Mapping the Japan's Regulatory Policies for the Insurance Industry 1900-2010: Biaxial and Comparative Approach

Toshiyuki Yasui[1]*

ABSTRACT

This paper is to analyze the historical force shifts of the Japan's regulatory policies to regulate and supervise the private insurance industry in the historical context from 1900 to 2008. By applying the Christopher Hood's biaxial model, those shifts are mapped with the mesh of the rule-setting and the enforcement.

The quantitative mapping with the biaxial approach makes it clear that the Japan's regulatory policies for the insurance industry shifted from the control-oriented policies era (1900-1996), to the contingency-oriented policies era (1997-2007), to the compliance-oriented policies era (2005-2007), then to the convergence-oriented policies era (2008-2010). The mapping also shows that the Japan's regulatory power to the private insurance companies waned in the postwar high-growth era of Japan due to the no-enforcement strategy which the Finance Ministry, then the regulatory authority for the insurance industry took.

The internationally comparative analysis of this paper shows that Japan and the United Kingdom now head for the convergence-oriented regulatory policies approach whereas the United States, Germany and France remain in the compliance-oriented policies approach.

KEYWORDS: Insurance; regulatory policies, mapping, biaxial, comparative.

1. INTRODUCTION

The business of the insurance industry is more dependent upon regulatory structures than other industries since prudence is required because of its retail-oriented business models embedded in its financial products. Thus without relevant apprehension of the regulatory policies applied to the industry, we cannot better describe performance and efficacy of the industry.

The regulatory authority influences the private industry in two ways; regulation to

---

[1] Keio University, Graduate School of Systems Design and Management, Yokohama City, Japan *E-Mail: t.yasui@z2.keio.jp

set rules in certain domain of private economic activities; and enforcement to implement the regulation to sanction a violator (Hood [1]). Accordingly, the strength of regulatory power is shown as a product both of the regulatory power and the enforcing power which the financial authority holds. We need the approach to envision both regulatory and enforcing powers of financial authorities when we conduct comparative analysis of public-private relations in the financial industry (Gray and Hamilton [2]).

2. PROBLEM AND PREVIOUS STUDIES

The traditional approach to research regulatory structures of major financial centers was much dependent upon descriptive analysis on rationales and institutional aspects of financial authorities.

Previous studies on rationales of financial regulatory policies set three goals of prudence policies; securing financial soundness of an individual institution; monitoring market conducts of an individual institution; and avoiding the systemic risk to come to the entire financial market (Goodhart et al. [3], Davies and Green [4]). Those studies discussed the validation of regulatory policies with the view whether certain policy was well structured to attain those three rationales.

This traditional approach faces challenges in two ways as the research framework. First, financial authorities of major industrialized countries make regulatory policies with perspectives from the public governance theory and the responsibility to tax payers (Giddens [5]). Second, the institutional approach has no ground for quantitative comparison to analyze the regulatory and supervisory powers of financial authorities. Both challenges have to be overcome if we want to develop the mapping and comparative frameworks on directions and the strength of financial authorities.

There are very few previous studies that have researched the directions and approaches of Japan's regulatory policies for the insurance companies by the articulated and deductive methodology with quantitative mapping data. This paper works to develop the methodology to compare the regulatory influences on the insurance industry in historical and comparable manner.

3. MAPPING REGULATORY POLICIES DIRECTIONS

3.1 Biaxial Mapping
The public governance theory categorizes two contrastive concepts of governance; the state-centric approach to put the principal of public policies to the state; and the

society centric approach to put the principal to representatives of diversified interests groups in the society (Pollitt and Bouckaert [6]).

The public accountability theory illustrates two priorities on how a government exerts accountability to the clients of administrative services; the expertise to perform skill and knowledge based business to report to a minister; and the responsiveness to report the problem-solving to clients (i.e., tax payers) (Hughes [7]).

