

Status of Suruga Bank's Response to Loans for Investment Real Estate Other Than Shared Housing

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Suruga Bank

Introduction

Regarding the Bank's handling of loans for investment real estate other than shared houses (hereinafter referred to as the "Apaman Issue"), some media outlets have reported on information that clearly differs from the facts known to the Bank, or which is based solely on unilateral claims made by other parties whose disputes are pending in court.

It has also come to light that one debtor, a member of the Smart Days (SS) Victims Alliance and party to the ongoing mediation, has pretended to be a former employee of the Bank and shared false information on social media which has damaged the credibility of Suruga Bank. Debtors belonging to the SS or Suruga Bank Victims Alliance (SI) are attempting to gain an advantage in negotiations regarding the Apaman Issue by spreading false information and putting undue pressure on the Bank.

In light of this situation, the Bank believes it is important to accurately communicate the status of its response to the Apaman Issue. Suruga Bank therefore provides the following explanation.

Suruga Bank's Response to Date

The issue of fraudulent lending practices at Suruga Bank was uncovered about five years ago with the results of an investigation made by an independent third-party committee announced in September 2018. Following the investigation, Suruga Bank terminated its relationship with its founding members, identified in the third-party committee report as party to misconduct, and all of the former management team resigned. In addition, in May 2019, the "Report (Investigation of All Investment Real Estate Loans)" (hereinafter, the "Investigation") was published¹ revealing the full extent of the problems in the Bank's real estate investment-related lending.

Consequently, Suruga Bank has sincerely reflected on the issue of fraudulent lending and has proceeded with rebuilding its compliance and governance frameworks. As a result, no inappropriate investment real estate loans have been approved since May 2019. Of the investment real estate loans that have been approved since this time, none are in long-term arrears or have resulted in bankruptcy.

The Investigation found that out of a total of 37,907 loans granted for investment properties (including

¹ www.surugabank.co.jp/surugabank/common/english/info/pdf/190515_4_a_en.pdf

for shared housing), approximately 20% (7,813 properties) had involved falsification or forgery of screening documents. Based on this report, the bank has consulted and provided extensive repayment support, by for example, cutting a portion of the principal of these debts. Through these efforts, more than 40% of the 37,907 properties surveyed had a loan balance of zero, and more than 50% are maintaining loan repayments.

Meanwhile, organizational negotiations on 914 properties (approximately 2.5% of the 37,907 properties) are currently ongoing with the Bank and the Suruga Bank Victims Defense Team (hereinafter, the “SI Defence Team”). In some cases, owners have been withholding rental income earned on these properties and have stopped paying principal or interest to the Bank for an extended period of time. To ensure financial soundness, Suruga Bank has appropriately recorded allowances for these liabilities with a coverage ratio of 98.80%.

- Reference: Status and coverage of investment real estate loans and organizational negotiation partners

Suruga Bank’s Approach in Response to the Apaman Issue and Organizational Negotiation Partners

Regarding the Apaman Issue and organizational negotiation partners, Suruga Bank has adopted the following three policies, working diligently and in good faith to find a solution as quickly as possible. The three policies are: (1) propose a plan for early settlement, (2) reduce obligations on debtors by assisting with negotiated sales, and (3) make decisions on an individual basis.

- ① The proposal for an early settlement refers to the idea that the Bank will actively cooperate in clarifying the loan circumstances in an effort to achieve an early resolution for certain types of cases where the Bank is likely to be found liable in tort in a lawsuit. Based on this approach, Suruga Bank proposed an Early Resolution Framework to the SI Defense Team in May 2022.

Although the SI Defense Team expressed a certain understanding around the idea of an early resolution, there were differences of opinion regarding the scope of cases that should be included in the Early Resolution Framework. Furthermore, the submission of materials from the SI Defense Team, which is a prerequisite for discussion, began in earnest in March 2023. The Bank therefore believes that it is necessary for both parties to further cooperate and accelerate efforts going forward.

