

保険会社等営業保証金規則

Regulation on Security Deposits by Insurance Companies

(平成十六年十二月二十八日内閣府・法務省令第五号)
(Order of the Cabinet Office and the Ministry of Justice No. 5 of December 28, 2004)

保険業法（平成七年法律第百五号）第九十九条第八項において準用する信託業法（平成十六年法律第百五十四号）第十一条第十一項の規定に基づき、保険会社等営業保証金規則を次のように定める。

Pursuant to the provisions of Article 11, paragraph (11) of the Trust Business Act (Act No. 154 of 2004) as applied mutatis mutandis pursuant to Article 99, paragraph (8) of the Insurance Business Act (Act No. 105 of 1995), the Regulation on Security Deposits by Insurance Companies is hereby enacted as follows.

(申立ての手續)

(Procedures for Filing a Petition)

第一条 保険業法施行令（平成七年政令第四百二十五号。以下「令」という。）第十三条の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、様式第一による申立書に保険業法（以下「法」という。）第九十九条第八項（法第百九十九条（法第二百四十条の規定により適用する場合を含む。以下同じ。）において準用する場合を含む。以下同じ。）において準用する信託業法第十一条第六項の権利（以下「権利」という。）を有することを証する書面を添えて、金融庁長官に提出しなければならない。

Article 1 A person who intends to file a petition for the fulfillment of the right prescribed in Article 13-4, paragraph (1) of the Order for Enforcement of the Insurance Business Act (Cabinet Order No. 425 of 1995; hereinafter referred to as the "Order") must submit to the Commissioner of the Financial Services Agency a petition prepared using Form No. 1 by attaching a document proving that the person has the right prescribed in Article 11, paragraph (6) of the Trust Business Act as applied mutatis mutandis pursuant to Article 99, paragraph (8) of the Insurance Business Act (hereinafter referred to as the "Act") (including the cases where applied mutatis mutandis pursuant to Article 199 of the Act (including the cases where applied mutatis mutandis pursuant to the provisions of Article 240 of the Act; the same applies hereinafter); the same applies hereinafter) (such right is hereinafter referred to as the "Right").

(申出の手續)

(Procedures for Reporting)

第二条 令第十三条の四第二項に規定する権利の申出をしようとする者は、様式第二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、金融庁長官に提出しなければならない。

Article 2 A person who intends to report the Right prescribed in Article 13-4, paragraph (2) of the Order must submit to the Commissioner of the Financial Services Agency a written report using Form No. 2 by attaching a document proving that the person has such Right.

(仮配当表)

(Provisional Distribution List)

第三条 令第十三条の四第四項の規定による権利の調査のため、金融庁長官は、同条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（供託者が法第九十九条第八項において準用する信託業法第十一条第四項の命令により同条第三項の契約に基づき保険会社等（保険金信託業務を行う生命保険会社（法第二条第三項に規定する生命保険会社をいう。第十五条第一項において同じ。）又は外国生命保険会社等（法第二条第八項に規定する外国生命保険会社等（法第二百四十条の規定により外国生命保険会社等とみなされる法二百十九条第一項の免許を受けた特定法人の引受社員を含む。以下同じ。）をいう。以下同じ。）のために法第九十九条第八項において準用する信託業法第十一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、当該保険会社等を含む。次条第二項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 assess the Right under Article 13-4, paragraph (4) of the Order, the Commissioner of the Financial Services Agency must, without delay after the expiration of the period prescribed in paragraph (2) of the same Article, prepare a provisional distribution list, give public notice thereof, and notify the depositor (if, pursuant to the order referred to in Article 11, paragraph (4) of the Trust Business Act as applied mutatis mutandis pursuant to Article 99, paragraph (8) of the Act and under the contract referred to in paragraph (3) of the same Article, the depositor has deposited the entire business security deposit referred to in Article 11, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 99, paragraph (8) of the Act for an Insurance Company, etc. (meaning a Life Insurance Company (meaning a Life Insurance Company prescribed in Article 2, paragraph (3) of the Act; the same applies in Article 15, paragraph (1)) or a Foreign Life Insurance Company, etc. (meaning a Foreign Life Insurance Company, etc. prescribed in Article 2, paragraph (8) of the Act (including an Underwriting Member of a Specified Juridical Person, which has obtained a business license referred to in Article 219, paragraph (1) of the Act and is deemed to be a Foreign Life Insurance Company, etc. pursuant to the provisions of Article 240 of the Act; the same applies hereinafter); the same applies hereinafter), which provide Insurance-Proceed Trust Services),

including the Insurance Company, etc.; the same applies in paragraph (2) of the following Article and Article 7) thereof.

(意見聴取会)

(Hearing Session)

第四条 令第十三条の四第四項の規定による権利の調査の手続は、金融庁長官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 procedures for the assessment of the Right under Article 13-4, paragraph (4) of the Order are conducted through a hearing session over which an official designated by the Commissioner of the Financial Services Agency presides as the chairperson.

