

Comparative study on securitization of Housing Loan and legal responsibility of relating party

-Focusing on the legal responsibility of Credit Rating Company

Tsuyoshi Yamada

Professor of Law, Seijo University

In late 2006 in the US, it was estimated the balance of housing loan was about \$1 trillion. Among these loans, there were 14% of subprime housing loans. The back ground of subprime housing loan issues was that better Credit rating was given to the subprime loan than the reality. The reason why credit rating companies gave better rating was, 1) There originally exists the conflict of interest concerning credit rating business on the securitization, 2) There was no verification suitability of the rating models, and disclosure, 3) Investors didn't understand the fact that Credit Rating companies were the private entity.

Since then, various institutions including the government or EU began to verify the issues of credit rating companies, the IOSCO, revised the **Code of Conduct Fundamentals for Credit Rating Agencies** to regulate. On the other hands, EU revised **Regulation of the European Parliament and of the Council on Credit Rating Agencies** in 2009. In the USA, **Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd • Frank Act)** was enacted in July 2010, and it regulates the credit rating companies much more strictly in sec.931-.

Based on the premise mentioned above, in my paper, I discussed to regulate the credit rating companies and rating itself mainly. The biggest problem is to inspect that by these legislation those distrust was overcome or not. So in my paper, I researched the problem by referring mainly to the Dodd Frank Act. The act obliges every federal institution that it should check whether the credit rating company is entitled proper functions as registered organization or not.

In short, credit rating has been protected under the rule of '*Freedom of Speech*', but credit rating companies are the private shareholding company which aims to gain profits. But American government changed their policy that credit rating companies should take responsibilities as same as securities analysts, accountants, CPA, investment banks etc. That downgrade by the credit rating companies towards securitization assets pulled the trigger of the financial crisis is historical facts. So American government made up their mind to enact the Dodd Frank Act to take an administrative measure to credit rating companies, or make them take civil responsibility much easier. As in the past, it seemed that European regulation had been more harshly, but now Dodd Frank Act is the harshest regulation against Credit Rating companies. We should carefully pay attention to the effects of the Dodd Frank Act in the near future.