The directions of financial regulatory policies move in the conceptual fields these two axes illustrate; the state-centric approach and the society-centric approach, plus the expertise and the responsiveness. The two axes divide vectors into four categories in directions of regulatory policies (see Figure 1).

a. Control-oriented regulatory policies; the state-centric approach and the expertise-driven.
b. Contingency-oriented regulatory policies; the society-centric approach and the expertise-driven.
c. Compliance-oriented regulatory policies; the state-centric approach and the responsiveness-driven.
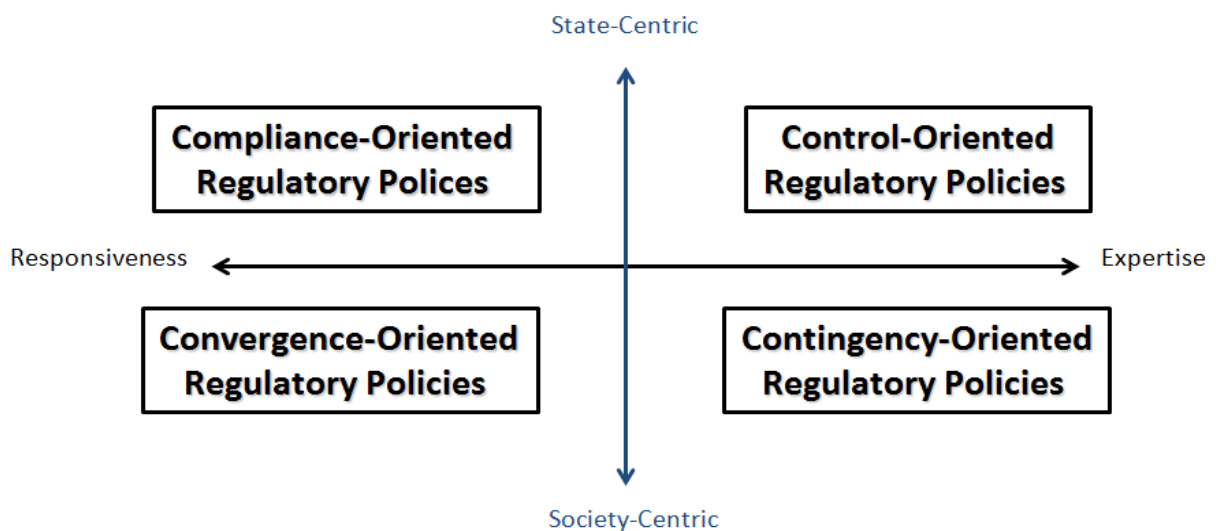d. Convergence-oriented regulatory policies; the society-centric approach and the responsiveness-driven.

Figure 1: Four Categories of Financial Regulatory Policies

3.2 Mapping Japan's Insurance Regulatory Directions

This sub-section is for mapping Japan's regulatory directions on the insurance industry since 1900, when the first Insurance Business Law was enacted and enforced.

The author analyzed the available data coming from published historical literatures of the Ministry of Finance (MOF) and the Financial Services Agency (FSA) of Japan, which have been successively the regulatory authorities for of the Japan's insurance industry, as well as other publicly available materials on regulations.

