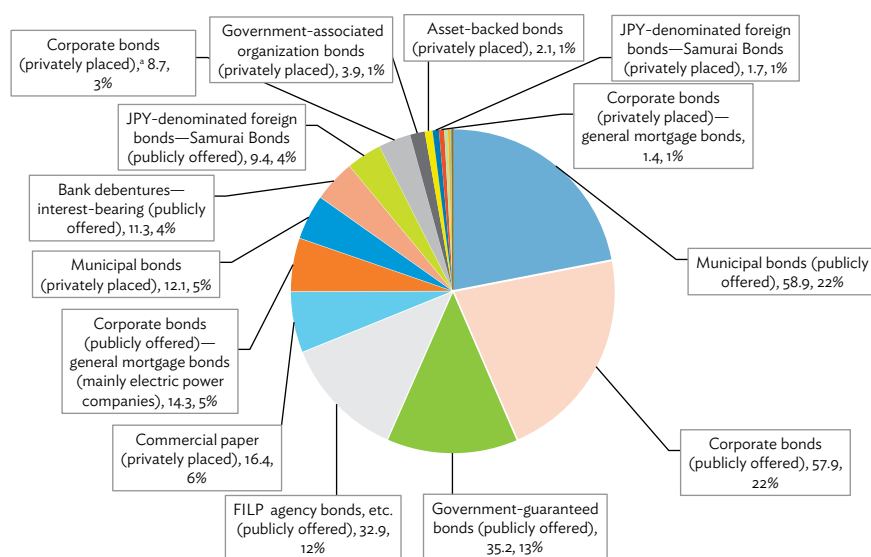
Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

D. Segmentation of the Market (Except for Japanese Government Bonds)

To provide a better illustration of the segmentation of the book-entry debt securities other than JGBs issued in Japan, Figures 18, 19, 20, and 21 and Tables 22, 23, 24, and 25 present a breakdown of the outstanding value and number of issues of each type of debt securities detailed in section B.

All the book-entry debt securities except for JGBs are settled at Japan JASDEC.

Figure 18: Bonds, Notes, and Commercial Paper Outstanding by Type (JPY trillion)



FILP = Fiscal Investment and Loan Program.

^a Most privately placed corporate bonds are considered to be bank-underwritten small and medium-sized enterprise (SME) bonds.

Source: ABMF SF1 based on Japan Securities Depository Center https://www.jasdec.com/en/download/statistics/e_data.pdf

Table 22: Bonds, Notes, and Commercial Paper Outstanding by Type (JPY trillion)

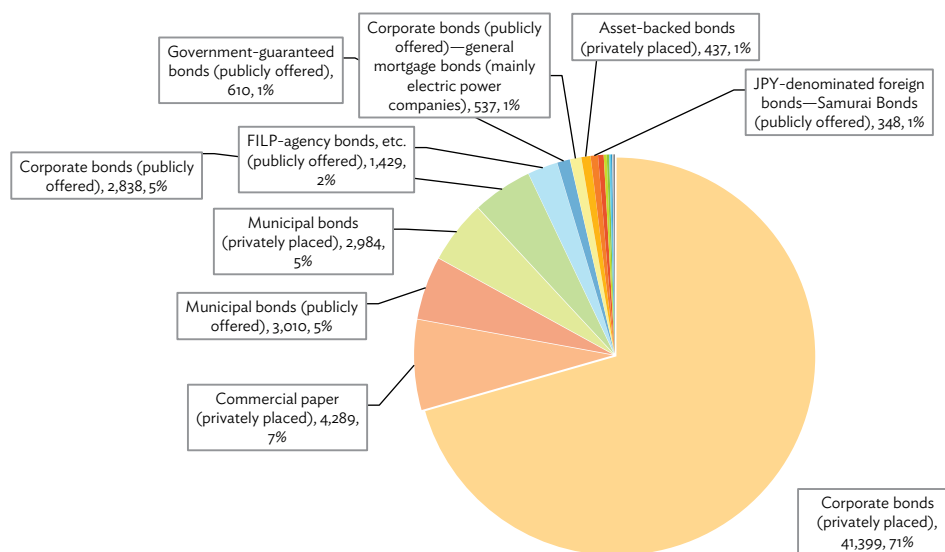
Bond Type	Outstanding (Market Value) at the End of December 2015
Municipal bonds (publicly offered)	58.9
Corporate bonds (publicly offered)	57.9
Government-guaranteed bonds (publicly offered)	35.2
FILP-agency bonds, etc. (publicly offered)	32.9
Commercial paper (privately placed)	16.4
Corporate bonds (publicly offered)—general mortgage bonds (mainly electric power companies)	14.3
Municipal bonds (privately placed)	12.1
Bank debentures—interest-bearing (publicly offered)	11.3
JPY-denominated foreign bonds—Samurai Bonds (publicly offered)	9.4
Corporate bonds (privately placed) ^a	8.7
Government-associated organization bonds (privately placed)	3.9
Asset-backed bonds (privately placed)	2.1
JPY-denominated foreign bonds—Samurai Bonds (privately placed)	1.7
Corporate bonds (privately placed)—general mortgage bonds	1.4
Bonds issued by the public corporations related to the regional governments (publicly offered)	1.0
Asset backed bonds (publicly offered)	0.7
Bonds issued by the public corporations related to the regional governments (privately placed)	0.3
Convertible bonds (publicly offered)	0.3
Asset-backed samurai bonds (privately placed)	0.0
Others (privately placed)	0.0
Others (publicly offered)	0.0
Total outstanding of Bonds, Notes, and Commercial Paper, except for JGBs	268.3
Publicly offered Total	221.7
Privately placed Total	46.6

FILP = Fiscal Investment and Loan Program, JGB = Japanese Government Bond.

^a Most privately placed corporate bonds are considered to be bank-underwritten small and medium-sized enterprise (SME) bonds.

Source: ABMF SF1 based on Japan Securities Depository Center https://www.jasdec.com/en/download/statistics/e_data.pdf

Figure 19: Bonds, Notes, and Commercial Paper Outstanding by Type
(number of issues)



Notes: Data as of end of December 2015. Most privately placed corporate bonds are considered to be bank-underwritten small and medium-sized enterprise (SME) bonds.

Source: ABMF SF1 based on data from Japan Securities Depository Center https://www.jasdec.com/en/download/statistics/e_data.pdf

Table 23: Bonds, Notes, and Commercial Paper Outstanding by Type (number of issues)

Bond Type	Number of Issues Outstanding at the End of December 2015 (number of issues)	Outstanding Account Balances (Market Value) at the End of December 2015 (JPY trillion)	Value per Issue (JPY million)
Corporate bonds (privately placed) ^a	41,399	8.7	211
Commercial paper (privately placed)	4,289	16.4	3,824
Municipal bonds (publicly offered)	3,010	58.9	19,564
Municipal bonds (privately placed)	2,984	12.1	4,046
Corporate bonds (publicly offered)	2,838	57.9	20,397
FILP-agency bonds, etc. (publicly offered)	1,429	32.9	23,025
Government-guaranteed bonds (publicly offered)	610	35.2	57,652
Corporate bonds (publicly offered)—general mortgage bonds (mainly electric power companies)	537	14.3	26,625
Asset-backed bonds (privately placed)	437	2.1	4,764

continued on next page

Table 23 continued

Bond Type	Number of Issues Outstanding at the End of December 2015 (number of issues)	Outstanding Account Balances (Market Value) at the End of December 2015 (JPY trillion)	Value per Issue (JPY million)
JPY-denominated foreign bonds—Samurai Bonds (publicly offered)	348	9.4	27,014
Bank debentures—interest-bearing (publicly offered)	266	11.3	42,365
Government-associated organization bonds (privately placed)	142	3.9	27,482
Corporate bonds (privately placed)—general mortgage bonds	114	1.4	12,103
Bonds issued by the public corporations related to the regional governments (publicly offered)	94	1.0	10,320
Asset-backed bonds (publicly offered)	45	0.7	14,465
JPY-denominated foreign bonds—Samurai Bonds (privately placed)	38	1.7	45,189
Bonds issued by the public corporations related to the regional governments (privately placed)	34	0.3	8,427
Convertible bonds (publicly offered)	29	0.3	9,732
Asset-backed Samurai Bonds (privately placed)	13	0.0	2,347
Others (privately placed)	11	0.0	597
Others (publicly offered)	1	0.0	3,000
Bonds, Notes, and Commercial Paper except for JGBs Total	58,668	268.3	4,574
Publicly offered Total	9,178	221.7	24,158
Privately placed Total	49,490	46.6	942

JGB = Japanese Government Bond.

^a Most privately placed corporate bonds are considered to be bank-underwritten small and medium-sized enterprise (SME) bonds.

Source: ABMF SF1 based on Japan Securities Depository Center https://www.jasdec.com/en/download/statistics/e_data.pdf

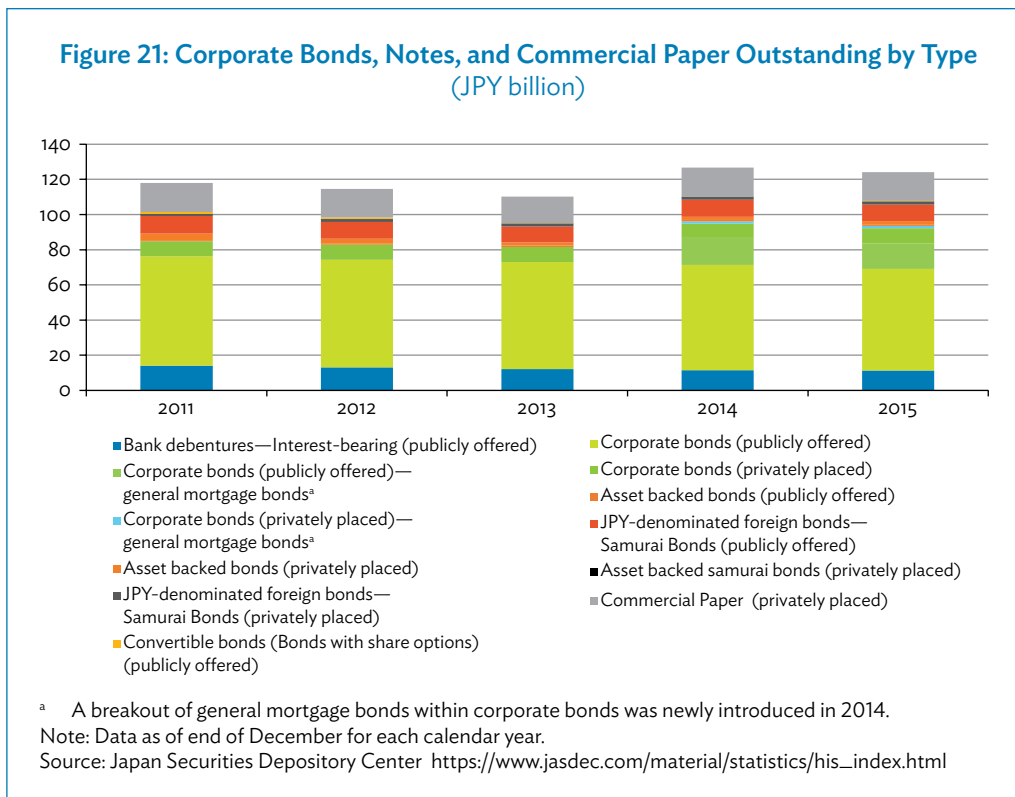
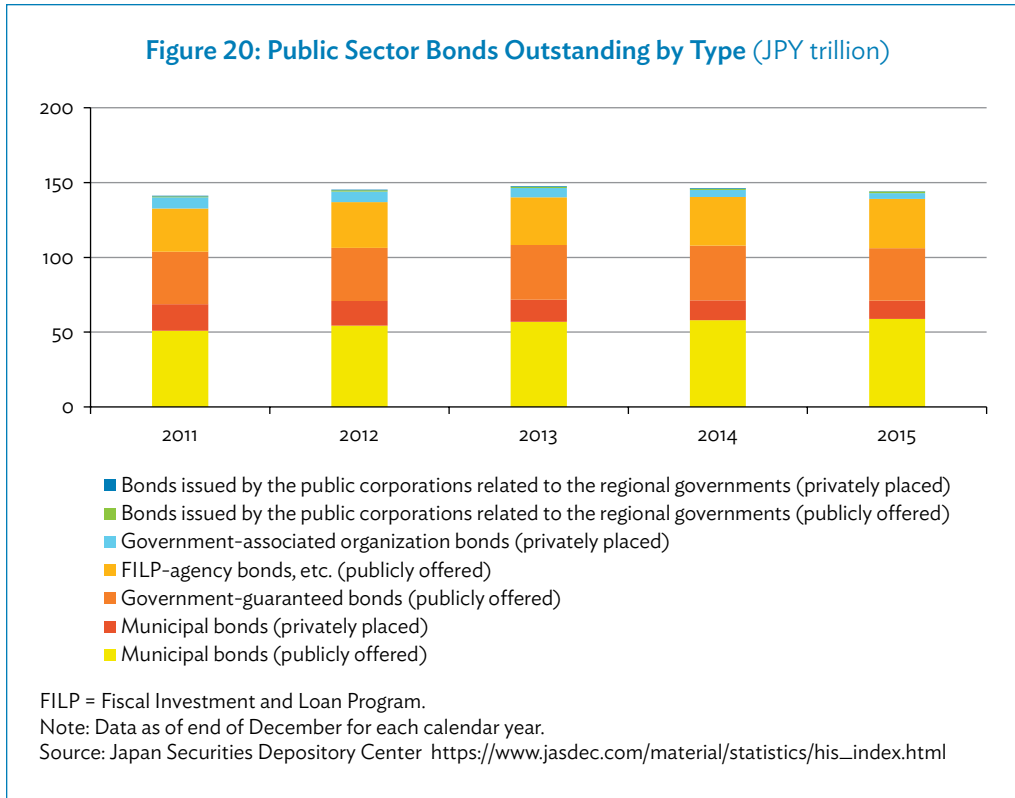


