

Act on Deposit Transaction Agreements for Specified Commodities

(Act No. 62 of May 23, 1986)

(Purpose)

Article 1 The purpose of this Act is to protect the interests of depositors pertaining to a deposit transaction agreement, by ensuring fairness in the conclusion and performance of the deposit transaction agreement for specified commodities or facility use rights and by aiming to prevent any damages which the depositors may suffer from a deposit transaction agreement.

(Definitions)

Article 2 (1) The term "deposit transaction agreements" as used in this Act means the following agreements:

- (i) an agreement under which one party promises the other party that the one party will accept deposits for goods specified by Cabinet Order (hereinafter referred to as "specified commodities") for a period not shorter than the period set forth by Cabinet Office Order (excluding cases that fall under the acceptance of a trust; including cases in which money or other alternative goods will be delivered in lieu of the return of deposited specified commodities) and that the one party will give the other party economic benefits with regard to the deposits, or one party promises the other party that the one party will accept deposits for specified commodities (excluding cases that fall under the acceptance of a trust) and that the one party will purchase the specified commodities at a certain fixed price (including a price that will be determined according to a specified method) after the passage of a period not shorter than the period set forth by Cabinet Office Order, and under which the other party, in response, promises to make deposits for the specified commodities; and
- (ii) an agreement under which one party promises the other party that the one party will manage the facility use rights specified by Cabinet Order (hereinafter referred to as "facility use rights") for a period not shorter than the period set forth by the Cabinet Office Order referred to in the previous item (excluding cases in which the facility use rights are managed through a trust; including cases in which money or other alternative goods will be delivered in lieu of the facility use rights after the passage of period) and that the one party will give economic benefits with regard to the management, or one party promises the other party that the one party will manage the facility use rights (excluding cases in which the facility use

rights are managed through a trust) and that the one party will purchase the facility use rights at a certain fixed price (including a price that will be determined according to a specified method) after the passage of a period not shorter than the period set forth by Cabinet Office Order, and under which the other party, in response, promises to allow the one party to manage the facility use rights.

- (2) The term "depository service provider" as used in this Act means a person engaged in the acceptance of deposits for specified commodities, or in the management of facility use rights, under deposit transaction agreements (including the sale of the relevant specified commodities or facility use rights that is used as the subject of the deposit transaction agreements) in the course of trade (excluding a person specified by Cabinet Order as a person to whom the provisions of other Acts that ensure fairness in the conclusion and performance of deposit transaction agreements and prevention of damages that depositors may suffer from deposit transaction agreements apply).
- (3) The term "solicitor" as used in this Act means a person who is hired by a depository service provider to solicit the conclusion or renewal of deposit transaction agreements (including solicitation to allow the purchase of the specified commodities or facility use rights in order to use them as the subject for the deposit transaction agreement; the same applies hereinafter).
- (4) The term "depositor" as used in this Act means a person who concludes a deposit transaction agreement with a depository service provider.

(Provision of Documents)

Article 3 (1) When a depository service provider intends to conclude a deposit transaction agreement, the depository service provider must provide a written document containing the following particulars to the client, pursuant to the provisions of Cabinet Office Order, by the time that the deposit transaction agreement is concluded:

- (i) an outline of the deposit transaction agreement with regard to the particulars related to the details and performance of the deposit transaction agreement that are specified by Cabinet Office Order; and
 - (ii) the particulars concerning the status of the services and property of the depository service provider that are specified by Cabinet Office Order.
- (2) When a depository service provider concludes a deposit transaction agreement, the deposit service provider must, pursuant to the provisions of Cabinet Office Order, provide a written document containing the following particulars to the client with regard to the details and performance of the deposit transaction agreement without delay:
- (i) the type, number, and price of the commodities, or the details and market value of the facility use rights;