2 令第十三条の四第一項の規定による申立てをした者（第十六条第二項において「申立人」という。）、令第十三条の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) If a person who has filed a petition under Article 13-4, paragraph (1) of the Order (referred to as a "Petitioner" in Article 16, paragraph (2)), a person who has reported the Right within the period prescribed in Article 13-4, paragraph (2) of the Order, or the representative person of the depositor (hereinafter collectively referred to as "Relevant Persons") is unable to attend the hearing session due to illness or any other compelling reason, such person may submit a written statement, which they have 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 When the chairperson finds it necessary, the chairperson may request a person with relevant knowledge and experience or any other witness to attend the hearing session.

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) When the chairperson finds it necessary for organizing the business of the session, the chairperson may give necessary instructions with regard to the statement of opinions, production of evidence, etc.

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) When the chairperson finds it necessary for maintaining order in the hearing session, the chairperson may have a person who is disturbing the order or is acting or behaving in a disturbing manner leave the 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。この場合においては、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 When the chairperson finds it necessary, the chairperson may postpone or continue the hearing session. In this case, the chairperson must determine and give public notice of the date and place of the next session and notify the depositor thereof.

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 must prepare a record stating the following matters with regard to the hearing session, and must sign and seal the 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 Relevant Persons 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 written statement 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 Relevant Persons may inspect the record referred to in the preceding Article.

(配当の実施)

(Distribution)

第十条 保険会社等に係る営業保証金のうちに、法第九十九条第八項において準用する

信託業法第十一条第三項の契約を当該保険会社等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、金融庁長官は、まず当該保険会社等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 When the business security deposit pertaining to an Insurance Company, etc. includes a business security deposit deposited by a person who has concluded the contract referred to in Article 11, paragraph (3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 99, paragraph (8) of the Act with the Insurance Company, etc., the Commissioner of the Financial Services Agency must first distribute the business security deposit deposited by the Insurance Company, etc.

(配当の手続)

(Procedures for Distribution)

第十一条 金融庁長官は、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 Commissioner of the Financial Services Agency must, for the purpose of implementing distribution, send a payment instruction document prepared using Form No. 27, Form No. 28 or Form No. 28-2 of the Deposit Regulation (Ministry of Justice Order No. 2 of 1959) to the official depository and deliver certificates prepared using Form No. 29 of the Deposit Regulation to persons who are to receive the distribution.

2 法第九十九条第八項において準用する信託業法第十一条第八項の適用については、令第十三条の四第六項に規定する期間を経過した時に、法第九十九条第八項において準用する信託業法第十一条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 11, paragraph (8) of the Trust Business Act as applied mutatis mutandis pursuant to Article 99, paragraph (8) of the Act, the Right referred to in Article 11, paragraph (6) of the Trust Business Act as applied mutatis mutandis pursuant to Article 99, paragraph (8) of the Act is deemed to have been fulfilled if the period prescribed in Article 13-4, paragraph (6) of the Order has elapsed.

3 金融庁長官は、第一項の手続をしたときは、様式第三による通知書に、支払委託書の写しを添付して、保険会社等に送付しなければならない。

(3) If the Commissioner of the Financial Services Agency has conducted the procedures referred to in paragraph (1), the Commissioner must send a written notice prepared using Form No. 3 by attaching a copy of the payment entrustment document to the Insurance Company, etc.

(有価証券の換価)

(Realization of Securities)

第十二条 金融庁長官は、令第十三条の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 Commissioner of the Financial Services Agency intends to receive the return of securities (including a Japanese government bond where the ownership of the right for the bond is based on the entry or record in the book-entry account under the Act on Book-Entry Transfer of Corporate Bonds, Shares, etc. (Act No. 75 of 2001) (hereinafter referred to as "Book-Entry Japanese Government Bonds"); the same applies hereinafter) in order to realize them pursuant to the provisions of Article 13-4, paragraph (7) of the Order, the Commissioner must submit to the official depository two copies of the written request for paying out of deposited property.

2 金融庁長官は、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) If the Commissioner of the Financial Services Agency has realized securities into cash, the Commissioner must deposit the amount of the realization value less the expense for the realization, as a security deposit in lieu of the securities.

3 前項の規定により供託された営業保証金は、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 security deposit deposited pursuant to the provisions of the preceding paragraph is deemed to have been deposited by the person who has deposited the securities that were returned pursuant to the provisions of paragraph (1).

4 金融庁長官は、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) If the Commissioner of the Financial Services Agency has made the deposit pursuant to the provisions of paragraph (2), the Commissioner must make notice to that effect in writing to the person prescribed in the preceding paragraph.

（営業保証金の取戻し）

(Recovery of the Security Deposit)

第十三条 保険会社等若しくはその承継人又は当該保険会社等のために営業保証金を供託した者が、令第十三条の五の規定により金融庁長官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）を記載した様式第四の承認申請書を金融庁長官に提出しなければならない。

Article 13 (1) An Insurance Company, etc. or its successor or a person who has deposited the security deposit for the Insurance Company, etc. must, when

intending to obtain the approval of the Commissioner of the Financial Services Agency pursuant to the provisions of Article 13-5 of the Order, submit to the Commissioner of the Financial Services Agency a written application for approval prepared using Form No. 4, stating the grounds therefor and the amount of the deposit to be recovered or the name, quantity, total face value, etc. of the deposited securities to be recovered (the issue, price, etc. are stated in the case of Book-Entry Japanese Government Bonds).