Table 24: Public Sector Bonds Outstanding by Type (JPY trillion)

	2011	2012	2013	2014	2015
Municipal bonds (publicly offered)	51.0	54.3	56.9	58.1	58.9
Municipal bonds (privately placed)	17.8	16.4	14.9	13.3	12.1
Government-guaranteed bonds (publicly offered)	35.1	35.6	36.6	36.5	35.2
FILP-agency bonds, etc (publicly offered)	28.7	30.5	31.8	32.4	32.9
Government-associated organization bonds (privately placed)	7.5	7.2	6.2	4.7	3.9
Bonds issued by the public corporations related to the regional governments (publicly offered)	0.7	0.8	0.9	0.9	1.0
Bonds issued by the public corporations related to the regional governments (privately placed)	0.4	0.4	0.4	0.3	0.3
Public Sector Bonds Total	141.2	145.2	147.7	146.3	144.2
Publicly offered Total	115.5	121.2	126.1	128.0	127.9
Privately placed Total	25.7	24.0	21.5	18.3	16.3

FILP = Fiscal Investment and Loan Program.

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

Table 25: Corporate Bonds, Notes, Commercial Paper Outstanding by Type (JPY trillion)

	2011	2012	2013	2014	2015
Bank debentures—Interest-bearing (publicly offered)	14.0	13.1	12.2	11.5	11.3
Corporate bonds (publicly offered)	62.1	61.2	60.8	59.8	57.9
Corporate bonds (publicly offered)—general mortgage bonds ^a	0.0	0.0	0.0	15.4	14.3
Corporate bonds (privately placed)	8.6	8.6	8.6	8.0	8.7
Corporate bonds (privately placed)—general mortgage bonds ^a	0.0	0.0	0.0	1.4	1.4
Asset-backed bonds (publicly offered)	0.7	0.8	0.8	0.8	0.7
Asset-backed bonds (privately placed)	3.7	2.6	1.8	1.9	2.1
JPY-denominated foreign bonds—Samurai Bonds (publicly offered)	9.9	9.6	9.1	9.6	9.4
JPY-denominated foreign bonds—Samurai Bonds (privately placed)	1.1	1.5	1.6	1.7	1.7
Asset-backed Samurai Bonds (privately placed)	0.1	0.1	0.1	0.0	0.0
Convertible bonds (bonds with share options) (publicly offered)	1.1	0.9	0.2	0.2	0.3
Commercial paper (privately placed)	16.5	16.2	15.0	16.4	16.4
Book-Entry Corporate Bonds, Notes, and Commercial Paper Total	118.0	114.6	110.2	126.7	124.1
Publicly offered Total	87.9	85.5	83.1	97.2	93.8
Privately placed Total	30.1	29.1	27.1	29.5	30.4

^a A breakout of general mortgage bonds within corporate bonds was newly introduced in 2014.

Note: Data as of end of December for each calendar year.

Source: Japan Securities Depository Center https://www.jasdec.com/material/statistics/his_index.html

The outstanding bond totals included in Table 13 (JGBs), Table 24 (Public Sector Bonds), and Table 25 (Corporate Bonds, Notes, and Commercial Paper) collectively represent the entire bond market in Japan.

More information on outstanding book-entry bond and note issues and other statistics on the Japanese bond market other than JGBs can be found on the website of JASDEC.²² In addition, *AsianBondsOnline* is a bond information portal operated by ADB under an ASEAN+3 initiative. Detailed information on Japanese public debt is also available on the BOJ website.²³

E. Methods of Issuing Bonds (Primary Market)

1. Government Bonds

JGBs and other government debt securities are mainly either underwritten by Primary Dealers (also referred to as Special Participants, see 1.b below) and resold to the public market, or issued as direct subscription by BOJ and other government-affiliated parties. The major volume of JGB issuance and distribution is sustained by Primary Dealers, while BOJ underwriting is seen as an assurance of a given balance of supply and demand in the JGB market.

a. Methods of Japanese Government Bond Issuance

Methods of JGB issuance are broadly categorized as either issuance to the market, issuance to retail investors, or issuance to the public sector. Table 26 provides an overview of the various methods of JGB issuance and a detailed explanation of each method.

Table 26: Methods of Japanese Government Bond Issuance

Methods of JGB Issuance	Explanation
A. Offering to the Market	JGBs are principally issued in public offering on market-based terms of issuance.
a. Price- and yield-competitive auction	<p>Price- and yield-competitive auction is a method in which each auction participant submits a bidding price (or yield) and bidding amount in response to the issue terms (e.g., issue amount, maturity, coupon rate) presented by the MOF. The issue price and amount will then be determined based on the bids.</p> <p>In this type of auction, the issuing authority starts selling first to the highest price bidder in descending order (or to the lowest yield bidder in ascending order) until the cumulative total reaches the planned issue amount. In Japan, the auction method varies by type of security. One is the conventional method by which each winning bidder purchases the security at his bidding price. The other is the Dutch-style method by which all winning bidders pay the same lowest price of their biddings regardless of their original bid.*</p> <p>* Except for Inflation-Indexed Bonds and 40-year bonds offered via Dutch-style yield-competitive auction, all the JGBs are offered via the conventional price competitive auction.</p>

continued on next page

²² JASDEC. https://www.jasdec.com/en/download/statistics/e_data.pdf (English, PDF only); https://www.jasdec.com/material/statistics/his_index.html (Japanese, EXCEL, and PDF)

²³ BOJ. <http://www.boj.or.jp/statistics/sj/>

Table 26 continued

Methods of JGB Issuance	Explanation
b. Noncompetitive auction	<p>Besides competitive auction, 2-year, 5-year, and 10-year bonds are also issued through noncompetitive auction. This approach is to take into account small and medium-sized market participants who tend to submit a smaller bid than their larger counterparts. Biddings for noncompetitive auction are offered at the same time as for the price-competitive auction, and the price offered equals the weighted average accepted price of the price competitive auction. One can bid for either the price-competitive auction or for the nonprice competitive auction. The maximum issuance amount is 10% of the planned issuance amount. Each participant is permitted to bid up to JPY1 billion.*</p> <p>* The Shinkin Central Bank, Shinkumi Federation Bank, Rokinren Bank, and Norinchukin Bank are excluded.</p>
c. Nonprice competitive auctions I and II	<p>Nonprice Competitive Auction I is an auction in which biddings are offered at the same time as for the price-competitive auction. The maximum issuance amount is set at 10% of the total planned issuance amount and the price offered is equal to the weighted average accepted price of the price competitive auction. Only the JGB Market Special Participants are eligible to bid in this auction. Each participant is allowed to bid up to the amount set based on the result of its successful bids during the preceding two quarters.</p> <p>Nonprice Competitive Auction II is an auction carried out after the competitive auction is finished. The price offered is equal to the weighted average accepted price in the price-competitive auction or lowest accepted price in Dutch-style yield-competitive auction. Only the JGB Market Special Participants are eligible to bid in this auction. Each participant is allowed to bid up to the amount set based on the result of its bids during the preceding two quarters.*</p> <p>* Each participant is allowed to bid up to 15% of one's total successful biddings in the competitive auction and Nonprice Competitive Auction I.</p>
B. Methods for Selling JGBs to Retail Investors	
a. JGBs for retail investors	<p>In March 2003, issuance of a 10-year floating-rate bond for retail investors was launched in order to promote JGB ownership among individuals. Moreover, in order to respond to retail investors' various needs and to promote further sales, the government has been improving bond features by introducing 5-year fixed-rate and 3-year fixed-rate JGBs.</p> <p>Issuance of JGBs for retail investors rests on their handling and distribution by their handling institutions comprising security companies, banks, and other financial institutions as well as post offices (about 1,090 institutions). The handling institutions are commissioned by the government to accept purchase applications and to sell JGBs to retail investors. Handling institutions are paid a commission by the government corresponding to the handled issuance amounts.</p> <p>From January 2012 to June 2013, all JGBs for retail investors were issued as Reconstruction Bonds. In addition, Reconstruction Supporters' Bonds for Retail Investors were issued a total of four times (April, July, and October 2012; and January 2013).</p>

continued on next page

Table 26 continued

Methods of JGB Issuance	Explanation
b. New OTC sales system for selling marketable JGBs	<p>In addition to JGBs for retail investors, in October 2007 a new OTC sales system for marketable JGBs was introduced in order to increase retail investor purchase opportunities with regard to JGBs (2-year, 5-year, and 10-year marketable bonds).</p> <p>With regard to this new OTC sales system, it allows private financial institutions to engage in subscription-based OTC sales of JGBs in a manner previously exclusive to post offices. This development allows retail investors to purchase JGBs via financial institutions with whom they are familiar, it also allows them to purchase JGBs in a manner that is essentially ongoing.</p> <p>As with JGBs for retail investors, for the new OTC sales system, the MOF has commissioned financial institutions (about 750 institutions) to conduct subscriptions and sales of JGBs. Note that while these financial institutions are required to subscribe and sell JGBs at prices defined by the MOF within a defined period, they are not required to purchase any unsold JGBs.</p>
C. Offering to the Public Sector (Bank of Japan Switch)	<p>While Article 5 of the Public Finance Act prohibits the BOJ from underwriting government bonds, a proviso to the article allows the BOJ to extend credit to the government, up to an amount authorized by the Diet, in exceptional cases. In practice, such cases are limited to underwriting of Refunding Bonds within the amount of JGBs that are held by the BOJ and have reached maturity (often referred to as a “Bank of Japan Switch”).</p> <p>Through its market operations, the BOJ holds a large amount of government bonds. If the BOJ tried to have its JGB holdings redeemed in cash, the MOF would be required to issue Refunding Bonds in the market to raise the fund needed for redemption. A massive issuance of Refunding Bonds in the market, however, could invite a fund shortage in the private sector, thus obliging the BOJ to provide the private sector with funds by purchasing a substantial amount of the Refunding Bonds from private sector. To avoid such roundabout, the BOJ is exceptionally allowed to underwrite only up to the amount necessary to roll over its maturing bonds.</p>

BOJ = Bank of Japan, JGB = Japanese Government Bond, MOF = Ministry of Finance Japan, OTC = over-the-counter.

Source: Ministry of Finance Japan website with adjustments from ABMF SF1. https://www.mof.go.jp/english/jgbs/publication/debt_management_report/2014/saimu2-1-1.pdf

b. Japanese Government Bonds Market Special Participants Scheme

Amid expectations that JGB issuance in large volumes would continue, the JGB Market Special Participants Scheme was introduced in October 2004. This scheme was designed based on the Primary Dealer System generally maintained in major European countries and the US to facilitate secure and stable issuance, and to maintain and enhance the liquidity of government bond markets.²⁴

Under the scheme, the MOF grants special entitlements to certain auction participants when they carry out responsibilities essential to debt management policies, such as active participation in JGB auctions. The MOF expects the scheme to facilitate secure and stable

²⁴ For reference, please also see https://www.mof.go.jp/english/jgbs/debt_management/pd/index.html

issuance of JGBs and to maintain and enhance the liquidity of the JGB market. The following is an outline of the scheme.

(i) Responsibilities of Special Participants

- Bidding responsibility

In every auction, the Special Participants shall bid for an adequate amount (at least 3% of the planned issuance amount) at reasonable prices.

- Purchasing responsibility

The Special Participants shall purchase and underwrite at least a specified share of the planned total issuance amount (0.5% for the short-term zone; and 1% for other zones) in each of the super-long-term, long-term, medium-term, and short-term zones in auctions for the preceding 2 quarters.