- ② The assistance with negotiated sales to reduce obligations on debtors refers to support for debtors to voluntarily sell their properties to reduce the amount of their debt or reduce their debt obligations. More specifically, Suruga Bank will introduce companies that carry out property appraisals to owners who wish to reduce their obligations. This support measure was proposed to

the SI Defense Team in December 2022, who then began to provide documents and information in March 2023. With permission from the SI Defense Team, Suruga Bank will provide companies with information on the debtors (property owners) to facilitate procedures.

Debtors are not obliged to use the companies the Bank refers, but instead are also encouraged to choose their own buyers for private sale. Even before the Bank offered the above support, the private sale of 22 properties at the request of some of the debtors had been approved by the Bank with debts on these properties paid off in full.

- ③ Decisions on an individual basis are based on the idea that each organizational negotiation has its own individual circumstances, and so it is necessary to make decisions on a case-by-case basis regarding whether or not the Bank is obligated to compensate for damages, or compensate for a proportion thereof. However, the SI Defense Team insists on a blanket settlement agreement which Suruga Bank finds difficult to accept.
- i. In the results of the Investigation, no wrongdoing was found in about 80% (29,333 properties) of the Apaman loans (36,260 properties). It therefore cannot be assumed that there was wrongdoing in all cases, as claimed by the SI Defense Team and others.
 - ii. In the Apaman Issue, the circumstances of the parties involved differ depending on each individual case. For example, there was a report that a real estate agent falsified documents at the request of the Bank and deceived property owners. However, Suruga Bank has also seen cases where a real estate agent falsified documents deceiving both the owner and the Bank, and cases where the owner and real estate agent jointly falsified documents to obtain a larger loan from the Bank.
 - iii. This is an issue of fairness with debtors with whom the Bank has had individual lawsuits and settlements. It is difficult for the Bank to decide on a blanket settlement, or a one-size-fits-all solution, when judicial rulings and settlements, etc. have already been reached² depending on individual circumstances.
 - Reference: Examples of court decisions regarding Apaman loans and Suruga Bank's liability for damages

Future Actions

Suruga Bank strongly wishes to resolve this issue as soon as possible. Therefore, in accordance with the approach above, Suruga Bank will do its best to support and cooperate with debtors who have

²Rulings have been made in four Apaman loan cases, but in none of them has the Bank's liability for damages been recognized. Moreover, 16 settlements have been reached through alternative dispute resolution or other means.

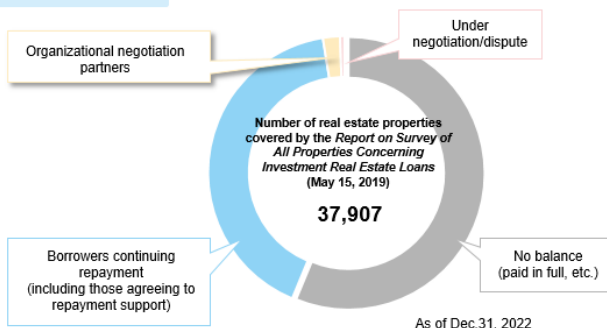
agreed to the proposed framework and provided the necessary materials so that the issue can be promptly resolved in due course.

Furthermore, Suruga Bank will deal with false reports and the spread of rumors on social media and other outlets in accordance with laws and social norms.

Reference Materials

Status and Coverage of Investment Real Estate Loans and Organizational Negotiation Partners

Status of efforts to date



After approximately four years of repayment support and consultation efforts, more than 40% of the 37,907 properties surveyed have a loan balance of zero, and more than 50% are maintaining loan repayment.

However, approximately 3% of the loans other than those are under negotiation or pending (i.e., those for which organizational negotiations are underway or repayment support agreements have not been reached), and we will continue to take appropriate measures to resolve these issues.