2 金融庁長官は、前項の承認申請書の提出があった場合（令第十三条の五第一項第一号に掲げる場合に該当することとなったときに前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) If 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 if the case prescribed in Article 13-5, paragraph (1), item (i) of the Order has become applicable; hereinafter the same applies in this paragraph), the Commissioner of the Financial Services Agency must give public notice of the fact that the person who has the Right is to report the 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 procedures if the person fails to make the report within the period:

一 令第十三条の五第一項の規定による承認の申請があった場合 六月

(i) if an application for approval under Article 13-5, paragraph (1) of the Order has been filed: six months;

二 令第十三条の五第二項の規定による承認の申請があった場合 一月

(ii) if an application for approval under Article 13-5, 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、様式第五による申出書に、権利を有することを証する書面を添えて、金融庁長官に提出しなければならない。

(3) A person who intends to report the Right prescribed in the preceding paragraph must submit to the Commissioner of the Financial Services Agency a written report using Form No. 5 by attaching a document proving that the person has such Right.

4 金融庁長官は、第二項の期間内にその申出があった場合には、令第十三条の四第四項から第六項まで、及び第三条から前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) If the report has been made within the period referred to in paragraph (2), the Commissioner of the Financial Services Agency must conduct the procedures to pay out the security deposit to the person in accordance with the provisions of Article 13-4, paragraphs (4) through (6) and Article 3 through the preceding

Article of the Order.

5 金融庁長官は、前三項の手續をしたとき又は令第十三条の五第一項第一号に掲げる場合に該当することとなったと認められるときは、様式第六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) If the Commissioner of the Financial Services Agency has conducted the procedures referred to in the preceding three paragraphs, or finds that the case prescribed in Article 13-5, paragraph (1), item (i) of the Order has become applicable, the Commissioner must deliver a letter of approval prepared using Form No. 6 to the person who requested the approval referred to in paragraph (1).

第十四条 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 14 It is sufficient for a person who intends to recover the security deposit 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 Regulation.

(営業保証金の保管替え)

(Transfer of Deposit of the Security Deposit)

第十五条 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保険会社等の本店等（令第十三条の五第一項第一号に規定する本店等をいう。以下この条において同じ。）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、遅滞なく金融庁長官にその旨を届け出なければならない。

Article 15 (1) A person who has deposited the security deposit in the form of money alone must, if, due to a change in the location of the head office, etc. (meaning the head office, etc. prescribed in Article 13-5, paragraph (1), item (i) of the Order; the same applies hereinafter in this Article) of the Insurance Company, etc. pertaining to the security deposit, the official depository nearest thereto has changed and the person intends to request the official depository with which the person has deposited the security deposit to transfer the deposit thereof, notify the Commissioner of the Financial Services Agency to that effect without delay.

2 金融庁長官は、前項の届出があったときは、令第十三条の四第一項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十三条の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) If the notification referred to in the preceding paragraph has been given, the

Commissioner of the Financial Services Agency must, excluding cases where the procedures for the fulfillment of the Right prescribed in Article 13-4, paragraph (1) of the Order or the application for approval prescribed in Article 13-5, paragraph (2) is still pending, deliver an authenticated copy of the deposit certificate for the security deposit to the person who has given the notification.

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保険会社等の本店等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 referred to in paragraph (1) must, without delay after receiving delivery of the authenticated copy of the deposit certificate pursuant to the provisions of the preceding paragraph, and upon prepaying the costs, request the official depository with which the person has deposited the security deposit to transfer the deposit of the security deposit to the official depository nearest to the head office, etc. of the Insurance Company, etc. after relocation.

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、金融庁長官に対し、様式第七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 transfer of deposit referred to in the preceding paragraph must, without delay after completing the procedures for the transfer of deposit, submit to the Commissioner of the Financial Services Agency a written notification prepared using Form No. 7 by attaching an authenticated copy of the deposit certificate that has been delivered pursuant to the provisions of Article 21-5, paragraph (3) of the Deposit Regulation.

5 金融庁長官は、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) If the Commissioner of the Financial Services Agency has received an authenticated copy of the deposit certificate attached to the written notification referred to in the preceding paragraph, the Commissioner must deliver a custody certificate to the person who has requested the transfer of deposit.

(公示)

(Public Notice)

第十六条 令第十三条の四第二項、第四項及び第五項並びに第三条、第七条及び第十三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 16 (1) The public notice prescribed in Article 13-4, paragraphs (2), (4) and (5) of the Order and Articles 3 and 7 and Article 13, 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) 及び令第十三条の四第二項又は第十三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 under the preceding paragraph is borne by the applicant (in the case of the recovery of the security deposit, the person who intends to recover the same) and the person who reported the Right prescribed in Article 13-4, paragraph (2) or Article 13, paragraph (2) of the Order.

(供託規則の適用)

(Application of the Deposit Regulation)

第十七条 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 17 Beyond what is provided for in this Regulation, the procedures under the Deposit Regulation apply to a deposit and the paying out of a security deposit.