- Responsibility in the secondary market

The Special Participants shall provide sufficient liquidity to the JGB secondary market.

- Information sharing

The Special Participants shall provide information on JGB markets and related transactions to the MOF.

(ii) Entitlements of Special Participants

- Meeting of JGB Market Special Participants

Through this meeting, Special Participants can exchange opinions with the MOF on JGB management policies. For general information, minutes of these meetings and other information are available in English on the MOF website.²⁵

- Participation in Auctions for Buybacks

The Special Participants can take part in Auctions for Buybacks.

- Separation and integration of STRIPS Bonds

The Special Participants can apply for the separation and integration of STRIPS Bonds.

- Participation in Nonprice Competitive Auctions I and II

The Special Participants can take part in Nonprice Competitive Auction I (held concurrently with normal competitive auctions) and Nonprice Competitive Auction II (held after normal competitive auctions). These auctions enable Special Participants to obtain bonds at the weighted average accepted price at a competitive price auction, up to a purchasing limit preset for each Special Participant on the basis of past successful bids (Nonprice Competitive Auction I) and past subscriptions (Nonprice Competitive Auction II).

- Participation in Auctions for Enhanced Liquidity

The Special Participants can take part in Auctions for Enhanced Liquidity that are designed to maintain and improve liquidity of the JGB market.

²⁵ See http://www.mof.go.jp/english/about_mof/councils/jgbsp/index.html

- Preferential Participation in Interest Rate Swap Transactions
The Special Participants can be preferential counterparties for the interest rate swap transactions implemented by the MOF.

c. *Current Japanese Government Bonds Issuing Market Situation*

The MOF defines and publishes a number of governing policies for the issuance of Japanese government bonds for each fiscal year. Highlights of the government's Debt Management Policy FY2015 (1 April 2015–31 March 2016) and FY2016 (1 April 2016–31 March 2017) are reproduced below. The latest policies may be found on the MOF website.

Issuance Size

Highlights of FY2015 Debt Management Policy.²⁶ The total estimated issuance amount in the initial FY2015 JGB Issuance Plan declined to JPY170.0 trillion from JPY181.5 trillion in the initial FY2014 JGB Issuance Plan, mainly because of the decrease in the volume of newly issued National Government Bonds (Construction Bonds and Special Deficit-Financing Bonds) and Refunding Bonds.

The calendar-year-based initial issuance plan in January–December 2015 was also set to decline to JPY152.6 trillion from JPY155.1 trillion in the initial issuance plan in January–December 2014.

Highlights of FY2016 Debt Management Policy.²⁷ The total estimated issuance amount in the initial FY2016 JGB Issuance Plan declined to JPY154.4 trillion from JPY162.2 trillion in the initial FY2015 JGB Issuance Plan, mainly because of the decrease in the volume of newly-issued bonds (Construction Bonds and Special Deficit-Financing Bonds), Reconstruction Bonds, and Refunding Bonds.

The calendar-year-based initial issuance plan in January–December 2016 was set to decline to JPY147.0 trillion from JPY152.6 trillion.

Extending the Average Maturity

In order to lower refinance risk and medium- to long-term financing costs, the average maturity of issuances in FY2015 was extended by between 6 months and 9 years. Reflecting the desire of market participants, the extension was achieved with a well-balanced mixture of maturity terms from short to super-long. Meanwhile, the average maturity of outstanding JGBs is estimated to have increased by 5 months to 8 years and 5 months at the end of FY2015.

Enhancing the Market Liquidity

The amount of Auctions for Enhanced Liquidity is to increase to JPY800 billion per month from JPY700 billion per month, or an additional JPY1.2 trillion per year, in order to maintain and enhance the liquidity of the JGB secondary market.

²⁶ Ministry of Finance Japan. Debt Management Plan FY2015. http://www.mof.go.jp/english/jgbs/debt_management/plan/e20150114overview.pdf

²⁷ Ministry of Finance Japan. Debt Management Plan FY2016. https://www.mof.go.jp/english/jgbs/debt_management/plan/e20151224overview.pdf

In order to ensure stable issuance of JGBs, the maximum amount of bidding by each auction participant will be decreased to one-half of the planned issuance amount from the full amount, while the responsibility to bid of Market Special Participants will be raised to 4% or more of the planned issuance amount from 3% or more.

Encouraging the Inflation-Indexed Bonds Market

In view of the changing market conditions after moving away from a period of deflation, and in order to diversify the product designs of JGBs, the issuance of Inflation-Indexed Bonds increased to JPY500 billion from JPY400 billion per auction for a total increase of JPY0.4 trillion per year. The volume of the issuance will be flexible, in response to the needs of a variety of entities and market conditions.

Sales of Inflation-Indexed Bonds to retail investors by a new OTC sales system is planned to launch in the second half of FY2016.

2. Local Government Bonds

Local government bonds include prefecture bonds and municipality (city, town, and village) bonds. Under local finance law, the concept of local government bonds excludes financing of less than 1 year, and includes not only bonds but also loans. To avoid complication, loans are hereafter excluded from the definition of local government bonds.

The Local Autonomy Law authorizes Japanese local governments—prefectures, municipalities, Tokyo's special wards, and local government cooperatives—to borrow money provided that the following conditions are fulfilled:

- A local public body must prepare a budget plan that defines the use of proceeds from the proposed bond issue and obtain the approval of the local assembly.
- The actual issuance for a prefecture and a designated city is also subject to consultation with the Minister of Internal Affairs and Communications, and issuance for an ordinary city, town, or village is subject to consultation with the governor of the prefecture concerned (local bond consultation system).
- Use of proceeds is confined to what local finance law determines.

Issuance of Local Government Bonds

A total of 32 prefectures and 20 designated cities have issued local government bonds through public offerings. Local government bond issuance terms are determined based on negotiations between the issuer and the underwriting syndicate. They take into account a broad range of factors, including trading conditions, spreads over JGBs, and trends in the overall bond market.

There are also joint local government bonds which are issued in the form of public offerings each month by 35 local governments under joint and several guarantees. A single participant may be claimed upon to repay the whole amount of an issue despite it originally only shares in the proceeds.

3. Government Agency Bonds

(a) Government-Guaranteed Bonds

The issuance of government-guaranteed bonds is part of the Fiscal Investment and Loan Program (FILP), and annual ceilings on the issue amount must be approved by the Diet. All government-guaranteed bonds are issued in the form of interest-bearing debt securities with maturities of 2–30 years. Government-guaranteed bonds are issued by way of either (i) negotiated underwriting by a so-called national syndicate, or (ii) Dutch auction. In the former method, the terms of issue are determined based on the average of premarketing results of all national syndicate members; in the latter, the terms are set through competitive bidding.

(b) Fiscal Investment and Loan Program-Agency Bonds

FILP-agency bonds are also issued as interest-bearing bonds with maturities ranging from 5 years to 10 years. In issuing them, the issuing agency usually selects a lead manager, which, in turn, forms an underwriting syndicate.²⁸

4. Corporate Bonds

The issuance of corporate bonds had long been subject to strict regulation. However, the Commercial Code was amended in 1993 to drastically change the system and the regulations on the issuance of corporate bonds were substantially eased. In 1996, almost all of the regulations related to the issuance of corporate bonds were abolished.

A bond or note offering in the private sector may be done through either a public offering or as a private placement:

(a) Public Offering

Bonds and notes issued through a public offering can be bought and sold by any investor.

In the case of a public offering of corporate bonds, the issuing corporation (the issuer) first appoints a lead manager and other underwriters that together constitute an underwriting syndicate, a commissioned company for bondholders (please see Chapter III.M for more details) or a fiscal agent, and providers of other relevant services, such as JASDEC acting as a central securities depository (CSD), issuing agent, and paying agent. In turn, the underwriting syndicate applies for a credit rating.

Under normal circumstances, the lead manager(s) go ahead with price discovery followed by a book-building process involving all syndicate members.

The issue terms of the bonds are finalized first thing in the morning on the pricing date based on the book that had been closed prior to the pricing. Then, the subscription starts immediately after final terms and conditions are electronically filed with the Local Finance Bureau. Subsequently, the payment for the bonds is made, and the issuance of the corporate bonds is completed.

²⁸ Japan Securities Research Institute. 2014. *Securities Market in Japan 2014*. Tokyo. pp.79–82. http://www.jsri.or.jp/publish/english/english_07.html

As for price talk and pricing, more recently, an increasing number of issuers employ a method known as spread pricing under which the investors' demand is measured in terms of a spread over JGB yield or the LIBOR rate. Top-tier issuers are priced based upon JGB yield.

Since 2000, a new practice known as Internet-based bond issue, which is a series of new issue procedures covering price discovery, book building, and pricing carried out through the Internet—has become more prevalent.

Discounted bank debentures were issued by banking institutions, such as Aozora Bank, that once belonged to the long-term credit banking sector.²⁹ These banks would commission securities companies to sell bank debentures on their behalf. Meanwhile, interest-bearing bank debentures were issued in two ways: (i) issuing debentures through a public offering on a fixed day, or (ii) selling them during a certain selling period of time.³⁰

(b) *Private Placement*

As previously mentioned, the term private placement of securities means a solicitation for acquisition of newly issued securities that does not come within the purview of a Public Offering of Securities in the FIEA. The seller (offeror) is obliged to make notice to the acquirer of the securities that (i) it is an issue by private placement, (ii) the securities have not been notified to the authority (an SRS or SR has not been filed), and (iii) comes with transfer restrictions. The acquirer is required to acknowledge such notice.

The FIEA prescribes three categories of private placements. Any offering of newly issued securities other than these three categories falls under the purview of a public offering. The legal framework for private placements is described in detail in Chapter II.F.

(i) Qualified Institutional Investor-Private Placement (QII-PP or Offer to PI) (適格機関投資家私募)

The QII-PP is an offer for acquisition of debt securities to be made exclusively to QIIs, which include securities companies, investment management companies, investment corporations, foreign investment corporations, banks, insurance companies, certain pension funds, and general partners of certain partnerships.

No continuous disclosure is offered for these debt securities and they are not to be offered to Professional Investors.

Any transfer of the securities is prohibited unless the transferee is a QII; such a transfer restriction is either written on the certificates of the securities to be

²⁹ Formerly, the Japanese private banking system was divided into (i) Deposit-Taking Banks (commercial banks), which were not allowed to issue bank debentures because they were limited to short-term lending only; and (ii) Bank Debenture Issuing Banks (long-term credit banks), which were not allowed to take deposits because they were limited to long-term lending only. Following market deregulation and the removal of distinctions between these two banking categories, the bank debenture issuing limitations remained.

³⁰ Japan Securities Research Institute. 2014. *Securities Market in Japan 2014*. Tokyo. pp. 82–85. http://www.jsri.or.jp/publish/english/english_07.html

delivered, written on the offering document, or disclosed through the book-entry system of JASDEC.

In addition, the seller (offeror) of the securities must deliver a document that states that no SRS has been filed for the QII-PP and describes the contents of said transfer restriction.

In the event that the issuer of the securities under a QII-PP is a foreign entity, the issuer is required to appoint an issuer's agent who is a resident of Japan, according to Article 1-3 of the Cabinet Office Ordinance on Disclosure of the Contents of Foreign Bond Issuers (外国債等の発行者の内容等の開示に関する内閣府令). This ordinance is applicable just for the QII-PP, and not the TPBM.

(ii) Private Placement for Professional Investors (PP for PI, or Offer to PI) or Specified Solicitation for Acquisition (特定投資家私募 又は 特定投資家向け取得勧誘):

Available since 2008, the PP for PI, and also the corresponding Private Secondary Distribution (PSD to PI) in the secondary market, has been made distinct from the definitions of public offering and secondary distribution, respectively.

The PP for PI is for Professional Investors (投資勧誘の対象は特定投資家に限定) only. Professional Investors are defined in the FIEA, with detailed information available in section N in this chapter.

Solicitations are made by Financial Instruments Business Operators (e.g., securities companies); in principle, they cannot make any offer to a person other than a Professional Investor (発行と転売は原則証券会社経由).

In addition, the seller (offeror) of the securities must deliver a document that states that no SRS has been filed for the PP for PI and describes the contents of said transfer restriction. The offerors are obliged to make notification to the acquirer of the securities that (i) it is an issue by private placement, (ii) the securities have not been notified to the authority (an SRS or SR has not been filed), and (iii) point out the enclosed selling and transfer restrictions (特定投資家への告知義務).

The issuer of the securities is required to provide a concise SSI, such as issuer's web address where Professional Investors can obtain the issuer's corporate and financial information. The issuer, of course, is not prohibited to make full disclosure in the SSI. The issuer may also choose disclosure through documents incorporated by reference or through documents not incorporated by reference but for information purposes only. The distinction is that, typically, documents incorporated by reference may need to be given an endorsement by a third party, while documents not incorporated by reference but for information purposes only will typically not require such an endorsement (簡潔な特定証券情報の提供による発行体の開示負担軽減).