The qualitative judgment on those data drew Japan's directions shifts over four eras from 1900 to 2010; from the control-oriented policies era (1900-1996), to the contingency-oriented policies era (1997-2007), to the compliance-oriented policies era (2005-2007), then to the convergence-oriented policies era (2008-2010) (See Figure 2).
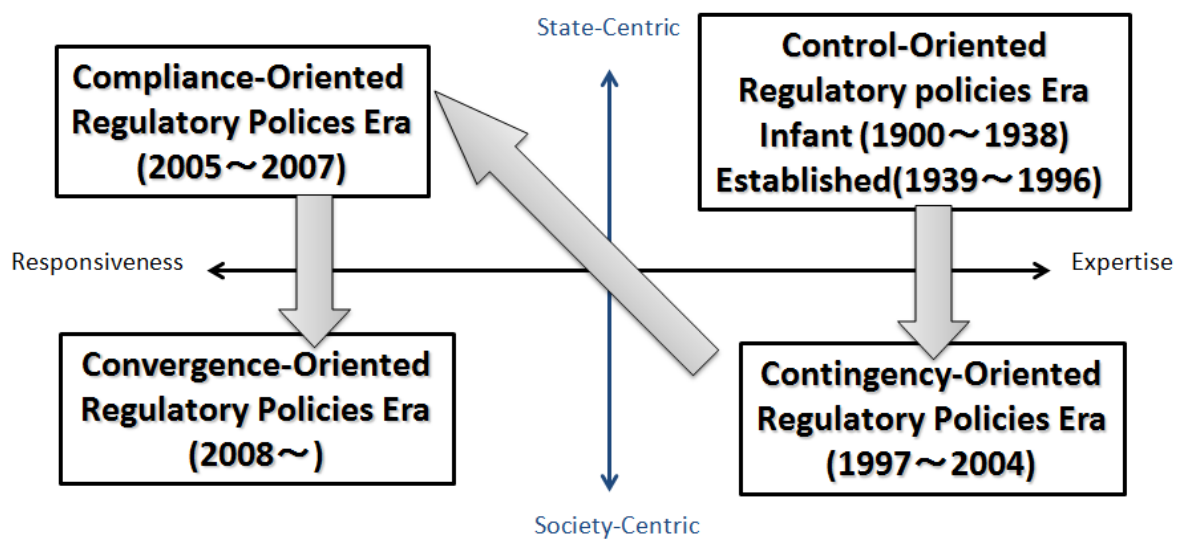

Figure 2: Mapping of Japan's Insurance Regulatory: Historical

3.3 Mapping Japan with other major industrialized countries

The two axes approach to illustrate directions of insurance regulatory policies makes comparative analysis among countries possible. The author utilized the published literatures of the Life Insurance Association of Japan (LIAJ) and the Non-life Insurance Institute of Japan (NIIJ) for mapping the United States, the United Kingdom, France and Germany (LIAJ [8][9][10], NIIJ [11][12][13][14]). In the United States each state is responsible to regulate and supervise the insurance companies in its state. Thus the State of New York represents for the United States in this paper.

The result of the mapping is; the United Kingdom heads for the Convergence-oriented Regulatory policies; the United States, France and Germany head for the Compliance-oriented Regulatory policies. Japan, as we saw the previous sub-section shifted in 2008 from the Compliance-oriented to the Convergence-oriented. This shift explains that Japan's major policy shift in 2008 on the financial regulatory

