

# 金融商品取引業者営業保証金規則 Cabinet Office Ordinance on Securities Finance Companies

(平成十九年八月六日内閣府令・法務省令第三号)

(Ordinance of the Cabinet Office and the Ministry of Justice No. 3 of August 6,  
2007)

金融商品取引法（昭和二十三年法律第二十五号）第三十一条の二第十一項の規定に基づき、金融商品取引業者営業保証金規則を次のように定める。

Pursuant to the provisions of Article 31-2, paragraph (11) of the Financial Instruments and Exchange Act (Act No.25 of 1948), the Ordinance on Financial Services Providers' Deposit for Operation is established as follows.

(申立ての手続)

## (Procedure for Application)

第一条 金融商品取引法施行令（昭和四十年政令第三百二十一号。以下「令」という。）第十五条の十四第一項に規定する権利の実行の申立てをしようとする者は、別紙様式第一号による申立書に金融商品取引法（以下「法」という。）第三十一条の二第六項の権利（以下「権利」という。）を有することを証する書面を添えて、金融商品取引業者（法第二条第九項に規定する金融商品取引業者をいい、法第二十八条第二項に規定する第二種金融商品取引業を行う個人及び同条第三項に規定する投資助言・代理業のみを行う者に限る。以下同じ。）が現に受けている登録をした財務局長又は福岡財務支局長（以下「管轄財務局長」という。）に提出しなければならない。

Article 1 A person who intends to apply for execution of right prescribed in Article 15-14, paragraph (1) of the Order for Enforcement of the Financial Instruments and Exchange Act (Cabinet Order No.321 of 1965; hereinafter referred to as the "Order") shall submit a written application prepared using appended form 1 by attaching a document proving that the person has the right set forth in Article 31-2, paragraph (6) of the Financial Instruments and Exchange Act (hereinafter referred to as the "Act") (such right shall be hereinafter referred to as the "Right") to the Director-General of the Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau with whom the Financial Services Provider (meaning Financial Services Provider prescribed in Article 2, paragraph (9) of the Act, limited to individuals who intend to engage in Type II Financial Instruments Business prescribed in Article 28, paragraph (2) of the Act and persons who intend to only engage in Investment Advisory and Agency Business prescribed in paragraph (3) of that Article; the same shall apply hereinafter) is currently registered (hereinafter referred to as the "Director-General of the Local

Finance Bureau of Competent Jurisdiction").

(申出の手續)

(Procedure for Reporting)

第二条 令第十五条の十四第二項に規定する権利の申出をしようとする者は、別紙様式第二号による申出書に権利を有することを証する書面を添えて、管轄財務局長に提出しなければならない。

Article 2 A person who intends to report the person's Right under the provisions of Article 15-14, paragraph (2) of the Order shall submit to the Director-General of the Local Finance Bureau of Competent Jurisdiction a written report prepared using appended form 2 by attaching a document proving that the person has the Right.

(仮配当表)

(Provisional Distribution Table)

第三条 令第十五条の十四第四項の規定による権利の調査のため、管轄財務局長は、令第十五条の十四第二項の期間が経過した後、遅滞なく、仮配当表を作成し、これを公示し、かつ、供託者（供託者が法第三十一条の二第四項の命令により同条第三項の契約に基づき金融商品取引業者のために同条第一項の営業保証金の全部を供託している場合にあつては、当該金融商品取引業者を含む。次条及び第七条において同じ。）に通知しなければならない。

Article 3 In order to carry out the investigation of Right under the provisions of Article 15-14, paragraph (4) of the Order, the Director-General of the Local Finance Bureau of Competent Jurisdiction shall prepare a provisional distribution table, give public notice thereof, and give notice thereof to the depositor without delay after the expiration of the period set forth in Article 15-14, paragraph (2) of the Order (in cases where the depositor has deposited the entire deposit for operation referred to in Article 31-2, paragraph (1) of the Act for a Financial Services Provider under the contract referred to in paragraph (3) of that Article pursuant to the order under paragraph (4) of that Article, including said Financial Services Provider; the same applies in the following Article and Article 7).

(意見聴取会)

(Hearing Session)

第四条 令第十五条の十四第四項の規定による権利の調査の手續は、管轄財務局長の指名する職員が議長として主宰する意見聴取会によって行う。

Article 4 (1) The procedure for the investigation of Right under the provisions of Article 15-14, paragraph (4) of the Order is conducted through a hearing session which an official designated by the Director-General of the Local Finance Bureau of Competent Jurisdiction presides over as the chairperson.