The economic nature of the Offer to PI can be similar to a public offering because the concept of Professional Investors is much broader than QII and the number of offerees is not limited under the Offer to PI.

A bond or note offered through a private placement is negotiated and traded in the OTC market. For more details on the trading of bonds and notes, please refer to Chapter IV.

Private placement debt securities may be listed for profiling on the TPBM (see section H in this chapter for more information).

(c) *Reverse Inquiry*

Bank debentures have also been issued as a response to an issue-as-reverse inquiry, typically twice a month, and based on demand. In a reverse inquiry, investors with an appetite for specific debt securities would approach a potential issuer about issuing debt securities within their expectations. The actual issuance process is similar to private placement.

Corporate bonds are held at and settled by JASDEC, which prescribes a number of practices prior to the actual issuance of corporate bonds through its book-entry system. Issuers are required to provide prior consent on the handling of their corporate bonds at JASDEC, and make use of Issuing Agents and Paying Agents, the name of which should be advised to JASDEC in advance.

Upon receipt of an application from a financial institution for the depository of a to-be-issued bond or note, JASDEC shall designate such an institution as an Issuing Agent, pursuant to the provisions of JASDEC Business Regulations. Issuing Agents shall undertake to follow the procedure for the issue of corporate bonds required by JASDEC, on behalf of the issuers.

Upon receipt of an application from a financial institution for this service, JASDEC shall designate such an institution as a Paying Agent, pursuant to the provisions of JASDEC Business Regulations. Paying Agents shall undertake to follow the procedure between JASDEC and the Issuer, after the day of the issue to the day of redemption of the relevant corporate bonds, on behalf of the issuers.

F. **Governing Law and Jurisdiction (Bonds and Notes Issuance)**

The choice of governing law and the jurisdiction for specific service provisions in relation to bonds and notes issuance or contractual preferences of stakeholders may affect the accessibility to a specific investor universe that may otherwise not be accessible if the bonds or notes were issued under the laws of the place of issuance or the issuer's domicile.

1. **Public Offers**

When issuing a bond or note to the public in Japan, the choice of governing law and jurisdiction is limited to the laws of Japan and Japanese courts, respectively.

2. **When Listing on the TOKYO PRO-BOND Market**

Governing law and jurisdiction, with respect to the Terms and Conditions of the Notes, may be agreed among the contract parties, subject to relevant provisions in applicable laws and regulations.

In particular, provisions for the TPBM may be determined with elements of intraregional bond markets or practices, as well as general international capital market agreements.

3. Samurai Bonds issued by Nonresidents

For instance, in the case of nonresident-issued Samurai Bonds, the considerations for investor protection in the domestic Japanese market as the place of issuance and sale dictate Japanese law as the governing law, and jurisdiction rests with Japanese courts. From this point of view, for bonds and notes settled in Japan (Japanese domestic bonds), JASDEC requires that the Terms and Conditions of the Notes be governed by Japanese law.

4. Choice of Jurisdiction and the Use of Arbitration

Under Japanese law, it is possible to choose the governing law of the contract by agreement of the parties. In addition, it is also possible for contracting parties to agree on the choice of jurisdiction.

In Japan, the judge may often recommend a settlement on a lawsuit in the middle of a trial. If the settlement of the litigation has been established, this has the same effect as a final and binding judgment.

Japan is a member of the New York Convention.³¹ It is possible to enforce the result of an arbitral award in Japan in other member states. Also, it is basically possible to enforce in Japan an arbitral award made in other member countries.

However, litigation and jurisdiction systems are quite different in each country and their stages of market developmental may differ. If the place of issuance of the bonds or notes is a foreign country and the investors are foreign residents, the arbitration procedure is often used as dispute resolution mechanism as an alternative to bringing the matter to court.

The availability of domestic arbitration systems and those available internationally is an important future research topic for ABMF SF1.

G. Language of Documentation and Disclosure Items

The language of documentation for bond and note issuance, as well as the related initial and continuous disclosure items, is a significant factor of consideration for issuers. While English is the preferred language for most issuers, simply because it allows the issuers to re-use documentation already issued in international markets. However, each domestic bond market in ASEAN+3 may require the submission of approval-related information in their prescribed format and in the local language, particularly in the case of offers to the general public or retail investors.

ABMF is working toward concessions from the relevant regulatory authorities for the submission of required information in English in addition to the local language and formats. This specifically applies to cases of offers to Professional Investors only.

³¹ United Nations. 1958. Convention on the Recognition and Enforcement of Foreign Arbitral Award. New York.

1. Public Offers

If bonds or notes are intended to be offered to the public in Japan, issuers or their agents are required to produce the relevant documentation and disclosure items in Japanese.

At the same time, the possibility exists for the issuer or their agents to produce documentation in English, for example, in the form of a summary of the disclosure information. English documentation and disclosure items may also be submitted via EDINET, the filing system for SRS for public offerings of bonds and notes. Users are able to inquire on English documents in the system, as they are marked as such.

2. Private Placements

In the case of a private placement of bonds or notes in Japan, issuers or their agents may provide documentation in Japanese or English, or a combination of both languages. The key driver for the language of documentation is likely to be the targeted investor universe for the private placement.

3. When Listing on the TOKYO PRO-BOND Market

Documentation and disclosure items in English are accepted by the TPBM. Efforts have been made to reduce the cost for preparing additional documentation at the TPBM.

H. Listing on the TOKYO PRO-BOND Market

A listing of debt securities may occur for the purpose of trading (similar to equities) or for the purpose of profile or reference listing.

In Japan, the listing of a bond or note is not a regulatory requirement stipulated by either the FSA or MOF, and not a specific requirement in the case of foreign issuers.

However, should an issuer wish to list a bond or note for profiling in Japan, the issuer may take advantage of the offering on the TPBM.³² The TPBM is the only profile listing place in Japan. For detailed information regarding the purpose and establishment of the TPBM, please refer to Chapter II.H.

Issuers need to list a note issuance program, such as a medium-term note (MTN) program, or bonds or notes on the TPBM in order to issue bonds and notes through the TPBM system to Professional Investors.

Japan features one of the most comprehensive definitions of Professional Investors in ASEAN+3, which includes institutional and high net worth investors with specific qualifying criteria, and also foreign institutional investors. Only Professional Investors and nonresident (foreign) investors are able to participate in TPBM. Please refer to Chapter III.K for more information on the framework of Professional Investors in Japan.

³² For more detail, please refer to <http://www.jpx.co.jp/english/equities/products/tpbm/outline/index.html>

1. Profile Listing Process and Practices

In contrast to public offerings, to issue bonds for the purpose of listing on the TPBM, there is no need to submit any documents to the Kanto Local Finance Bureau or the FSA. Instead, the relevant documents—including information on listed bonds or notes and information on their issuers—shall only be submitted to the TSE, pursuant to the TSE Listing Regulations and Enforcement Rules for TPBM. For further information on these regulations, please refer to Table A3.4 in Appendix 3.

(a) Initial Listing Application

- (i) The listing of bonds and notes on the TPBM is carried out through an application by the issuer. The issuer may decide to retain a nominated advisor (arranger) for the TPBM.
- (ii) The initial listing applicant is required to submit an initial listing application and initial listing application documents to the TSE for listing.
 - (1) The initial listing applicant may consult or make inquiries with the TSE prior to listing regarding the initial listing application.
 - (2) The initial listing applicant shall state in the initial listing application documents that there are no false statements in the documents.
- (iii) The initial listing applicant is required to submit the SSI and other forms to the TSE, as may be stipulated.³³ The TSE typically also accepts an information memorandum or offering circular prepared for the relevant bonds and notes, together with additional documents as may be necessary. The Single Submission Form (SSF) for bonds and notes issued under the ASEAN+3 Multi-Currency Bond Issuance Framework (AMBIF) is accepted as a TSE-approved form.
 - (1) The SSI is required to be prepared based on the format stipulated by the exchange or other formats approved by the exchange as an appropriate form. For example, the disclosure formats utilized in the Eurobond market may be approved to be used. The SSF, which includes the contents of the SSI, can be used for the issuance of AMBIF bonds and notes. The SSF can be treated as the SSI by mentioning clearly on the SSF that it is an SSI. Then, the SSF can be applied to the listing process on the TPBM. The language of disclosure in the SSI can be either Japanese or English, or both. Foreign issuers do not have to translate their English documents into Japanese.
 - (2) Under a note issuance program, parties seeking to apply for a bond listing can register the maximum aggregate amount of bonds and notes issued in a program by publishing the Program Information pursuant to the rules established the exchange. Specifically, information on the maximum limit of the outstanding balance and other information shall be described in the Program Information, the validity period of which is 1 year (equivalent to the Euro MTN

³³ Please see current formats at <http://www.jpx.co.jp/english/equities/products/tpbm/outline/02.html>

program). In the case where an issuer publishes the Program Information, such an issuer is allowed to prepare the SSI only with the remaining information. In the case where the issuer publishes the adequate SSI after the registration of the Program Information, the listing will be accepted by the exchange following the submission of an initial listing application and initial listing application documents including the SSI.

Under the FIEA, if the initial listing applicant is a continuous disclosure company (a company which is obliged to submit the Annual Securities Report), publishing Issuer Filing Information is not required. Also, under the rules established by the exchange, the disclosure company can omit the corporate information from the description in the SSI provided that the SSI contains a notice that the company already submits the Annual Securities Report.

(b) Eligibility and Scope of Issuers

The regulations and practices on the TPBM do not distinguish between resident and nonresident issuers. The scope of issuers on the TPBM include

- (i) foreign corporations,
- (ii) foreign financial institutions,
- (iii) sovereign and government-sponsored issuers,
- (iv) supranational institutions,
- (v) Japanese corporations, and
- (vi) Japanese public entities (e.g., local governments).

All issuers may utilize note issuance programs as a form of bond or note issuance.

(c) Listing Eligibility Requirements for Initial Listing Companies

Issuers need to fulfill the following requirements to list on the TPBM:

- (i) The bonds or notes must obtain a credit rating from a rating company. The term rating agency noted here refers to a rating company that is recognized internationally and by Japanese investors. For eligibility information on credit rating agencies, please refer to Chapter II.J. A credit rating for the abovementioned Program Information may be used as the credit rating.
- (ii) The principal underwriter for the bonds or notes must be registered on the Lead Managing Underwriter List at the exchange. Securities companies registered on the Lead Managing Underwriter List are leading securities firms with experience in bond underwriting in Japan and/or overseas.

(d) Lead Managing Underwriter List

In Japan, an issuer needs to choose a lead managing underwriter for a note issuance program or bonds and notes to be listed on TPBM from among the Lead Managing Underwriter List prepared by TSE. The Lead Managing Underwriter List is simply a list of securities companies that could potentially serve as a lead managing underwriter

when listing bonds or notes on the TPBM or when disclosing program information. This list will be updated by TSE according to the applications from securities companies.³⁴

A securities company wishing to register on the list is to file an application with the TSE. The TSE, which will then examine the application by considering such factors as that party's appropriate domestic and overseas experience as a lead managing underwriter. Conversely, if the TSE deems the continued inclusion on the list of a party to be inappropriate (e.g., if that party decides to withdraw from the bond underwriting business), the TSE, at its discretion, may remove that party from the list.

A securities company is not required to pay a fee for inclusion on the Lead Managing Underwriter List.

One exception exists for the need to select an underwriter from the Lead Managing Underwriter List in cases where a financial institution deemed suitable by the TSE purchases the whole amount of a bond issue. Here, the financial institution would confirm the quality of the bonds or notes.

(e) Appointment of a Commissioned Company for Bondholders (Bond Trustee)

The appointment of a bond trustee or Commissioned Company or Person for Bondholders, also known as a Bond Manager (社債管理者), for bonds and notes to be listed on the TPBM is optional. The majority of bonds and notes listed on the TPBM feature a fiscal agent (財務代理人) as an agent of the issuer. For more information on the Commissioned Company for Bondholders (Bond Managers), please refer to Chapter III.M.

(f) Accepted Financial Reporting Standards

The TSE recognizes the Japanese Generally Accepted Accounting Principles, US Generally Accepted Accounting Principles, and financial reporting standards for the disclosure information to be provided by an issuer. The TSE rules prescribe that any alternative accounting standard may be recognized the TSE deems it to be equivalent to the Japanese Generally Accepted Accounting Principles, the US Generally Accepted Accounting Principles, or International Financial Reporting Standards.