approach toward the better regulation, which the UKFSA under the Blair and Brown administrations implemented for the British financial industry (See Figure 3).
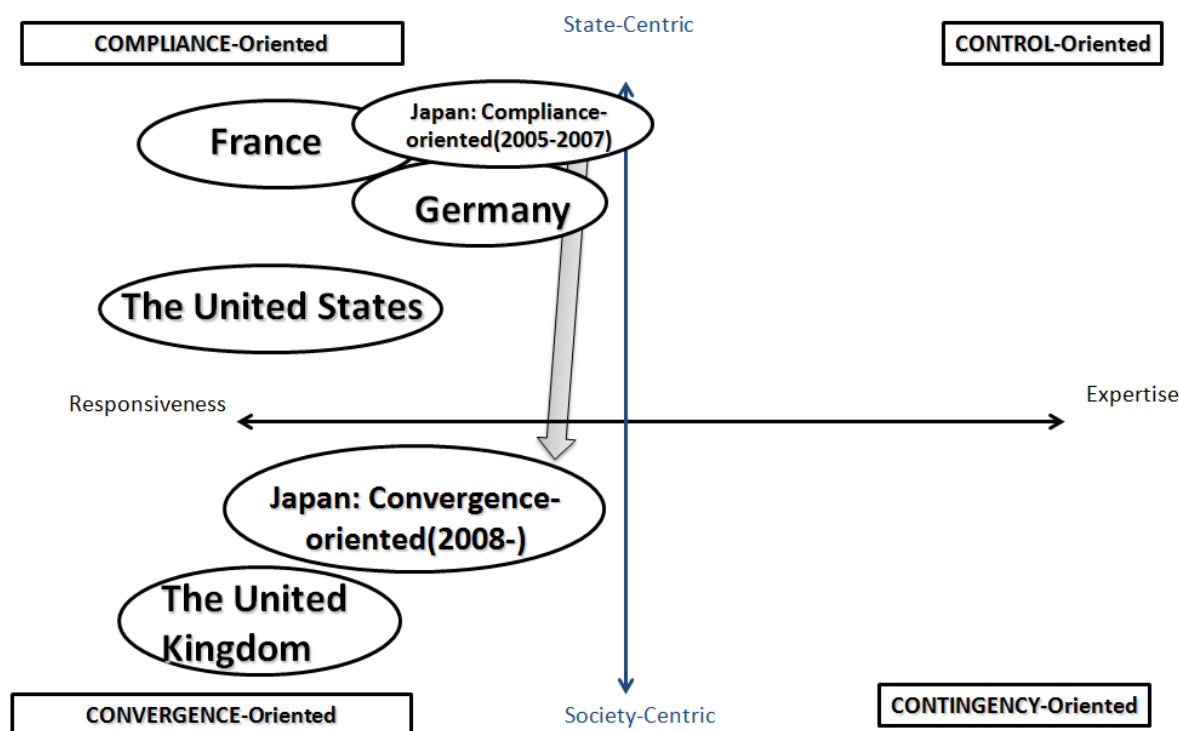

Figure 3:   Internationally Comparative Mapping

4. MAPPING THE REGURATORY & SUPERVISORY POWER

4.1 Hood's Decompositions on Rule-setting and Enforcement

This section applies the biaxial approach to illustrate the combined strategies of the rule-setting and the enforcement by the financial authority and its influence on regulatory environment for the insurance companies.

Hood [1] decomposed rule-setting into six elements; made public in advance; rationality and causality; consistent with other rules; clear preconditions and scope; objectivity in standards; and clarity in categorization. The more elements a rule contains among those six elements, the stronger the rule exercises power.

Hood [1] also defined four stages of enforcement; neglecting or amending the rule; enlightening; sanctioning; and physical deterrence. The power of enforcement escalates from neglecting or amending the rule, to enlightening, to sanctioning, to physical deterrence.

A product of two axes of rule-setting and enforcement means the strength of regulatory and supervisory power of the authority.

Strength of Regulatory Policies (p) = Rule-Setting (r) X Enforcement (e) _____<1>
    $0 \leqq r \leqq 6$, $0 \leqq n \leqq 4$ ∩ n=1,2,3,4

The strength of regulatory policies is shown on the 45 degree line in the Figure 4.
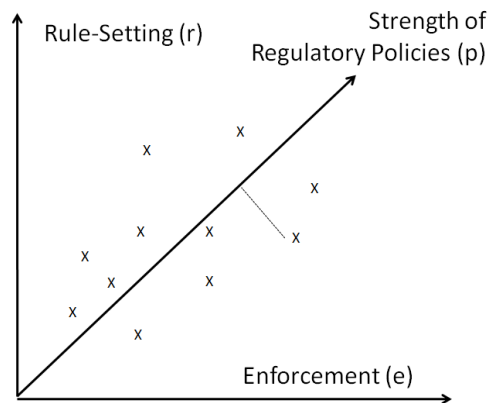

Figure 4 : Japan's Shifts on Regulatory Strength

4.2 Shift of Japan's insurance regulatory and supervisory policies

This sub-section applies the expression <1> in the sub-section 4.1 to the four eras of Japan's insurance regulatory policies which were categorized in 3.2. Each era has its own strength of regulatory policies (p) which the strength of rule-setting (r) and the strength of enforcement (e) combined. The author made expert judgments to qualitative analysis on four eras and extended them to six sub-eras from publicly available from the Ministry of MOF and FSA.