2 令第十五条の十四第一項の規定による申立てをした者（第十七条第二項において「申立人」という。）、令第十五条の十四第二項の期間内に権利の申出をした者又は供託者の代表者（以下「関係人」と総称する。）は、病気その他やむを得ない理由により意見聴取会に出席することができないときは、本人が署名押印した口述書を提出して、意見聴取会における陳述に代えることができる。

(2) When the person who has filed an application under the provisions of Article 15-14, paragraph (1) of the Order (referred to as "Applicant" in Article 17, paragraph (2)), the person who has reported the person's Right within the period set forth in Article 15-14, paragraph (2) of the Order or the representative person of the depositor (hereinafter collectively referred to as the "person concerned") is unable to attend the hearing session due to illness or any other compelling reason, said person concerned may submit an affidavit, which the person has signed and sealed, in lieu of making a statement at the hearing session.

第五条 議長は、必要があると認めるときは、学識経験のある者その他参考人に対し、意見聴取会に出席を求めることができる。

Article 5 The chairperson may request a person with relevant knowledge and experience or any other witness to attend the hearing session when the chairperson finds it to be necessary.

第六条 議長は、議事を整理するため必要があると認めるときは、意見の陳述又は証拠の提示等について必要な指示をすることができる。

Article 6 (1) The chairperson may give necessary instructions with regard to statement of opinions or production of evidence, etc. when the chairperson finds it necessary for organizing the business of the session.

2 議長は、意見聴取会の秩序を維持するために必要があると認めるときは、その秩序を乱し、又は不穏な言動をする者を退去させることができる。

(2) The chairperson may have the person who is disturbing order or is acting or behaving in a disturbing manner leave the session when the chairperson finds it necessary for maintaining order in the hearing session.

第七条 議長は、必要があると認めるときは、意見聴取会を延期し、又は続行することができる。この場合において、議長は、次回の期日及び場所を定め、これを公示し、かつ、供託者に通知しなければならない。

Article 7 The chairperson may postpone or continue the hearing session. In this case, the chairperson shall decide on the date and place of the next session, give public notice thereof, and give notice thereof to the depositor when the chairperson finds it necessary.

第八条 議長は、意見聴取会について次に掲げる事項を記載した調書を作成し、これに

署名押印しなければならない。

**Article 8** The chairperson shall prepare a record stating the following matters with regard to the hearing session, and shall sign and seal said record:

一 意見聴取会の事案の表示

(i) Indication of the case concerning the hearing session;

二 意見聴取会の期日及び場所

(ii) Date and place of the hearing session;

三 議長の職名及び氏名

(iii) Job title and name of the chairperson;

四 出席した関係人の氏名及び住所

(iv) Names and domiciles of the persons concerned who were present;

五 その他の出席者の氏名

(v) Names of any other persons present;

六 陳述された意見の要旨

(vi) Gist of the opinions stated;

七 口述書が提出された場合にあっては、その旨及びその要旨

(vii) If any affidavit has been submitted, a statement to that effect and the gist thereof;

八 証拠が提示された場合にあっては、その旨及び証拠の標目

(viii) If any evidence has been produced, a statement to that effect and a list of the evidence; and

九 その他議長が必要と認める事項

(ix) Other matters found to be necessary by the chairperson.

第九条 関係人は、前条の調書を閲覧することができる。

**Article 9** A person concerned may inspect the record set forth in the preceding Article.

(配当の実施)

(Distribution)

第十条 金融商品取引業者に係る営業保証金のうちに、法第三十一条の二第三項の契約を当該金融商品取引業者と締結している者が供託した営業保証金がある場合には、管轄財務局長は、まず当該金融商品取引業者が供託した営業保証金につき配当を実施しなければならない。

**Article 10** In the case where the deposit for operation pertaining to a Financial Services Provider includes a deposit for operation deposited by a person who has concluded a contract referred to in Article 31-2, paragraph (3) of the Act with said Financial Services Provider, the Director-General of the Local Finance Bureau of Competent Jurisdiction shall first distribute the deposit for operation deposited by the Financial Services Provider.

(配当の手続)

(Procedure of Distribution)

第十一条 管轄財務局長は、配当の実施のため、供託規則（昭和三十四年法務省令第二号）第二十七号書式、第二十八号書式又は第二十八号の二書式により作成した支払委託書を供託所に送付するとともに、配当を受けるべき者に供託規則第二十九号書式により作成した証明書を交付しなければならない。

Article 11 (1) The Director-General of the Local Finance Bureau of Competent Jurisdiction shall, for the purpose of implementing distribution, send a payment entrustment document prepared using form 27, form 28 or form 28-2 of the Deposit Ordinance (Ordinance of the Ministry of Justice No.2 of 1959) to the deposit office and deliver certificates prepared using form 29 of the Deposit Ordinance to persons who are to receive the distribution.