(g) Eligible Bond and Note Types to be Listed the TPBM

The following are types of bonds and notes that are eligible to be listed on the TPBM:³⁵

- corporate bonds issued by Japanese or foreign companies; straight bonds; corporate bonds listed in Article 2 (1), Item 5 of the FIEA (including bonds issued by mutual companies, but excluding bonds with warrants (as prescribed by Article 2, Item 22 of the Companies Act));
- bonds issued by Japanese companies or government agencies in accordance with special laws; bonds issued by legal entities pursuant to the special laws listed in Article 2 (1), Item 3 of the FIEA;
- investment company bonds; bonds issued by funds; investment corporation

³⁴ The current list can be found at <http://www.jpx.co.jp/english/equities/products/tpbm/listing/04.html>

³⁵ Japan Exchange Group. Types of Bonds. <http://www.jpx.co.jp/english/equities/products/tpbm/listing/index.html>

- debentures and those foreign investment securities that are similar to investment corporation debentures, as prescribed in the Act on Investment Trusts and Investment Corporations, as outlined in Article 2 (1), Item 11 of the FIEA;
- foreign investment securities that are similar to investment company bonds;
 - municipal bonds issued by Japanese issuers; municipal bonds listed in Article 2 (1), Item 2 of the FIEA;
 - specified corporate bonds issued by Japanese or foreign companies; specified corporate bonds prescribed in the Act on the Liquidation of Assets listed in Article 2 (1), Item 4 of the FIEA;
 - beneficiary certificates of special purpose trusts that pay a fixed dividend; securities enumerated in Article 2 (1), Item 13 of the FIEA, and the amount of cash distributions of which during the trust period are predetermined;
 - beneficiary certificates of special purpose trusts issued by foreign issuers; bonds issued by foreign companies; and
 - sovereign bonds issued by foreign governments; among the securities listed in Article 2 (1), Item 17 of the FIEA, instances that have the qualities of the securities listed in Item 1 of the said paragraph.

Straight bonds and structured bonds that fit the definition of corporate bonds are eligible for listing, but convertible bonds and exchangeable bonds are not allowed to be listed on the TPBM.

Pursuant to Rule 2, Paragraph 9 of the Special Regulations of Securities Listing Regulations Concerning Specified Listed Securities, the listing of *sukuk* (Islamic bonds) is possible in form of a beneficiary certificate of a special purpose trust (please see Chapter VIII).

(h) *Choice of Currencies*

In principle, the TPBM does not have any limitation on the choice of currencies in which bonds or notes can be denominated. Domestic bonds and notes in the Japanese market are typically issued in yen. In addition to settlement for bonds and notes issued in yen, JASDEC is able to transfer (on a free-of-payment basis) foreign-currency-denominated bonds and notes issued by foreign governments or companies, such as those denominated in US dollars or other currencies including the Chinese renminbi.

(i) *Approval of Listing*

The TSE will check the application for listing, following the submission of the relevant information in documentation and disclosure items. The TSE will confirm that the bonds or notes satisfy the necessary conditions for listing eligibility in accordance with TSE rules. The TSE will simply confirm that certain formal requirements have been met and, therefore, the TSE's examinations will not require much time.

In principle, under the standard schedule, the administrative review for the acceptance of program information (Type-P of the SSF) submitted to the TSE may be completed by the acceptance date. The TSE may, at its discretion, request from the issuer supplementary information.

When individual bonds or notes are to be issued and listed based on the program information, if the listing application (Type-D of the SSF) is submitted simultaneously with the determination of the Terms and Conditions of the Notes as in the model

case, the TSE may approve the listing—normally within the same day but no later than the following business day—after promptly confirming that the listing eligibility requirements are satisfied.

Upon approval of the listing of the bonds or notes, the TSE publicly announces the listing straightaway in a timely manner.

(j) Actual (Effective) Listing of Bonds, Notes, or Program

Under the standard schedule, the submission date of the program information (or SSF) will be the disclosure date of the Program Information, which will also be the Note Issuance Program listing date.

The listing date of book-entry transfer bonds or notes is usually 1 business day after the settlement date. In the case of book-entry transfer bonds or notes, the Terms and Conditions of the Notes are generally determined within 4 business days before the settlement date in order for the paying agent to complete the necessary procedure.

(k) Obligations after Listing—Timely Disclosure

The issuer of listed bonds and notes must disclose the Issuer Filing Information:

- (i) Timely disclosure is required for dissolutions, bankruptcies, and dishonored notes. Compared to stock listings, the items required for disclosure are extremely limited. Companies with shares listed on exchanges in Japan will not be burdened with additional disclosures.
- (ii) Issuers of listed bonds or notes are required to provide Issuer Filing Information at least once a year. The Issuer Filing Information corresponds to financial statements. However, when the issuer is providing ongoing disclosure, there is no need for additional disclosure. When the issuer has securities listed overseas, disclosure information for those listings may be used as is.

2. Pricing after Listing

Bonds or notes listed on the TPBM or issued based on the Program Information submitted to the TSE are included within the JSDA's Reference Statistical Prices (Yields) for OTC transactions.

3. Listing Fees

Listing fees to be paid by the issuer of bonds or notes to be listed on the TSE are charged at the time of registration of the program information and the listing of the bonds or notes. In the TSE Enforcement Rules, listing fees are divided into two categories: (i) the fee for program listing (program fee) and (ii) the fee for listing bonds and notes (bond, etc. listing fee).³⁶

³⁶ Tokyo Stock Exchange. Enforcement Rules for Special Regulations of Securities Listing Regulations Concerning Specified Listed Securities, Rule 220. <http://www.jpx.co.jp/english/equities/products/tpbm/outline/tvdivq00000006xw-att/b7gie60000013xzd.pdf>

The program fee is JPY1 million. Any drawdown issuance of notes under the program will not incur an additional listing fee. The bond listing fee—in cases where program information is not used—is JPY1 million for any new listing.

No fees would normally be incurred at the annual renewal of the program, but an additional procedural fee of JPY1 million would be incurred if the issuer intends to raise the maximum outstanding amount under the program (program amount).

The fees are subject to applicable consumption taxes.

4. Trading, Clearing, and Settlement of TOKYO PRO-BOND Market-Listed Bonds and Notes

(a) Trading of TPBM-Listed Bonds and Notes

The TPBM launched a trading system and a settlement and clearance system, but investors can choose to trade in the OTC market. It is assumed that the main market for the bonds and notes listed on the TPBM will be the OTC market. Please also see Chapter IV for more information on trading of bonds and notes in Japan.

(b) Minimum Trading Unit

For a JPY-denominated bond, the minimum trading unit is JPY100 million (face value). For a bond denominated in a foreign currency, it is the face value of that series.

(c) Clearing and Settlement of TPBM-listed Bonds and Notes

All JPY-denominated domestic bonds and notes, other than JGBs, are settled at JASDEC. Foreign-currency-denominated domestic bonds and notes are also settled at JASDEC, though the settlement is effected on a non-DVP basis. JASDEC's Book-Entry Transfer System for Corporate Bonds handles registration and transactions in corporate bonds, municipal bonds, specified corporate bonds issued by SPCs, and rights that should be represented by bond certificates issued by any governments or companies in foreign countries (Samurai Bonds and Shogun Bonds). All transactions are conducted on an electronic basis only, since debt securities in Japan have been completely dematerialized.

The TPBM accepts the listing of foreign bonds and notes that are settled at other CSDs abroad.

5. Selling and Transfer Restrictions on the TOKYO PRO-BOND Market

Professional bonds are also subject to selling and transfer restrictions for domestic retail investors.³⁷ Transfer restrictions in the Japanese market are comprehensive and specific.

Bonds and notes issued through the TSE's TPBM shall not be sold or transferred to any person other than Professional Investors or nonresidents (Professional Investors, etc.).

³⁷ Japan Exchange Group. Who Can Invest in the TOKYO PRO-BOND Market? <http://www.jpx.co.jp/english/equities/products/tpbm/outline/03.html>

The FIEA requires that a contract on restriction on transfer (transfer restriction agreements) should be entered into between the issuer and the person (Professional Investor) seeking to purchase the bonds or notes, and between the solicitor or offeror (securities company) and the purchaser or acquirer.

The FIEA also requires notification to the purchaser to the effect that if the bonds or notes are not notified to the authority, the SRS or SR is not registered with the FSA, and the bonds or notes may be sold only to Professional Investors.

In addition, a restriction on transfer contract and notification with a Professional Investor for all TPBM-related bonds and notes transactions in a comprehensive way may be allowed in current market practice. For further details, please refer to Questions 55 and 56, and the answers thereto, in the Q&A section on the TPBM website.³⁸

In July 2015, the FSA opened a public consultation on the potential relaxation of the defined measures for selling and transfer restrictions laid out in Article 12 (i) (b) of the related Cabinet Office Ordinance.³⁹

According to the FSA proposal, in addition to the current method for entering into contracts between issuer and acquirer and between the intermediary and Professional Investor, other methods can be used, including a description of the selling and transfer restrictions in the Terms and Conditions of the Notes, or in the SSI (or SSF), in combination with other measures that will relate this information to the Professional Investor by the intermediary; in turn, the Professional Investor would have to acknowledge the contents, including the observance of these selling and transfer restrictions.

One possible such combination would be the description of selling and transfer restrictions and the aforementioned acknowledgement process in the Terms and Conditions of the Notes, or in the SSI (or SSF), and the sending of the information to the Professional Investor by the intermediary, as long as a record of sending the document to the registered e-mail address on the investor's trading account with the intermediary is retained. The forms of the acknowledgment could be expected to develop in line with market practices following the public consultation and resulting changes to the aforementioned Article 12.

Inclusion of selling and transfer restrictions in the Term and Conditions of the Notes is one way to fulfill a part of the requirements of the FIEA. The sample wording of the Selling restriction in the Terms and Conditions of the Notes is shown in the text box for reference.

³⁸ Japan Exchange Group. Q&A about the TOKYO PRO-BOND Market. <http://www.jpx.co.jp/english/equities/products/tpbm/outline/02.html>

³⁹ Article 12 (i) (b) of the related Cabinet Office Ordinance states: “[The] Solicitation of Offers to Acquire includes, as a condition of the acquisition, the conclusion of a contract on transfer specifying the matters provided in paragraph (1) of the preceding Article between the Issuer of the relevant Securities and the person who wishes to acquire said Securities in response to the Solicitation of Offers to Acquire them (hereinafter referred to as the “Acquirer” in this item), and between the person who is carrying out the Solicitation of Offers to Acquire said Securities and the relevant Acquirer.”

Table 27: Sample Wording of the Transfer Restrictions in the Terms and Conditions of Notes

Restriction on Transfer of Notes

1. Japanese Transfer Restriction

The Notes shall not be sold, transferred, or otherwise disposed to any person other than Professional Investors, Etc. (*Tokutei Toushika tou*) (Professional Investors, Etc.), as defined in Article 2, paragraph (3), Item 2 (B) 2. of the Financial Instruments and Exchange Act of Japan (Act No. 25 of 1948, as amended) (FIEA), except for the transfer of the Notes to the following:

- a. the Issuer, or the Officer (meaning directors, company auditors, executive officers or persons equivalent thereto) thereof who holds shares or equity pertaining to voting rights exceeding 50% of all the voting rights in the Issuer which is calculated by excluding treasury shares or any nonvoting rights shares (the Voting Rights Held by All the Shareholders, Etc. (*Sou Kabunushi Tou no Giketsuken*)) (as prescribed in Article 29-4, paragraph (2) of the FIEA, the same shall apply hereinafter) of the Issuer under his or her own name or another person's name (hereinafter such Officer shall be referred to as the Specified Officer (*Tokutei Yakuin*) in this paragraph), or a juridical person (excluding the Issuer) whose shares or equity pertaining to voting rights exceeding 50% of the Voting Rights Held by All the Shareholders, Etc. are held by the Specified Officer (the Controlled Juridical Person, Etc.) (*Hi-Shihai Houjin Tou*) including a juridical person (excluding the Issuer) whose shares or equity pertaining to voting rights exceeding 50% of the Voting Rights Held by All the Shareholders, Etc. are jointly held by the Specified Officer and the Controlled Juridical Person, Etc. (as prescribed in Article 11-2, paragraph 1, Item 2 (c) of the Cabinet Office Ordinance on Definitions under Article 2 of the Financial Instruments and Exchange Act (MOF Ordinance No. 14 of 1993, as amended)); or
- b. a company that holds shares or equity pertaining to voting rights exceeding 50% of the Voting Rights Held by All the Shareholders, Etc. of the Issuer in its own name or another person's name.