The result of qualitative analysis is shown as the Table 1.

Table 1: Combined Strategies of Rule-Setting and Enforcement: Japan

Sub-eras	p	r	e
(Infant) Control-Oriented (1900-1938)	High	Medium	Very high
(Established) Control-Oriented (1939-1950s)	Very High	Very High	High
(Post-war Regulatory Policies (1950s-1996))	Low	Very High	Very Low
Contingency-Oriented (1997-2004)	Medium	High	Low
Compliance-Oriented (2005-2007)	High	High	High
Convergence-Oriented (2008-2010)	Medium	Medium	Medium

The qualitative analysis in the Table 1 shows that the post-war regulatory strength dropped at the low level because the enforcement was rarely exercised. In the compliance-oriented era (2005-2007), the FSA issued 57 administrative orders to correct massive non-payments and claims of private insurance companies in Japan amounted to JPY 144.3 billion (Yasui [15]). The FSA's strong enforcement strategy augmented the overall strength of regulatory policies in that era. Then the FSA shifted to the convergence-oriented era (2008-2010) for mitigating strengths both on rule-setting and enforcement (See Figure 5).
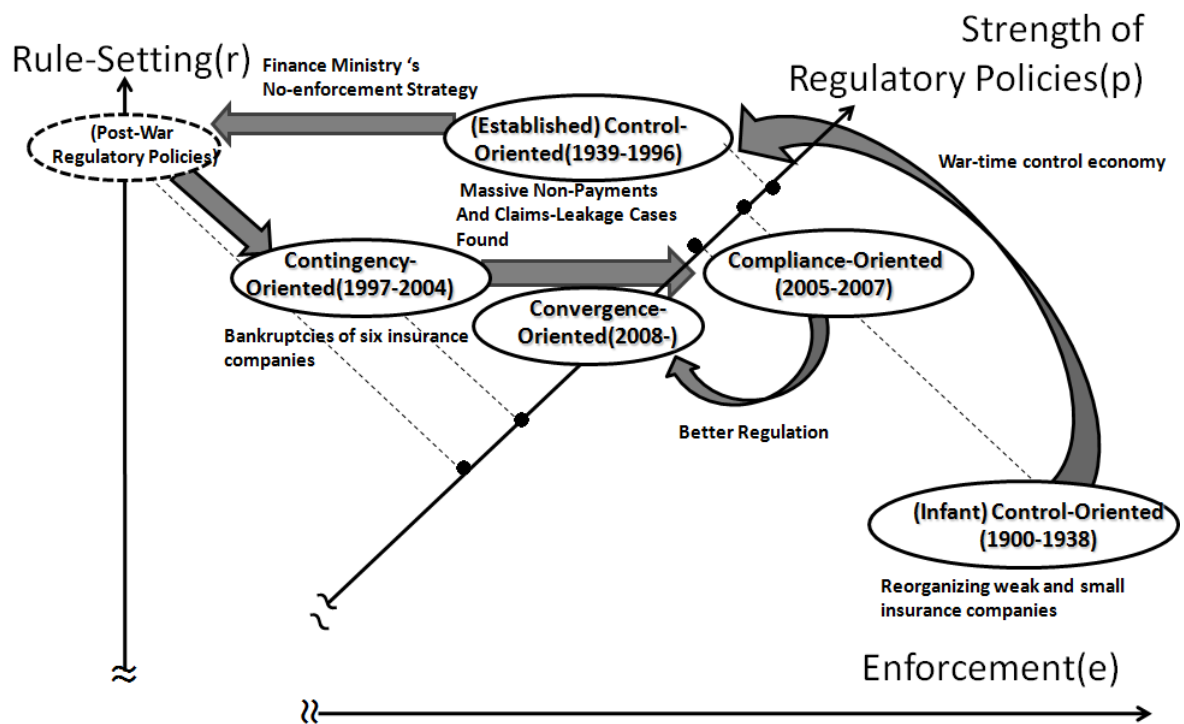