2 法第三十一条の二第八項の適用については、令第十五条の十四第六項に規定する期間を経過した時に、法第三十一条の二第六項の権利の実行があったものとする。

(2) With regard to the application of Article 31-2, paragraph (8) of the Act, the Right referred to in Article 31-2, paragraph (6) of the Act shall be deemed to have been executed when the period prescribed in Article 15-14, paragraph (6) of the Order has elapsed.

3 管轄財務局長は、第一項の手続をしたときは、別紙様式第三号による通知書に、支払委託書の写しを添付して、金融商品取引業者に送付しなければならない。

(3) When the Director-General of the Local Finance Bureau of Competent Jurisdiction has conducted the procedure set forth in paragraph (1), the Director-General shall send a written notice prepared using appended form 3 by attaching a copy of the payment entrustment document to the Financial Services Provider.

(有価証券の換価)

(Conversion of Securities into Money)

第十二条 管轄財務局長は、令第十五条の十四第七項の規定により有価証券（その権利の帰属が社債、株式等の振替に関する法律（平成十三年法律第七十五号）の規定による振替口座簿の記載又は記録により定まるものとされる国債（以下「振替国債」という。）を含む。以下同じ。）を換価するためその還付を受けようとするときは、供託物払渡請求書二通を供託所に提出しなければならない。

Article 12 (1) When the Director-General of the Local Finance Bureau of Competent Jurisdiction intends to receive return of securities (including a national government bond where the ownership of the right for said bond is based on the statement or record in the book-entry transfer account registry under the provisions of the Act on Transfer of Bonds, Shares, etc. (Act No.75 of 2001) (hereinafter referred to as a "book-entry transfer national government bond"); the same applies hereinafter) in order to convert them into money pursuant to the provisions of Article 15-14, paragraph (7) of the Order, the

Director-General shall submit to the deposit office two copies of written request for paying out of deposited property.

2 管轄財務局長は、有価証券を換価したときは、換価代金から換価の費用を控除した額を、当該有価証券に代わる営業保証金として供託しなければならない。

(2) When the Director-General of the Local Finance Bureau of Competent Jurisdiction has converted securities into money, the Director-General shall deposit an amount deducting the expense for the conversion from the conversion value as deposit for operation in lieu of said securities.

3 前項の規定により供託された供託金は、第一項の規定により還付された有価証券を供託した者が供託したものとみなす。

(3) The deposit money deposited pursuant to the provisions of the preceding paragraph shall be deemed to have been deposited by the person who deposited the securities that were returned pursuant to the provisions of paragraph (1).

4 管轄財務局長は、第二項の規定により供託したときは、その旨を書面で前項に規定する者に通知しなければならない。

(4) When the Director-General of the Local Finance Bureau of Competent Jurisdiction has made deposit pursuant to the provisions of paragraph (2), the Director-General shall notify in writing to that effect to the person prescribed in the preceding paragraph.

(営業保証金の取戻し)

#### (Reclaiming of Deposit for Operation)

第十三条 金融商品取引業者又は当該金融商品取引業者のために営業保証金を供託した者は、令第十五条の十五第一項各号に掲げる場合のほか、当該金融商品取引業者が主たる営業所又は事務所の位置の変更により法第三十一条の二第一項に規定する供託所を変更し、かつ、当該変更後の供託所に営業保証金の全部を供託した場合（外国法人又は外国に住所を有する個人にあっては、国内における主たる営業所若しくは事務所の位置の変更又は国内における営業所若しくは事務所の設置若しくは廃止により令第十七条の十六の規定により読み替えて適用する法第三十一条の二第一項に規定する供託所を変更し、かつ、当該変更後の供託所に営業保証金の全部を供託した場合）に該当することとなったときは、その供託していた営業保証金の全部を、管轄財務局長の承認を受けて取り戻すことができる。

Article 13 A Financial Services Provider or a person who has deposited a deposit for operation for said Financial Services Provider may, in addition to cases referred in the items of Article 15-15, paragraph (1) of the Order, Financial Services Providerreclaim the entire deposit for operation that had been deposited with the approval of the Director-General of the Local Finance Bureau of Competent Jurisdiction when said Financial Services Provider has come to fall under the case of the deposit office prescribed in Article 31-2, paragraph (1) of the Act being changed due to changes in the location of its principal business office or office and the entire deposit for operation being

deposited with the deposit office after said change (for a foreign juridical person or an individual domiciled in a foreign state, the case of the deposit office prescribed in Article 31-2, paragraph (1) of the Act applied by replacing certain terms pursuant to the provisions of Article 17-16 of the Order being changed due to changes in the location of its principal business office or office in Japan or establishment or abolition of a business office or office in Japan and the entire deposit for operation being deposited with the deposit office after said change),