- (ii) the duration for which the deposit service provider will accept deposits for the commodities, or the duration for which they will manage the facility use rights;
- (iii) the details of the economic benefits to be delivered, and the timing and method of the delivery (for agreements under which the specified commodities or the facility use rights will be purchased, the purchase price or the method used for the calculation thereof);
- (iv) where a depository service provider collects fees from a depositor, the rate or amount of the fees, and the timing and method of collection thereof;
- (v) particulars related to the cancellation of the agreement (including particulars related to the provisions of Article 8, paragraphs (1) through (3) and Article 9, paragraphs (1) and (2));
- (vi) where there are particulars for liquidated damages (including penalties for breach of contract), the details thereof;
- (vii) whether or not there are any measures to secure the return of the commodities to the depositor or to allow the depositor to acquire the facility use rights (including measures to secure the delivery of money or other alternative goods to the depositor, in lieu of the return thereof or the acquisition thereby), and if there are, the details thereof; and
- (viii) beyond what is set forth in the preceding items, the particulars specified by Cabinet Office Order.

(Solicitation to Conclude or Renew Deposit Transaction Agreements)

Article 4 (1) When a depository service provider or a solicitor solicits the conclusion or renewal of a deposit transaction agreement, the depository service provider must not intentionally fail to tell a fact, nor provide a false statement, in relation to the particulars specified by Cabinet Order as important particulars that may have an impact on the customers' decision concerning the deposit transaction agreement or concerning the purchase of the specified commodities or facility use rights.

(2) A depository service provider must not provide a false statement with regard to the particulars specified by Cabinet Order as important particulars that may have an impact on the customers' judgment concerning a deposit transaction agreement, with the intent to prevent the cancellation of the deposit transaction agreement.

(Prohibition of Unjust Acts)

Article 5 A depository service provider or a solicitor must not engage in any of the following acts:

- (i) soliciting the conclusion or renewal of a deposit transaction agreement, or preventing the cancellation of a deposit transaction agreement by using

- intimidating words and deeds;
- (ii) refusing to perform, or unreasonably delaying performance of, the obligations under a deposit transaction agreement or the obligations that occur through the cancellation of a deposit transaction agreement, in whole or in part;
 - (iii) beyond what is set forth in the preceding two items, acts in relation to deposit transaction agreements that are specified by Cabinet Office Order as acts that compromise the protection of customers or depositors.

(Inspection of Documents)

Article 6 A depository service provider must, pursuant to the provisions of Cabinet Office Order, retain documents specifying the status of its services and property at the place of business where services related to deposit transaction agreement is conducted, and, at the request of the depositor, the depository service provider must allow the depositor to inspect these documents.

(Orders to Suspend Services Issued to Depository Service Providers)

Article 7 (1) When the Prime Minister finds that a depository service provider engages in any act in violation of the provisions of Article 3 through the preceding Article and is likely to continue to engage in that act, or that a solicitor engages in any act in violation of the provisions of Article 4, paragraph (1) or Article 5 and is likely to continue to engage in that act, the prime minister may order the depository service provider to suspend solicitation for concluding or renewing deposit transaction agreements or to suspend its use of a solicitor to conduct such solicitation, may order the deposit service provider to suspend its services related to deposit transaction agreement in whole or in part, or order the deposit service provider to take any other necessary measures to protect the interests of its customers or depositors, by setting a period not exceeding one year.

(2) When the Prime Minister issues the order set forth in the preceding paragraph, the prime minister must make the order known to the public.

(Cancellation of Deposit Transaction Agreements)

Article 8 (1) Except when 14 days have elapsed from the day on which a depositor received the documents set forth in Article 3, paragraph (2), the depositor may cancel a deposit transaction agreement, in writing. In this case, the deposit service provider may not claim the payment for damages or penalties for breach of contract with regard to the deposit transaction agreement.

(2) The cancellation of a deposit transaction agreement referred to in the preceding paragraph becomes effective at the time when the depositor issues a

document stating that the depository service provider will cancel the deposit transaction agreement.