2. Matters Notified to the Noteholders and Other Offerees

When (i) a solicitation of an offer to acquire the Notes or (ii) an offer to sell or a solicitation of an offer to purchase the Notes (collectively, Solicitation of the Notes Trade) is made, the following matters shall be notified from the person who makes such Solicitation of the Notes Trade to the person to whom such Solicitation of the Notes Trade is made:

- a. no Securities Registration Statement (pursuant to Article 4, paragraphs 1 through 3 of the FIEA) has been filed with respect to the Solicitation of the Notes Trade;
- b. the Notes fall, or will fall, under the Securities for Professional Investors (*Tokutei Toushika Muke Yukashoken*) (as defined in Article 4, paragraph 3 of the FIEA);
- c. any acquisition or purchase of the Notes by such person pursuant to any Solicitation of the Notes Trade is conditional upon such person entering into an agreement providing for the restriction on transfer of the Notes as set forth in (1) above, (i) with each of the Issuer and the person making such Solicitation of the Notes Trade (in the case of a solicitation of an offer to acquire the Notes to be newly issued), or (ii) with the person making such Solicitation of the Notes Trade (in the case of an offer to sell or a solicitation of an offer to purchase the Notes already issued);
- d. Article 4, paragraphs 3, 5, and 6 of the FIEA will be applicable to such certain solicitation, offers and other activities with respect to the Notes as provided in Article 4, paragraph 2 of the FIEA;
- e. the Specified Securities Information, Etc. (*Tokutei Shouken Tou Jouhou*) (as defined in Article 27-33 of the FIEA) with respect to the Notes and the Issuer Filing Information, Etc. (*Hakkosha Tou Jouhou*) (as defined in Article 27-34 of the FIEA) with respect to the Issuer have been or will be made available for the Professional Investors, Etc. by way of such information being posted on (i) the website maintained by the TOKYO PRO-BOND Market (TPBM) (<http://www.jpx.co.jp/english/equities/products/tpbm/issues/index.html>), or (ii) the Issuer's web-site that discloses the information concerning the respective Issuers (the URL of which will be made available on the website maintained by the TPBM), in accordance with Articles 210 and 217 of the Special Regulations of Securities Listing Regulations Concerning Specified Listed Securities of the Tokyo Stock Exchange; and
- f. the Issuer Filing Information, Etc. will be provided to the Noteholders or made public pursuant to Article 27-32 of the FIEA.

6. Delisting

(a) *Conditions for Delisting*

In instances where the TSE deems delisting appropriate, the TSE will delist the said listed bonds, if any one of the events enumerated below occurs:

- (i) bonds or notes reach the final redemption date;
- (ii) acceleration of the final redemption date in relation to the full amount of bonds;
- (iii) absorption-type corporate split or new incorporation with succession by a new entity to obligations related to a listed bond issue; or
- (iv) material misstatement by an issuer of listed bonds in the SSI, Issuer Filing Information, or the Annual Securities Report; and
- (v) call for immediate redemption of listed bonds due to a default event;

or further to the above, determination by the TSE that delisting is appropriate.

(b) *Warning Measures*

In instances deemed necessary, the TSE will take warning measures, or impose a penalty or other means on the issuer of listed bonds, and, if deemed necessary, may publicly announce this measure.

I. Bond and Note Pricing

In most mature bond markets, bonds are usually traded OTC. As OTC bond trading is a negotiated process between a securities company and a client, it is difficult for a third party to discover the price at which a transaction is consummated. The publication of prices and other information concerning OTC bond transactions not only helps efficient and orderly trading of bonds but is also of critical importance from the standpoint of investor protection by promoting the formation of fair prices and facilitating investors' access to trading at the best possible price. Publication of bond prices is thus indispensable for the development of bond markets.

The JSDA provides a variety of bond-related statistical data, including Reference Statistical Prices (Yields) for OTC Bond Transactions, that are the most frequently used sources of price information for understanding current bond market trends in Japan. These data are calculated mainly based on reports received from JSDA member firms, and are disseminated on the JSDA website.⁴⁰

For more details on the Reference Statistical Prices (Yields) for OTC Bond Transactions, please refer to Chapter IV.D.

⁴⁰ See <http://www.jsda.or.jp/en/statistics/bond-market/index.html>

J. Transfer of Interests in Bonds and Notes

1. Book-Entry Framework as Prerequisite for Securities Transfer

The Law Concerning Book-Entry Transfer of Corporate Bonds, Stocks, and Other Securities provides a uniform legal framework for all types of book-entry securities, the legal basis for the book-entry transfer system, and the dematerialization of all securities.

In principle, all securities in the Japanese market have since been dematerialized. While the Companies Act continues to allow that physical bond certificates may be issued regardless of the book-entry transfer method, the distribution in the market of such physical certificates cannot be widely expected. Such securities are also not allowed to be owned under a tax-exempt status under the Japanese taxation system. For all intents and purposes, hence, the legal ownership structure of the dematerialized securities is clear. Except for a few non-CSD based private placed notes, the book-entry ownership type is the only practical alternative in Japan.

JASDEC performs the role of a CSD in the book-entry transfer system in securities other than government bonds. The BOJ performs the role of CSD for Japanese government bonds. In the abovementioned law, the term CSD is referred to as a Designated Depository Institution. Book-entry bond transfer system participants must observe the rules established by the respective depository institution.

2. Actual Book-Entry Transfer Process

The actual process of transfer of interest (change in ownership) in bonds and notes occurs in the book-entry transfer system through the accounts of the designated depository institutions held by investors and/or their intermediaries.

(a) *Participation in the Book-Entry System*

Securities companies and financial institutions open and maintain, as account management institutions (intermediary), an account for securities transfer at the designated depository institution. Bondholders (investors) open a transfer account in the depository institution or the account management institution (intermediary), depending on their service needs.

(b) *Book-Entry Transfer Process*

In the transfer account, the balance of the account management institutions' (intermediary's) own account and the overall customer account are recorded. In turn, the bondholder's account balance is recorded in the transfer account they maintain with the account management institution (intermediary). Securities to be issued are initially recorded in the issuer's own account.

The existence of a book-entry recording in the bondholders account constitutes the ownership of the bonds or notes by the bondholder. The ownership of the rights of the book-entry bonds shall be determined by the description or record in the book-entry transfer account registry. The transfer of the book-entry bonds shall not take effect unless there has been an increase in the amount described or recorded in the ownership column of the assignee's account through application for the book-entry transfer (Articles 66, 73, and 88 of the Act on Book-Entry of Company Bonds, Shares, etc.)

At the time of issuance of bonds or notes, by performing an electronic transfer on the basis of an account transfer description or a record through application of an underlying transaction (e.g., subscription or purchase), the securities are moved from the issuer's account to the investor's account and are entitled to be owned by the bondholder.

In other words, the presence of the recording represents a perfection against third party. In law, generally, perfection relates to making an interest or ownership here in debt securities effective against third parties. In Japan, the book-entry recording represents said perfection. Should there be an insufficient transfer-account book record in the customer's account due to the over-recording, the duty of retirement of over-recording is generated by account management institutions (intermediary).

K. Definition of Professional Investor and Related Classifications

Japan features one of the most comprehensive definitions of Professional Investors in ASEAN+3, which includes institutional and high net worth investors with specific qualifying criteria, and also includes foreign institutional investors.

1. Definition of Professional Investor

The definition of Professional Investor is stipulated in Article 2, Paragraph 31 and Article 34-4 of the FIEA, and in the Cabinet Office Ordinance on Definitions under Article 2 of the FIEA, as follows.

- (a) The term Professional Investor as used in Article 2, Paragraph 31 of the FIEA comprises
 - (i) Qualified Institutional Investors,
 - (ii) Government of Japan,
 - (iii) Bank of Japan, and
 - (iv) Investor Protection Funds prescribed by Article 79-21 and other juridical persons (including nonresident juridical persons) specified by Article 23 of the Cabinet Office Ordinance on Definitions under Article 2 of the FIEA.
- (b) The term Professional Investor as used in Article 34-4 of the FIEA comprises designated individuals who satisfy certain other requirements and are allowed to change their status to that of a Professional Investor by request (approved individuals with net financial assets of at least JPY300 million and at least 1 year of trading experience).
- (c) The term Professional Investor as used in the Article 23 of the Cabinet Office Ordinance on Definitions under Article 2 of the FIEA comprises
 - (i) local governments;
 - (ii) juridical persons incorporated by a specific act of incorporation pursuant to the provisions of any specific act;
 - (iii) an Investor Protection Fund as prescribed in Article 79-21 of the FIEA;
 - (iv) Deposit Insurance Corporation of Japan;
 - (v) the Agricultural and Fishery Cooperative Savings Insurance Corporation;
 - (vi) the Insurance Policyholders Protection Corporation of Japan prescribed in Article 259 of the Insurance Business Act;
 - (vii) an SPC;

- (viii) a company that issues share certificates which are listed on a financial instruments exchange;
- (ix) a stock company whose stated capital is expected to amount to JPY500 million or more, reasonably judging from the status of the transactions thereof or any other circumstances;
- (x) a Financial Instruments Specialist, or a juridical person that falls under the category of a Notifier of Specially Permitted Business Activities as prescribed in Article 63 (3) of the FIEA; and
- (xi) a foreign juridical person.

In summary, Professional Investors include pension funds, life insurance companies and other accredited institutional investors, listed companies, joint stock corporations with at least JPY500 million in capital, government agencies, the BOJ, and other approved corporations and local governments, together with approved individuals with net financial assets of at least JPY300 million and at least 1 year of trading experience. (Here, approved means that the entity must first seek and obtain approval for the status of Professional Investor from a securities company.)

In effect, only Professional Investors and nonresident (foreign) investors are able to participate in the TPBM.

2. Scope of Professional Investor

The concept of Professional Investors was formed by the FIEA from the viewpoint of ensuring regulatory flexibility; attaining more appropriate investor protection; and, at the same time, allowing Professional Investors more freedom in transactions as professional market participants. As such, investors have been divided into nonprofessionals and professionals, depending on their knowledge and experience, and the status of their property. And when financial institutions do business with professionals, the regulations designated for nonprofessionals (e.g., investor protections) need not be applied. As a result, a softening of regulations has been achieved through the introduction of this concept. On the other hand, for the purpose of protecting general and retail investors, if the customer is nonprofessional, the applicable codes of conduct and regulations will have to be applied by the financial institutions.

3. Scope of Professional Investor, Etc.

The use of the term Professional Investors, Etc. refers to Professional Investors or Nonresidents and is defined in Article 2 (3) (ii) (b) 2 of the FIEA.⁴¹ This term and its components are included within the scope of the Professional Investor concept in Japan. As an example, it is not regarded as a public offering of securities if solicited securities are not likely to be transferred from the acquirer to a person other than Professional Investors, Etc. (Professional Investors or nonresidents) by satisfying transfer restrictions.

The definition of Professional Investors, Etc. is stipulated in a distributed manner at several locations in the FIEA and the Cabinet Office Ordinance. For instance, in Article 1 (3) (iii) 2 of the Cabinet Office Ordinance on Definitions under Article 2 of the FIEA, Professional Investors, Etc. is referred to as defined in Article 2 (3) (ii) (b) 2 of the FIEA.

⁴¹ As defined in Article 6 (1) (vi) of the Foreign Exchange and Foreign Trade Act, nonresident shall mean natural persons and juridical persons other than residents.

4. Scope of Qualified Institutional Investor

The QII scheme was created for the purpose of achieving a softening of the disclosure regulations toward expert institutional investors. Offerings of securities are exempted from public disclosure requirements if a solicitation is made only to qualified institutional investors. QIIs refer to persons specified by the FIEA and a Cabinet Office Ordinance as those having expert knowledge of and experience with investment in securities and other financial instruments.

A juridical person QII includes

- (a) those that automatically constitute as a QII (e.g., certain Financial Instruments Business Operators as well as banks), including insurance companies, securities firms, investment managers, and other institutional investors; and
- (b) those that may become QIIs as a result of filing the necessary notification with the Commissioner of the FSA:
 - (i) trust companies and foreign trust companies (excluding custodial trust companies);
 - (ii) corporations that hold and manage at least JPY1 billion in securities—a juridical person that falls under the category of a Specially Permitted Business Notifying Person as prescribed in Article 63 (3) of the FIEA; and
 - (iii) nonresident juridical persons (e.g., foreign governments, foreign financial institutions).

An Individual QII includes

approved individuals with net financial assets of at least JPY1 billion and at least 1 year of trading experience—a Financial Instruments Specialist person that falls under the category of a Specially Permitted Business Notifying Person as prescribed in Article 63 (3) of the FIEA.

A cooperative, etc. QII includes

- (a) an Investment Limited Partnership, and
- (b) a juridical person and individual of the union, including executive union members that obtained the consent of all of the union members and the securities holdings of the union is more than JPY1 billion.⁴²

5. Classification and the Change of Status of Investors in Japan



As shown in Table 28, a change of status from that of a Professional Investor to a general investor, or vice versa, is carried out within the relationship with each securities company by the investor making a request to such a securities company. In consequence, under the suitability principle, a securities company may from time to time assure itself of the status of the investor based on the investor's intentions.⁴³

⁴² In order to eliminate the QIIs without actual business, for the Investment Limited Partnership which is a QII, the FSA is planning to define the conditions in the Cabinet Office Ordinance to be with assets under management (excluding borrowings) of JPY500 million or more.