第十四条 金融商品取引業者若しくはその承継人又は当該金融商品取引業者のために営業保証金を供託した者が、令第十五条の十五及び前条の規定により管轄財務局長の承認を受けようとするときは、その事由及び取戻しをしようとする供託金の額又は取戻しをしようとする供託有価証券の名称、枚数、総額面等（振替国債については、銘柄、金額等）を記載した別紙様式第四号の承認申請書を管轄財務局長に提出しなければならない。

Article 14 (1) When a Financial Services Provider or its successor or a person who has deposited a deposit for operation for said Financial Services Provider intends to obtain the approval of the Director-General of the Local Finance Bureau of Competent Jurisdiction pursuant to the provisions of Article 15-15 of the Order and the preceding Article, said Financial Services Provider or its successor or said person shall submit to the Director-General of the Local Finance Bureau of Competent Jurisdiction a written application for approval using appended form 4, stating the ground for the reclaiming and the amount of deposit money to be reclaimed or the name, quantity, total face value, etc. of the deposited securities to be reclaimed (the brand, amount, etc. shall be stated in the case of a book-entry transfer national government bond).

2 管轄財務局長は、前項の承認申請書の提出があった場合（前条に規定する場合に該当することとなったときに同項の承認申請書の提出があった場合を除く。以下この項において同じ。）には、次の各号に掲げる場合に依り当該各号に定める期間を下らない一定の期間内に権利の申出をすべきこと及びその期間内に申出をしないときは配当手続から除斥されるべきことを公示しなければならない。

(2) In cases where the written application for approval referred to in the preceding paragraph has been submitted (excluding cases in which the written application for approval referred to in the preceding paragraph has been submitted when the case prescribed in the preceding Article applies; hereinafter the same shall apply in this paragraph), the Director-General of the Local Finance Bureau of Competent Jurisdiction shall give public notice of the fact that the person who has any right prescribed in Article 15-15 of the Order or in Article 14 is to report the person's right within a certain period of not less than the respective periods prescribed in the following items according to the cases set forth therein, and is to be excluded from the distribution

procedure if the person fails to make the report within said period:

一 令第十五条の十五第一項の規定による承認の申請があった場合 六月

(i) in cases where an application for approval pursuant to the provisions of Article 15-15, paragraph (1) of the Order has been filed: six months

二 令第十五条の十五第二項の規定による承認の申請があった場合 一月

(ii) in cases where an application for approval pursuant to the provisions of Article 15-15, paragraph (2) of the Order has been filed: one month

3 前項に規定する権利の申出をしようとする者は、別紙様式第五号による申出書に、権利を有することを証する書面を添えて、管轄財務局長に提出しなければならない。

(3) A person who intends to report the person's right as set forth in the preceding paragraph shall submit to the Director-General of the Local Finance Bureau of Competent Jurisdiction a written report prepared using appended form 5 by attaching a document proving that the person has the right.

4 管轄財務局長は、第二項の期間内にその申出があった場合には、令第十五条の第十四第四項から第六項まで及び第三条から第十二条までの規定に準じて当該者に対し営業保証金の払渡しの手続をとらなければならない。

(4) The Director-General of the Local Finance Bureau of Competent Jurisdiction shall, when the report has been made within the period referred to in paragraph (2), conduct the procedure to pay out the deposit for operation to the relevant person in compliance with the provisions of Article 15-14, paragraphs (4) to (6) inclusive of the Order and Articles 3 to 12 inclusive.

5 管轄財務局長は、前三項の手続をしたとき、又は前条に規定する場合に該当することとなったと認められるときは、別紙様式第六号による承認書を第一項の承認を求めた者に交付しなければならない。

(5) When the Director-General of the Local Finance Bureau of Competent Jurisdiction has conducted the procedure set forth in the preceding three paragraphs, or is found to fall under the case set forth in the preceding Article, the Director-General shall deliver a letter of approval prepared using appended form 6 to the person who requested approval under paragraph (1).

第十五条 営業保証金の取戻しをしようとする者が、供託規則第二十五条第一項の規定により供託物払渡請求書に添付すべき書類は、前条第五項により交付を受けた承認書をもって足りる。

Article 15 It shall be sufficient for a person who intends to reclaim a deposit for operation to attach the letter of approval that has been delivered under paragraph (5) of the preceding Article as the document to be attached to a written request for paying out of deposited property pursuant to the provisions of Article 25, paragraph (1) of the Deposit Ordinance.