	Amount of disclosed claims ^{*1}		Coverage (as of Dec. 31, 2022)		
	Mar. 31, 2020	Dec. 31, 2022 (A)	Appraised collateral ^{*2} (B)	Allowances/guarantees (C)	Coverage (B+C)/A
Organizational negotiation partners	—	90.4	34.9	54.4	98.80%

- Coverage reached over 90% through implementation of preventive allowances, etc.
- Negotiations ongoing for early resolution

Notes:

1. Disclosed claims under the Financial Reconstruction Act
2. Normally, 90% of the total valuation method amount is used for collateral valuation of loans and other credit-related claims, but figures here use 100% of the total valuation method amount

Examples of court decisions regarding Apaman loans and Suruga

No.	Judgment Date (Confirmed)	Jurisdiction	Points of Issue	Court Decision	Judgment
1	2021/6/2	Tokyo High Court	<ul style="list-style-type: none"> • Can the following acts by the real estate agent be considered a tort liability? <ul style="list-style-type: none"> (1) Inducing a customer to enter into a sales contract by giving false explanations about the value of the property or income and expenditure of the property (2) Making the plaintiff take out a loan for more than the purchase price without being made fully aware of the amount to be borrowed • If the Bank was involved in falsifying screening documents, can it be said that the plaintiff is not responsible for repaying the loan based on the principle of good faith? 	<ul style="list-style-type: none"> • Tort liability due to fraud by the real estate agent not recognized <ul style="list-style-type: none"> (1) The sale price was not unreasonably high, and there were no false statements about the property's income and expenses (the sales contract and loan agreement are fundamentally legally separate and independent contracts, so the validity of a sales contract does not immediately affect the validity of a loan agreement) (2) The loan agreement is genuine and in accordance with the intentions of plaintiff • The Bank was neither aware of nor involved in the falsification of screening documents. (The investigation report by the Third Party Committee does not necessarily reflect that the Bank was aware of or involved in any falsification) 	Claim dismissed (Final judgment)
2	2021/10/7	Tokyo High Court	<ul style="list-style-type: none"> • Assuming illegal acts by the real estate agent (falsification of screening documents, etc.), is the Bank's vicarious liability recognized or is joint tort liability recognized? • Does the Bank have an obligation to check customer's creditworthiness, for instance, checking documents that confirm customer's own funds, etc., at time of loan screening? 	<ul style="list-style-type: none"> • Since the real estate agent is not found to be liable in tort, the Bank's vicarious liability or joint tort liability is not recognized based on this assumption • In general, when a bank makes a loan, it is not obligated to point out to the prospective borrower that there had been any forgery or falsification, unless the bank was aware of the forgery or falsification, or could have been aware of it having taken all reasonable care 	Claim dismissed (Final judgment)
3	2021/11/16	Tokyo District Court	<ul style="list-style-type: none"> • Does the Bank have the following duty of care and can it be held jointly liable in tort? <ul style="list-style-type: none"> (1) Duty of care to check documents confirming customer funds, etc. (whether the Bank was aware of the frequent occurrence of falsification or fabrication of documents confirming customer funds, etc.) (2) Obligation to confirm real estate collateral valuation and explanation of valuation method 	<ul style="list-style-type: none"> • The Bank does not have the following duty of care and cannot be held liable in tort <ul style="list-style-type: none"> (1) It is not recognized that there was a common understanding at the Bank that incidents such as falsification or fabrication of documents confirming customer funds, etc., were occurring frequently. The reason why banks ask for documents to verify a customer's financial resources is to determine the customer's ability to repay the loan and to mitigate credit risk. There is no obligation to verify the original documents with the customer. (2) Banks are only required to know the collateral value of the real estate for the possibility of non-repayment of loan. • The Bank is not obliged to confirm the real estate collateral valuation or to explain the valuation method 	Claim dismissed (Final judgment)
4	2022/7/7	Tokyo High Court	<ul style="list-style-type: none"> • Is the Bank liable in joint tort on the grounds that it knew or could have known of the real estate agent's illegal acts (falsification of screening documents, etc.)? • Even if the Bank was unaware of the real estate agent's intent, can it be found to have negligently aided and abetted the real estate agent's illegal acts? 	<ul style="list-style-type: none"> • Although the real estate agent's actions cannot avoid being ruled out as unfairly infringing on the plaintiff's rights, there is not enough evidence to prove that the Bank was aware of or knew of any intent of illegal action, and therefore no joint tort liability can be found • There is no reason to believe that the Bank negligently aided and abetted the real estate agent's actions. 	Claim dismissed (Final judgment)