⁴³ The suitability principle (FIEA, Article 40) states that a financial institution should make a solicitation that is commensurate with the situation of the customer in view of the customer's knowledge and experience, and the status of the property and purpose of the purchase.

Professional Investors who are residents in Japan can invest in overseas bonds and notes without any legislative restrictions.

Table 28: Classification and the Change of Status of Investors in Japan

Professional Investor	1. Cannot request nonprofessional treatment a. Qualified institutional investor b. Government of Japan c. Bank of Japan	Always treated as a professional investor
	2. Can request nonprofessional treatment (designated companies and organizations) a. local government b. public companies c. joint stock companies whose capital is reasonably believed to be JPY500 million or more d. foreign corporations (foreign juridical persons) e. others	Option to be nonprofessional ^a 
General Investor	3. Can request professional treatment a. designated individual (i) with trading experience of one year or more, and (ii) whose net asset, and invested assets, are reasonably believed to be each worth JPY300 million or more b. others	 Option to be professional ^a
	Cannot request professional treatment (individuals other than above in 3)	Always treated as a general investor

^a Opt-in-opt-out treatment
Sources: Financial Services Agency; ABMF SF1.

L. Credit Rating Requirements

This section covers the applicable credit rating requirements for bonds and notes issued in Japan. For more details on the underlying regulations governing eligible credit rating agencies, please refer to Chapter II.J.

1. Public Offers

The use of credit ratings for bonds or notes to be issued via a public offering is no longer mandated by the financial market regulators. However, the use of credit ratings has continued along with the growth of the corporate bond market in Japan, and credit ratings are widely used.

Bonds issuers shall note the credit ratings in the SRS and its attachments and prospectus filed or published prior to the issuance of bonds or notes via a public offering, and need to indicate whether the credit rating have been obtained from registered CRAs.

Financial instruments business operators involved in a public offering of bonds or notes, such as securities firms, have the obligation to explain whether the credit ratings are from a registered CRA or not.

2. TOKYO PRO-BOND Market

Note issuance programs or corporate bonds and notes listed on the TPBM must obtain a rating from a CRA recognized internationally and/or by Japanese investors. The rating needs to be disclosed, but the level of the rating is not an eligibility criterion for the TPBM.

With regard to bonds and notes issued by a foreign government or local government (both domestic and foreign), or guaranteed by a national or local government (domestic or foreign), or by certain financial institutions recognized by the TSE, a credit rating is not required.

CRAs recognized by the TPBM include

- Standard & Poor's,
- Moody's,
- Fitch Ratings,
- Rating and Investment Information,
- Japan Credit Rating Agency, and
- RAM Rating Services.

M. Commissioned Company for Bondholders (Bond Managers)

1. Summary

In cases where a company will issue bonds in Japan, generally speaking the company must specify a commissioned company or person for bondholders (Bond Managers) and entrust the receipt of payments, the preservation of rights of claim on behalf of the bondholders, and other administration of the bonds to that manager; provided that this shall not apply in cases where the minimum issuing amount (face value) of each bond is JPY100 million or more as prescribed by the Companies Act.⁴⁴

This implies that the minimum face value of the note of JPY100 million or more will only be sold to Professional Investors and will not be sold to individuals. Other cases prescribed by the applicable ordinance of the Ministry of Justice are cases where it is unlikely that the protection of bondholders will be compromised.

2. Commissioned Company (Bond Managers) for Bondholders System

A drastic reform of the conventional corporate bonds trustee system was carried out by amending the Commercial Code in June 1993. Under this amendment, the conventional name, Bond Trustee Company, was changed to commissioned company (Bond Managers), and its function was clarified. Specifically,

- (i) establishment of a commissioned company (Bond Managers) was made mandatory, in principle, and the eligibility for becoming one is restricted to banks, trust companies, and companies that have received a license under the Mortgage Bond Trust Law;
- (ii) services to be provided by a commissioned company (Bond Managers) are restricted to the management of bonds that have been issued and are outstanding; and

⁴⁴ Government of Japan. 2005. *The Companies Act Article 702*. Tokyo.

- (iii) the power, duty, and liability of the commissioned company (Bond Managers) have been clarified.

The impact of the amendment may be summarized as follows:

- (i) the fee the trustee bank had been collecting was renamed commissioned companies fee;
- (ii) by instituting exceptional provisions with respect to the mandatory engagement of a commissioned company (this applies when the minimum face value of a bond is not less than JPY100 million), issuers can appoint a fiscal agent; and
- (iii) the previous practice that the lump purchases of defaulted bonds that trustee banks have been making were discontinued, and discontinuation has been established.

Under the current Companies Act adopted in June 2005 (enacted in May 2006), a commissioned company for bondholders (Bond Managers) and its liability and power have been expanded (Articles 702–712). Specifically,

- (i) under the former Commercial Code, the term “administration of bond” referred only to the exercise of power legally granted to the commissioned company and person for bondholders (Bond Managers) and did not include the exercise of power based on an agreement, commissioning the administration of bonds (contractual power); under the new Companies Act, however, the exercise of the contractual power is included in the administration of bonds and the commissioned company and person for bondholders (Bond Managers) owes the duty of impartiality and good faith and the duty to exercise reasonable care and skill in exercising such contractual power;
- (ii) when the agreement commissioning the administration of bonds contains a provision to that effect, the commissioned company and person for bondholders (Bond Managers) act in relation to filing a lawsuit and taking bankruptcy or rehabilitation proceedings for the bond as a whole without obtaining a resolution of the bondholders’ meeting; and
- (iii) in taking steps to protect the creditors in the case of a capital reduction or a merger, the commissioned company and person for bondholders (Bond Managers) may, in principle, object to such capital reduction or merger without obtaining a resolution of the bondholders’ meeting.

In an investment environment where there have been very few corporate bond defaults, a commissioned bank or person (Bond Manager) has not been appointed in many cases, except for corporate bonds targeting individual investors. Therefore, there is no consensus about the role of a commissioned bank or person (Bond Manager), the preservation attachment for corporate bondholders when the corporate bond is in default, and not so much discussion has been held regarding cost sharing.

3. Recent Japan Securities Dealers Association Initiative in the Discussion about a Bond Administration System

As a part of the recent JSDA initiative for the vitalization of Japan’s corporate bond market, the JSDA deliberated about a corporate bond administration system in Japan. The interim report of this initiative states as follows:

(a) *Credit Risk of a Corporation and Corporate Bond Administration*

- (i) A Corporate Bonds Manager is in principle appointed at the time of issuance of the corporate bonds under the Companies Act and acts as a statutory agent of corporate bondholders to monitor the financial condition of the issuer and preserve or recover the debts at the time of default.⁴⁵
- (ii) Currently, while the Corporate Bonds Manager is appointed for corporate bonds targeting individual investors, most corporate bonds targeting institutional investors do not appoint Corporate Bonds Managers.
- (iii) It is necessary to maintain the current system that enables a corporation with relatively lower credit risk and a high profile in the corporate bond market to issue corporate bonds flexibly at lower cost. On the other hand, for the purpose of promoting issuance of and investment in corporate bonds of a corporation with relatively higher credit risk, it must be possible to grant various covenants on such corporate bonds. It might be necessary to develop an environment where the Corporate Bonds Manager can sufficiently fulfill the role of monitoring financial conditions and preserving or recovering debts and where such covenants can be properly reflected in the issuance conditions.
- (iv) It is also necessary to prepare a system in which the absence of a Corporate Bonds Manager would not damage the credibility of the corporate bonds issued by such companies and the corporate bond market as a whole if the credit risk increases due to deterioration in the business conditions of the issuer.
- (v) Two approaches are available regarding the appointment of a Corporate Bonds Manager: (a) appoint a Corporate Bonds Manager for all corporate bonds; or (b) appoint a Corporate Bonds Manager for corporate bonds issued by a corporation with relatively higher credit risk. For the time being, while discussing the tasks taken by the Corporate Bonds Manager, it may be useful to establish approach (b) as a market practice.
- (vi) In the case of corporate bonds issued by a corporation with relatively higher credit risk, a standard model of appointing a Corporate Bonds Manager is needed that can be used as a reference for issuers, investors, and securities companies in order that the appointment of a Corporate Bonds Manager can be established as a market practice.
- (vii) Currently, many main banks play the role of Corporate Bonds Manager. Some market participants are concerned that a conflict of interest could occur before or after corporate bonds default if, in the future, corporate bond issuers become more diversified and more corporations with relatively higher credit risk issue corporate bonds. Therefore, it is necessary to increase the credibility and transparency of tasks assumed by Corporate Bonds Managers, as well as discuss what tasks are to be assumed by them.

(b) *Corporate bonds administration in the future*

- (i) One of the reasons why many issuers do not appoint a Corporate Bonds Manager is that issuers are doubtful about whether the tasks assumed by the Corporate Bonds Manager justify the costs incurred by the issuer. On the other hand, Corporate Bonds Managers point out that their responsibilities under the Companies Act are substantial.

⁴⁵ In its documents, JSDA uses this Alternative Expression to Bond Manager (see also Appendix 5).

- (ii) The relationship between the responsibilities and costs of the Corporate Bonds Manager should be considered carefully based on the fact that the credit risk of the issuer closely relates to the responsibilities of the Corporate Bonds Manager. The tasks assumed by Corporate Bonds Managers need to be defined and a system established in which these various factors can be properly reflected in the costs through a market mechanism.
- (iii) The tasks assumed by Corporate Bonds Managers in the US, where they are known as Trustees, are significantly different before and after a corporate bonds default. Particularly, the tasks before default include only administrative processes, such as receiving a disclosure document including the annual report on a regular basis, and do not include the tasks of requesting financial information, monitoring, and review.

N. Securitized Products Market

1. Securitized Products

The income-generating assets of a company are pooled separately from its balance sheet into a special purpose vehicle (SPV), and the SPV issues a security backed by the cash flow to be generated by such assets and sells the security to investors. This method is called securitization. The security issued through such a process is generally called a securitized product.

Business enterprises use their assets—such as auto loans, mortgage loans, commercial real estate loans, leases receivable, and business loans—as collateral to back up their securitized products.

As defined by the Ordinance for Enforcement of the Act on Securitization of Assets, not only monetary claims, but also securities, real estate, movable properties, ships, aircrafts, automobiles, and intellectual property such as copyrights and patents can be securitized.

2. Basic Mechanism of Issuing Securitized Products

Generally, many of the securitized products are issued through the following mechanism. First, the holder of assets (originator), such as mortgage loans and accounts receivable that are to be securitized, assigns them to an SPV. By doing so, such assets are separated from the balance sheet of the originator and become assets of the SPV, which becomes the holder of the assets. An SPV may take the form of a partnership, a trust, or an SPC. Most SPVs take the form of an SPC.⁴⁶ The next step is to formulate the terms of issuance for the securitized product to be issued by the SPV. If the originator opts for the trust method, it issues certificates of beneficial interest like those of a trust company. If it chooses the SPC method, it issues the kinds of securities decided upon by the SPC, but it does not have to issue them based on the same terms.

In short, it can design each type (tranche) of security with a different character by differentiating the order of priority with respect to the payment of interest and redemption

⁴⁶ An SPC established under the Act on Securitization of Assets, later revised as the Special-Purpose Company (SPC) Law (2000年改正SPC法 or 資産流動化法) is called *tokutei mokuteki kaisha* (特定目的会社: TMK, or a specific-purpose company).

of principal, by varying maturities, or by offering the guarantee of a property or casualty insurance company.

By adding such variation, the originator can issue securities that meet the diverse needs of investors. In the order of priority for payment, such securities are called senior securities, mezzanine securities, or subordinated securities.

When the originator plans to sell its securitized products to an unspecified large number of investors, it should make them readily acceptable to investors by offering them objective and simple indicators (credit ratings) for independently measuring the risks involved.

In addition, there are other players involved in different processes of securitized products, such as servicers, who manage assets that have been assigned to an SPV and securitized, and also recover funds under commission from the SPV and bond management companies, which administer the securitized products (corporate bonds) purchased by investors.

Firms that propose such a mechanism for securitizing assets and that coordinate the issuing and the sale of such products are called arrangers, and securities companies and banks often act as arrangers.

3. Description of Major Securitized Products

Securitized products are divided into several groups according to the types of assets offered as collateral and the character of the securities issued. Among these, the group of products that are backed by monetary claims and group of products backed by real estate, which comprise exchange-listed real estate investment trusts (J-REIT) and OTC-traded real estate investment trusts, are popular.