(営業保証金の保管替え)

(Change in the Place of Retention of Deposit for Operation)



第十六条 金銭のみをもって営業保証金を供託している者は、当該営業保証金に係る金融商品取引業者の本店その他の主たる営業所又は事務所の所在地について変更があったためその最寄りの供託所に変更があり、当該営業保証金を供託している供託所に対し、営業保証金の供託の保管替えを請求しようとするときは、遅滞なく管轄財務局長にその旨を届け出なければならない。

Article 16 (1) When, due to a change in the location of the head office or other principal business office or offices of the Financial Services Provider pertaining to said deposit for operation, the deposit office nearest thereto has changed, and the depositor intends to request the deposit office to which the depositor has deposited said deposit for operation to change the place of retention thereof, a depositor who has deposited deposit for operation in the form of money alone shall notify to that effect to the Director-General of the Local Finance Bureau of Competent Jurisdiction without delay.

2 管轄財務局長は、前項の届出があったときは、令第十五条の十四に規定する権利の実行の申立てがされている場合又は令第十五条の十五第二項に規定する承認の申請がされている場合を除き、当該営業保証金についての供託書正本を当該届出をした者に交付しなければならない。

(2) When the notification set forth in the preceding paragraph has been given, the Director-General of the Local Finance Bureau of Competent Jurisdiction shall deliver an authenticated copy of the deposit document for said deposit for operation to the person who gave said notification excluding the case where the application for execution of Right set forth in Article 15-14 of the Order or the application for approval set forth in Article 15-15, paragraph (2) of the Order has been filed,.

3 第一項の届出をした者は、前項の規定により供託書正本の交付を受けた後、遅滞なく、当該営業保証金を供託している供託所に対し、費用を予納して、所在地変更後の当該金融商品取引業者の本店その他の主たる営業所又は事務所の最寄りの供託所への営業保証金の保管替えを請求しなければならない。

(3) A person who has given the notification set forth in paragraph (1) shall request the deposit office to which the depositor has deposited said deposit for operation to change the place of retention thereof to the deposit office nearest to the head office or other principal business office or office of the Financial Services Provider after the change of the location, by prepaying the costs, without delay after receiving delivery of the authenticated copy of the deposit document pursuant to the provisions of the preceding paragraph,

4 前項の保管替えを請求した者は、当該保管替え手続の終了後、遅滞なく、管轄財務局長に対し、別紙様式第七号による届出書に供託規則第二十一条の五第三項の規定により交付された供託書正本を添付して、これを提出しなければならない。

(4) A person who has requested the change in the place of retention set forth in the preceding paragraph shall, without delay after completing the procedure of the change in the place of retention, submit to the Director-General of the

Local Finance Bureau of Competent Jurisdiction a written notice prepared using appended form 7 by attaching an authenticated copy of the deposit document that has been delivered pursuant to the provisions of Article 21-5, paragraph (3) of the Deposit Ordinance.

5 管轄財務局長は、前項の届出書に添付された供託書正本を受理したときは、保管証書を当該保管替えを請求した者に交付しなければならない。

(5) When the Director-General of the Local Finance Bureau of Competent Jurisdiction has received an authenticated copy of the deposit document attached to the written notice set forth in the preceding paragraph, the Director-General shall deliver a retention certificate to the person who has requested said change in the place of retention.

(公示)

(Public Notice)

第十七条 令第十五条の十四第二項、第四項及び第五項並びに第三条、第七条及び第十四条第二項に規定する公示は、官報に掲載することによって行う。

Article 17 (1) The public notice prescribed in Article 15-14, paragraphs (2), (4) and (5) of the Order, Articles 3 and 7, and Article 14, paragraph (2) is given through publication in an official gazette.

2 前項の規定による公示の費用は、申立人（営業保証金の取戻しの場合にあっては、当該取戻しをしようとする者）及び令第十五条の十四第二項又は第十四条第二項に規定する権利の申出をした者の負担とする。

(2) The expense for the public notice prescribed in the preceding paragraph is borne by the Applicant (in the case of reclaiming the deposit for operation, the person who intends to reclaim the same) and the person who reported the Right prescribed in Article 15-14, paragraph (2) of the Order or the right prescribed in Article 14, paragraph (2).

(供託規則の適用)

(Application of the Deposit Ordinance)

第十八条 この規則に定めるもののほか、営業保証金の供託及び払渡しについては、供託規則の手続による。

Article 18 In addition to what is provided for in this Ordinance, the procedures under the Deposit Ordinance applies to deposit and paying out of deposit for operation.