

in the case of a stolen card, Art. 478 of the Civil Code is applied and a depositor has an other compensation claim that is different from the repayment claim. We might think that the reason why the legal construction in the case of a forged card is different from the case of a stolen card could be that for the case of the previous precedents related to a stolen card, the range in which Art. 478 of the Civil Code is applied could not extend over the case of a forged card, so the special rule of the act is not inconsistent with the previous precedents, on the other hand, in the case of a stolen card, in which Art. 478 of the Civil Code has been applied, the special rule in the act does not make a “revision” to the case law, but does add a supplement by the introduction of the new claim, and by doing so the act would ensure the continuity of the state of the law. Except for the difference in these legal constructions, the act follows a plan by the above study group. In contrast, the Democratic Party plan submitted to the Diet with the act prescribed positive protection of a depositor rather than the act.

Art. 478 of the Civil Code is still applied to repayment of a deposit except for repayment in the act. For example, it is repayment at a window and Internet banking. About these, prompt measures are necessary (Art. 3 the additional clauses).

## **4. Law of Civil Procedure and Bankruptcy**

### **The Revision of the Special Liquidation and the Abolishment of the Arrangement of Business Corporation (Part of the Business Corporation Act)**

Law No. 86, June 26, 2005 (effective on May 1, 2006).

#### **Background:**

In 1999, the Civil Rehabilitation Law was enacted, in 2002, the Corporate Reorganization Act was entirely revised, and, in 2004, the Bankruptcy Act was also revised completely. Then, the Special Liquidation and the Arrangement of Business Corporation, both of

which were contained in the Commercial Code and applied exclusively to the business corporation, were revised as a part of the new Business Corporation Act.

The Special Liquidation Procedure was planned to be revised to a simple type of liquidation insolvency proceeding. To revise it as one pure bankruptcy proceeding, the cause of beginning the proceeding must be the same as that of the Bankruptcy Proceeding. However, the Special Liquidation Procedure, admits the start of the proceeding, when there is a remarkable obstacle to accomplish the ordinary liquidation (for example, when a lot of people with an interest exist or when the relation of the claims is complicated), which differs from the Bankruptcy Procedure. In this point, the Special Liquidation Procedure has the advantage of a prompt and flexible liquidation of a business corporation. Therefore, finally, the form that specialized in business corporation is maintained and contained in the new Business Corporation Act.

On the other hand, there was no objection to the abolition of the Arrangement of Business Corporation because it was hardly used in practice and had little efficiency.

### **Main Provisions:**

The outline of the new Special Liquidation Procedure are laid out as follows;

- (a) Beginning of Special Liquidation (Arts. 510–518 of the Business Corporation Act).
- (b) Supervision and Investigation by Court (Arts. 519–522 of the Business Corporation Act).
- (c) Liquidator (Arts. 523–526 of the Business Corporation Act).
- (d) Limitation of the Acts of the Business Corporation in the Special Liquidation Proceeding, and so on (Arts. 535–539 of the Business Corporation Act), Supervisor (Arts. 527–532 of the Business Corporation Act).
- (e) Necessary Measures, and so on (Arts. 540–545 of the Business Corporation Act).
- (f) Creditor Meeting (Arts. 546–562 of the Business Corporation Act).
- (g) Agreement (Arts. 563–572 of the Business Corporation Act).
- (h) End of Special Liquidation Proceeding (Arts. 573–574 of the

Business Corporation Act).

### **Editorial Note:**

By revising this procedure of special liquidation, we can say that the work of revision of the whole Japanese bankruptcy law system during these 10 years is finished. In the future, attention will be paid to how bankruptcy practice will be managed under this new bankruptcy law system.

However, we can hardly expect the present bankruptcy law system to be maintained without any revision. As an extension of this work of revision of the bankruptcy law system, we can expect the conception of a “United Bankruptcy Act” to emerge. Therefore, from now on, we should discuss the relationship between these proceedings.

## **5. Criminal Law and Procedure**

### **Law for the Amendment of a part of the Criminal Law — Offense of Human Trafficking —**

Law No. 66, June 22, 2005 (Effective on July 12, 2005).

### **Background:**

Some countries in the world criticize Japan’s lack of action concerning the serious growth of human trafficking. For example, the US State Department reported in their 2004 and 2005 ‘Trafficking in Persons Report,’ “Japan is a destination country for a large number of Asian, Latin American, and Eastern European women and children who are trafficked for the purpose of sexual exploitation. There have also been cases of Asian and Latin American men trafficked to Japan for criminal, labor and/or commercial sexual purposes. Japanese organized crime groups (*yakuza*) that operate internationally are involved in trafficking. The Government of Japan does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.” The present forms of trafficking in women, including