



**JRI news release**

**Issues Relating to Corporate Regeneration and Business Revitalization**

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**For more information on the content of this report, please contact**

**Tetsuo Fujita, Economics Department**

**Tel: 03-3288-5054 E-Mail: [fujita@jri.co.jp](mailto:fujita@jri.co.jp)**

## **Overview**

### **I. The Rapid Growth of Corporate Revitalization by Funds**

Corporate revitalization funds are a type of private equity which invests in companies with businesses that can be rebuilt and, once the target company has been rebuilt, seek to obtain a high return by causing it to make a public share offering (IPO) or selling it off to a sponsor company (M&A). The most common approach to pursuing return on investment is to dispose of excess debts and to increase corporate value by restructuring the problem company's businesses and supervising its management. In Japan, the establishment of and the level of investment activity by corporate revitalization funds rose as a result of the government incorporating measures to promote the establishment of such funds in the reform-first program launched in the autumn of 2001. In July 2003, the investment framework exceeded ¥1 trillion.

### **II. Background to the Growth in the Number of Revitalization Funds**

There are three major reasons for the recent growth in the number of corporate revitalization funds: (i) the fact that, since the 1990s, it has no longer been possible to take the bank-led approach to corporate revitalization, which involves relaxing repayment conditions and extending the time available for revitalization, (ii) the fact that banks have come to see the normalization of loans as an important issue and have started to dispose of non-performing loans to "borrowers requiring control", and (iii) the fact that considerable progress has been made, in recent

years, in the establishment of legal provisions relating to the organizational restructuring of companies and revitalization procedures.

### **III. Outstanding Issues and Proposals**

#### **1. The Need to Offer the Same Tax Benefits in Case of Reorganization by Private Procedure as Apply to Reorganization by Legal Procedure**

In cases of reorganization by private procedure that can be shown to be rational rather than arbitrary, the same tax benefits as apply to reorganization by legal procedure should be made available.

#### **2. Creation of Prepackaged Systems for Reorganization by Legal Procedure**

Conditional on appropriate disclosure, steps should be taken to allow revitalization by a simple and quick “prepackaged” method, involving the establishment of procedures giving binding power to prior agreement on the part of creditor(s) at the legal procedure stage.

#### **3. Provision of Non-Performing Loans Related Information**

Information relating to non-performing loan transactions should be collected across bank groupings. Steps should be taken to make this information accessible to a wide range of investors and make it easier to seek out sponsors and companies to which businesses can be transferred. The disclosure of such information will also facilitate price discovery with regard to non-performing loans and help to ensure normalization of remuneration for non-performing loans business.

#### **4. Promotion of DIP Finance**

Finance to companies where business revitalization procedures have been initiated (DIP finance) should be excluded from the scope of debt disclosure requirements and the priority repayment of loans with a bearing on the general public benefit should be allowed, with a view to encouraging banks to provide finance.

#### **5. Establishment of a Law on Investment Business Limited Liability**

##### **Associations**

The establishment of investment associations for the purpose of business acquisition should be permitted on a general basis, without restriction of target to small- and medium-sized companies.

#### **6. Expansion of the Range of Investors in Non-Performing Loans Businesses**

Legislation relating to investment trusts should be revised to give broad permission for the creation of investment trusts in respect of corporate revitalization funds.

### **IV. Corporate Finance in the Future**

With the number of examples of successful business revitalization using corporate revitalization funds growing, banks themselves need to change their approach to corporate finance. It is to be hoped that (i) in conjunction with appropriate monitoring of corporate finance, banks themselves will make corporate revitalization business a new source of revenue, (ii) the sale of loan rights on the markets, etc. will allow banks to adopt methods of finance that utilize market-based indirect finance systems and strengthen monitoring and (iii) in place of a comprehensive guarantee offered by the proprietor of the business as an

individual, banks will use additional debt restriction clauses, etc. to impose discipline on the management of companies to which they lend, and will limit the amount of security obligation to reflect the assets of the proprietor of the business as an individual.