Figure 5 : Japan's Shifts on Regulatory Strength

4.3 Mapping Japan with other major industrialized countries

The mapping method done in the sub-section 4.1 and 4.2 can be applicable to make contemporary comparison among the insurance regulatory and supervisory authorities of the major industrialized countries. The same literatures (LIAJ [8][9][10], NIIJ [11][12][13][14]) are used to map the strengths of regulatory policies of the United States (the State of New York), the United Kingdom, France and Germany.

The comparative chart is shown as the Figure 6. Japan's shift from the compliance-oriented to the convergence-oriented is also noted for comparison in this chart. The chart shows that the UK authority has relatively the strongest regulatory strength; then the strengths decreases in order after the UK to Japan, to France, to the
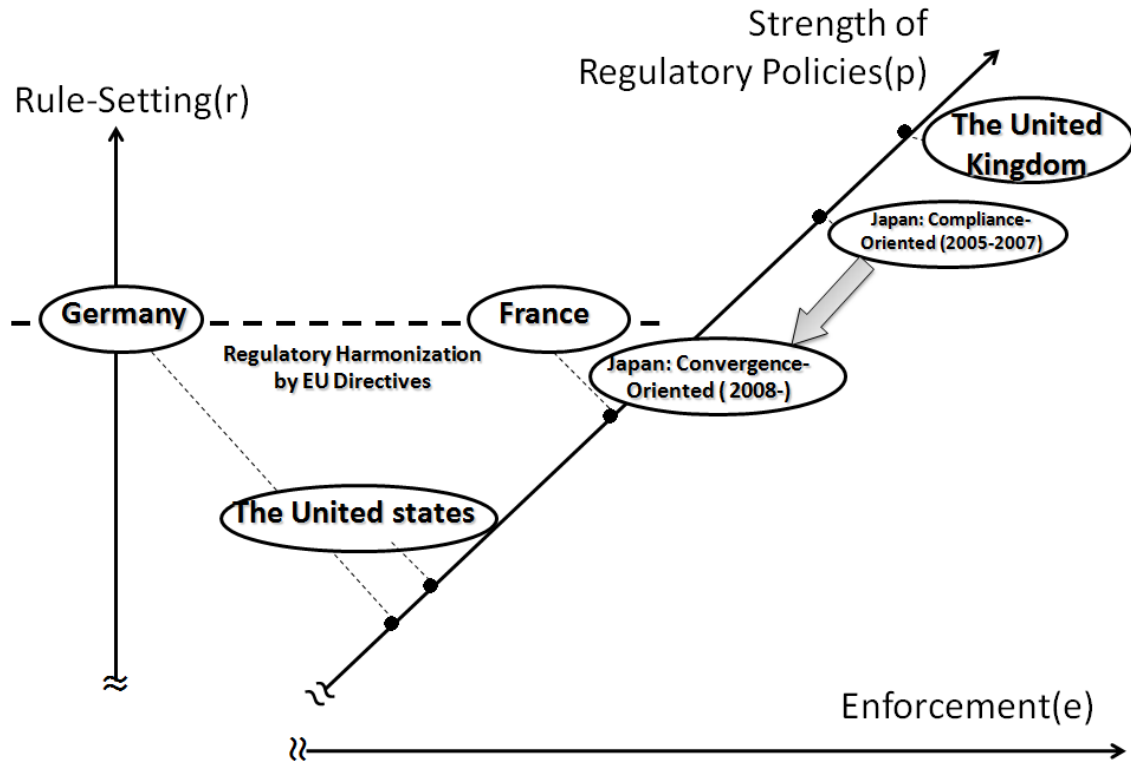
USA (New York), and to Germany.

Figure 6: Comparative Mapping on Regulatory Strength

CONCLUSION

This paper draws one new finding besides two important implications on regulatory studies about the insurance administrations.