The groups of products backed by the claims collateralized by real estate are residential mortgage-backed securities (RMBS) and commercial mortgage-backed securities (CMBS). RMBS are issued in retail denominations against a portfolio that pools home mortgage loans. The first securitized product based on residential mortgage loans was the Residential Mortgage Loan Trust (住宅ローン債権信託) launched in 1973 for the purpose of handling the liquidation of mortgage loans of mortgage companies. However, this product failed to attract the attention of both issuers and investors because it had too many limitations.

This scheme had been regulated by the MOF and was fully liberalized in June 1998. As a scheme based on SPCs became available thereafter as a result of the enactment of the previous SPC Law in 1998 (1998旧SPC法 or 特定目的会社による特定資産の流動化に関する法律), the volume of this type of issue has increased since 1999.

The bonds which are backed by housing loans and issued by the Japan Housing Finance Agency since 2001, Japan Housing Finance Agency Mortgage-Backed Securities, are usually included among RMBS, although they are not issued through SPCs.

CMBS are backed by loans given against the collateral of commercial real estate (e.g., office buildings). The mechanism of issuing them is almost the same as that for RMBS.

J-REITs, which became available by virtue of implementation of the Investment Trust and Investment Corporation Law (投資信託及び投資法人に関する法律) in May 2000, are investment trusts investing in real estate and real estate trust beneficiary rights.

Another group consists of securities backed by assets, or asset-backed securities (ABS) narrowly defined, such as accounts receivable, leases receivable, credits, auto loans, and consumer loans, among others. Sales of these products began to increase following the enactment of the Specified Claims Law (特債法 or 特定債権法) in June 1993.

Other securitized products are called collateralized debt obligations (CDOs), which are securities issued against the collateral of general loans, corporate bonds, and credit risks of loans that are held by banking institutions. For instance, loans to SMEs that are securitized may be considered CDOs. CDOs include collateralized loan obligations (CLOs), collateralized bond obligations (CBOs), and synthetic collateralized debt obligations, which include synthetic CLOs and CBOs that generally uses credit default swaps and other derivatives.

4. Issuing Market for Securitized Products

As the bulk of securitized products are issued in private placement transactions between the parties concerned, it is difficult to accurately grasp the size of their market. To remedy this shortcoming, underwriters that are involved in the transactions and credit rating agencies have been tracking the market on their own.

According to the JSDA and the Japan Bankers Association, the total value of securitized products backed by monetary claims was about JPY2.3 trillion in FY2014. Securitized product issuance reached a peak of JPY9.8 trillion in FY2006 and levels have declined sharply over the past few years amid various impacts of the subprime loan problem.

5. Secondary Market for Securitized Products

With the exception of beneficiary certificates of J-REIT, trading in securitized products is not conducted on stock exchanges. As is the case with bonds, securitized products and their transactions are too complex and varied to lend themselves to exchange trading. This has led to the dependence on an OTC inter-dealer market for their trading.

Table 29: Change in Number and Value of Securitized Product Issuance Market

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Number of Issuance of securitized products	312	314	261	204	146	107	91	90	110	164
Issuing amount of securitized products (JPY trillion)	8.2	9.8	6.8	3.7	2.9	2.6	3.4	2.9	1.9	2.3
Issuing amount of corporate bonds (JPY trillion)	7.4	7.5	9.6	9.9	10.6	10.1	8.5	8.4	8.8	8.5

FY = fiscal year (April 1–March 31).

Sources: Japan Securities Dealers Association and the Japan Bankers Association. <http://www.jsda.or.jp/shiraberu/syoukenka/doukou/index.html>

6. Enactment of Securitization-Related Laws

The existing legal system of Japan is built around business-specific laws, and the regulatory system of financial products is vertically divided along the lines of business-specific laws. As these laws contain many provisions regulating or banning business activities outright, to spur the development of new business, such as the securitization of assets, the existing laws have to be amended and new laws must be enacted.

Table 30: Summary of the Enactment of Securitization-Related Laws

Year	Name of Law in English	Name of Law in Japanese
1993	Specified Claims Law	特債法 or 特定債権法
1996–2001	Financial Big Bang in Japan	日本版金融ビッグバン
1998	Financial System Reform Law	金融システム改革法
1998	Revised Securities and Exchange Law	改正証券取引法
1998	SPC Law	SPC法
1998	Perfection Law	債権譲渡特例法
1998	Revised Investment Trust Law	改正投資信託法
1999	Servicer Law	サービサー法 or 債権管理回収業に関する特別措置法
1999	Nonbank Bond Law	ノンバンク社債法
1999	Revised Equity Contribution Law	改正出資法
2000	Revised SPC Law	改正SPC法
2000	Act on Securitization of Assets	資産流動化法
2000	Revised Investment Trust Law (Act on Investment Trust and Investment Corporation)	改正投資信託法
2001	The First Listing of J-REIT Securities	J-REIT上場開始
2005	Revised Civil Code	改正民法
2007	FIEA	金融商品取引法
2007	Abolishment of Mortgage Securities Law	抵当証券法廃止
2011	Revised Act on Securitization of Assets	改正資産流動化法

FIEA = Financial Instruments and Exchange Act, REIT = real estate investment trust, SPC = special purpose company.

Source: ABMF SF1.

As regards the securitization of assets, the Specified Claims Law (特債法 or 特定債権法) was enacted as an independent law in 1993. Since the enforcement of this law, the legal infrastructure has been developed steadily. Under the Specified Claims Law, the liquidation and securitization of assets classified as specified claims, such as leases receivable and credit card receivables, started. Thereafter, various laws were enacted to help the banking institutions meet the capital ratio requirements imposed by the Bank for International Settlements and to encourage the securitization of their assets to deal with the bad loan problem that had become serious since the beginning of the 1990s.

Under the SPC Law enacted in 1998 and the Act on Securitization of Assets enacted as the revised SPC Law in 2000, structures incorporating SPVs, including specific-purpose companies (TMKs) and specific-purpose trusts (SPTs), may be used for securitizing specified assets designated in the provisions of the said laws—real estate, designated money

claims, and beneficiary certificates issued against such assets in trust—in the form of ABS (e.g., senior subscription certificates, specified corporate bonds, and specified promissory notes). Under the SPC Law, the system of disclosing an asset liquidation plan and individual liquidation projects was introduced, in addition to the disclosure requirements of the Securities and Exchange Law (the FIEA now).

In 1998, the Perfection Law (債権譲渡特例法) was enacted as a law prescribing exceptions to requirements under the Civil Code (民法) for the perfection of the assignment of receivables and other properties, and it was amended in 2005. The Civil Code provides the legal requirements for the assertion of the assignment of nominative claims (claims with named creditors) against obligors or third parties. Designated claims were transferable, but the provisions of the Civil Code had been a major hurdle in securitizing them. The Perfection Law set forth simple procedures for the perfection of such interests.

The Servicer Law, enacted to account for exceptions to the provisions of the Practicing Attorney Law (弁護士法), allows accredited joint stock companies to provide the services of administering and collecting debts. Under the 1999 Servicer Law (サービサー法 or 債権管理回収業に関する特別措置法), a debt collection company may be established to provide a bad debt collection service without conflicts with the Practicing Attorney Law.

By amending the Equity Contribution Law (出資法), the Nonbank Bond Law (ノンバンク社債法) conditionally lifted the ban imposed on nonbanks on the issuance of corporate bonds and commercial paper for the purpose of raising capital for lending operations and on ABS.

As a result of the revision of the Securities and Exchange Law (証券取引法) as required by the 1998 Financial System Reform Law (金融システム改革法) and the enforcement of the FIEA (金融商品取引法), beneficiary certificates of and trust beneficiary interests in assets that are deemed eligible for securitization by the provisions of the Act on Securitization of Assets (改正SPC法 or 資産流動化法) and mortgage certificates under the Mortgage Securities Law (抵当証券法) are now legally considered securities.

Furthermore, pursuant to the enactment of the Investment Trust Law (投資信託法) as revised, real estate was included in eligible assets, which paved the way for the issuance of J-REIT securities.

O. Bankruptcy Procedures

There are four statutory insolvency proceedings that apply to Japanese corporations. Each can be categorized into one of two general types, depending on whether the aim of the proceedings is to liquidate the company (Liquidation-Type Proceedings) or rehabilitate the company (Rehabilitation-Type Proceedings):

- (1) Liquidation-Type Proceeding
 - (a) Bankruptcy proceedings (*hasan*) under the Bankruptcy Act
 - (b) Special liquidation proceedings (*tokubetsu seisan*) under the Companies Act

- (2) Rehabilitation-Type Proceedings
 - (a) Corporate reorganization proceedings (*kaisha kosei*) under the Corporate Reorganization Act

- (b) Civil rehabilitation proceedings (*minji saisei*) under the Civil Rehabilitation Act

At the time of the filing of the application for or the commencement of any of those insolvency proceedings or both, depending on the language of the default clause of the relevant bonds, the bonds will be accelerated. If a commissioned company for bondholders has been appointed for the bonds, the commissioned company will act for the benefit of the bondholders as creditors of the issuer in the proceedings. If no commissioned company has been appointed, individual bondholders will be expected to act for themselves in the proceedings.

As an alternative to commencing one of the four types of statutory insolvency proceedings above, a Japanese corporation in financial distress may seek to negotiate an out-of-court restructuring of the corporation with its creditors. In the course of such negotiations, a bondholders' meeting may determine the amendment to the terms and conditions of the bonds, such as installment repayment of principal amount or reduction of the interest rate, though a court approval will be required to have the decision of the meeting take effect. The statutory bondholders' meeting system set out in the Companies Act is applicable only to bonds issued by Japanese corporate issuers under Japanese law.

Further details on the restructuring and insolvency frameworks of Japan and other Asia-Pacific economies can be found in *The Asia-Pacific Restructuring and Insolvency Guide 2006*⁴⁷ and *A Guide to Asia-Pacific Recovery and Insolvency Procedures*.⁴⁸

P. Event of Default

In the context of a bond issuance, if a certain event of default has occurred in the issuer, the principal of the debt, regardless of its maturity, must be immediately repaid.

Examples of typical events of default of debt securities include

- (i) if the interest is not paid on the interest payment date;
- (ii) if matters in violation of the provisions in the terms and conditions of the bond occur, and are left uncured;
- (iii) if substantially all of the business is transferred or terminated;
- (iv) if the risk of bankruptcy is caused, such as the payment stop or the bankruptcy petition; or
- (v) if an event of default has occurred to other debentures that the issuer has issued, (cross-default clause).

Generally, an event of default is stipulated in the terms and conditions of a debenture. Under Japanese law, the terms and conditions are deemed to be an agreement between the debenture issuer and the debenture holder.

In principle, the event of default is described in the Companies Act in the context of a defaulting company (issuer); the act regards failure of payment of interest or principal for a certain period as an event of default:

⁴⁷ Globe White Page. 2006. *The Asia-Pacific Restructuring and Insolvency Guide 2006*. London.

⁴⁸ Clifford Chance. 2013. *A Guide to Asia-Pacific Recovery and Insolvency Procedures*. <http://financialmarketstoolkit.cliffordchance.com/en/financial-markets-resources/resources-by-type/guides/restructuring-and-insolvency-guide-asia-pacific.html>

Companies Act, Article 739 (1)

If a bond-issuing Company fails to pay interest on bonds, or fails to periodically partially redeem bonds in cases where it must carry out that redemption, pursuant to a resolution of a bondholders' meeting, the person who executes such resolution may give written notice to the bond-issuing Company to the effect that that bond-issuing Company must make payment within a defined period of time, and to the effect that, if payment is not made within such period of time, the bond-issuing Company shall forfeit the benefit of time as to the total amount of such bonds, provided, however, that such period may not be less than two months.

Generally, financial covenants are stipulated in the condition of the bonds and failure to perform the financial covenants for a certain period shall be regarded as an event of default. The most typical single financial covenant on Japanese domestic unsecured senior corporate bond is a negative pledge.

Negative pledge is a provision in the terms and conditions that prohibits the contract party from creating any security interests over certain property specified in the provision. In other words, a negative pledge clause is a negative covenant in the terms and conditions stating that the bond issuer will not pledge any of its assets on other bonds.

Also, a pari passu clause is a standard clause found in many bond issues. The clause is a covenant or a warranty that the bonds rank pari passu with all the other unsecured debt of the issuer. The clause appears in both corporate and sovereign debt obligations. The pari passu clause stipulates that the bond has the same rank with the other unsecured debt of the issuer in terms of the repayment order terms and has no subordination to the others.

If the issuer is a foreign government, unlike the private sector, a situation referred to as bankruptcy does not occur since a government is not a company, and, hence, the provisions of the Companies Act will not apply. Therefore, in many cases, nonpayment of interest will become a trigger of default. As a result, Japan's Civil Code is applied to those cases.

Triggered by the default of sovereign debt, including Samurai Bonds, international controversy on the interpretation of the pari passu clause, including the application of judgments of US federal courts, continues in relation to the debt restructuring by said government.