As the new finding it is expected that the shift of Japan's regulatory policies on the map may logically explain from regulatory theory perspective the reason why the massive non-payment and payment leakage cases of the insurance companies (2005-2008) became a big social scandal in Japan occurred and that this scandal prepared the shift of the FSA's strategy from the compliance-oriented approach to the convergence-oriented approach.

Two important implications are brought; major industrialized regulatory policies for the insurance sector are currently either in the compliance-oriented (the United States, Germany and France) or the convergence-oriented (the United Kingdom and Japan); and the power strength of those authorities' policies are quantitatively visualized on the

map from the United Kingdom, Japan, France, the United States and Germany, from the top to the bottom.

FURTHER RESEARCH AGENDA

The biaxial and comparative approach is applicable to other regulatory domains for the financial industry. Therefore further studies are expected to cover other domains than the insurance industry.

This paper also prepares for the basis for the agent-based modeling approach toward the regulatory studies, which the research efforts are still in the early stage.

REFERENCES

[1] Hood, C. (1986), *Administrative Analysis,* Hemel Hempstead: Harvester Wheatsheaf.

[2] Gray, J. and Hamilton, J. (2006), *Implementing Financial Regulation: Theory and Practice,* Chichester, UK: John Wiley & Sons, Ltd.

[3] Goodhart, C, Hartmann, P, Llewellyn, D, Rojas-Suarez, Weisbrod, S., Forwarded by George, E, Governor of the Bank of England (1998), *Financial Regulation: Why, How and Where Now?*, London: Routledge.

[4] Davis, H and Green, D. (2008), *Global Financial Regulation: The Essential Guide,* Illustrated Edition, Cambridge: Polity.

[5] Giddens, A. (1999), 'Risk and Responsibility', *The Modern Law Review*, Volume 62, January 1999, No.1, pp.1-10.

[6] Pollitt, C. and Bouckaert, G. (2004), *Public Management Reform: A Comparative Analysis,* Second Edition, Oxford: Oxford University Press.

[7] Hughes, O. (1994), *Public Management and Administration: An Introduction*. New York: St. Martin's Press.

[8](社)生命保険協会調査部(2006a) 『生命保険事業における各国の監督規制(アメリカ)』 (社)生命保険協会調査部 (in Japanese).

[9](社)生命保険協会調査部(2006b) 『生命保険事業における各国の監督規制(EU)』 (社) 生命保険協会調査部 (in Japanese).

[10](社)生命保険協会調査部(2007) 『生命保険事業における各国の監督規制(イギリス)』 (社)生命保険協会調査部 (in Japanese).

[11](財)損害保険事業総合研究所研究部(2004a) 『諸外国における保険募集規制を中心とした保険監督行政・規制について［第Ⅰ編: 米国]』 財団法人損害保険事業総合研究

所研究部（in Japanese).

[12] (財)損害保険事業総合研究所研究部(2004b) 『諸外国における保険募集規制を中心とした保険監督行政・規制について［第 II 編: EU・イギリス・ドイツ・フランス・オーストラリア］』 財団法人損害保険事業総合研究所研究部(in Japanese).

[13] (財)損害保険事業総合研究所研究部(2007a) 『欧米における消費者保護に向けた保険教育・情報提供および相談・苦情対応』 財団法人損害保険事業総合研究所研究部(in Japanese).

[14] (財)損害保険事業総合研究所研究部(2007b) 『欧米保険市場における個人向け保険商品の特性と販売・募集の実態』 財団法人損害保険事業総合研究所研究部(in Japanese).

[15] Yasui, T. (2009), 'Claim-Payment Failures of Japan's Insurance Companies and Designing Better Payment Architecture: Finding a Standard Solution to Socio-Critical Systems by Applying the System Engineering Vee Model Approach (First Report)', *International Council on Systems Engineering* (*INCOSE*) *2009 Singapore Proceedings.* 7.3.3, Singapore.

ACKNOWLEGEMENTS