- (3) Where a deposit transaction agreement referred to in paragraph (1) is cancelled, the depository service provider bears the costs required for the return of the commodities, or the costs required to have the depositor to acquire the facility use rights, under the relevant deposit transaction agreement.
- (4) Any special agreement that is contrary to the provisions of the preceding three paragraphs and is against the depositor's interest is void.

Article 9 (1) After 14 days have elapsed from the day on which a depositor received the documents set forth in Article 3, paragraph (2), the depositor may cancel the deposit transaction agreement from then on.

- (2) Where a deposit transaction agreement is cancelled, the deposit service provider may not request the depositor to pay an amount of money exceeding the equivalent of 10 percent of the market value of the specified commodities or facility use rights at the time when the deposit transaction agreement was concluded, even if there is any agreement on particulars for liquidated damages or provisions on penalties for breach of contract. In this case, the market value of the commodities or facility use rights stated in the document set forth in Article 3, paragraph (2) is estimated to be the market value of the specified commodities or facility use rights at the time when the deposit transaction agreement was concluded.
- (3) Any special agreement that is contrary to the provisions of the preceding two paragraphs and is against the depositor's interest is void.

(Reports and On-Site Inspections)

Article 10 (1) When the Prime Minister finds it necessary for the enforcement of this Act, the prime minister may, pursuant to the provisions of Cabinet Order, have a deposit service provider or a solicitor submit a report, and may have the relevant officials enter the place of business of a deposit service provider to inspect the books, documents, and other items.

- (2) The officials who conduct on-site inspections pursuant to the provisions of the preceding paragraph must carry an identification card showing its status and present it to the relevant persons.
- (3) The authority to conduct on-site inspections under the provisions of paragraph (1) must not be construed as having been granted for criminal investigation.

(Exclusion from Application)

Article 11 The provisions of Articles 3 through 6 and Articles 8 and 9 do not

apply to deposit transaction agreements that a depositor concludes for business purposes or as a business.

(Consultation with the Consumer Commission)

Article 11-2 When the Prime Minister intends to plan the enactment, amendment, or abolition of the Cabinet Order set forth in Article 2, paragraph (1), item (i) or (ii), paragraph (2) of that Article, Article 4, paragraph (1) or (2), or Article 10, paragraph (1), the prime minister must consult with the Consumer Commission.

(Transitional Measures)

Article 12 Where an order is enacted, amended, or abolished pursuant to the provisions of this Act, the necessary transitional measures (including transitional measures concerning penal provisions) may be specified in the order, to the extent reasonably necessary for the enactment, amendment, or abolition of the order.

(Provision of Materials to the Prime Minister)

Article 13 When the Prime Minister finds it necessary to achieve the purpose of this Act, the prime minister may request the heads of the relevant administrative organs to provide materials, explanations, and seek their cooperation.

(Delegation of Authority)

Article 13-2 The Prime Minister delegates the authority under this Act to the Secretary-General of the Consumer Affairs Agency (except those specified by Cabinet Order).

(Penal Provisions)

Article 14 A person who falls under any of the following items is punished by imprisonment with work for not more than two years or a fine not more than one million yen:

- (i) a person who violates the provisions of Article 4, paragraph (1) or (2); or
- (ii) a person who violates an order issued under the provisions of Article 7, paragraph (1).

Article 15 A person who, in violation of the provisions of Article 3, paragraph (1) or (2), fails to provide a document, or provide a document containing a false statement, is punished by a fine of not more than 500 thousand yen.

Article 16 A person who falls under any of the following items is punished by a

fine of not more than 300 thousand yen.

- (i) a person who, in violation of the provisions of Article 6, fails to retain documents or fails to allow the depositor to inspect the documents at their request, or retains, or allows the depositor to inspect the documents containing a false statement; or
- (ii) a person who fails to submit a report or submits a report under the provisions of Article 10, paragraph (1), or submits a report containing a false statement or a person who refuses, prevents, or evades the inspections conducted under the provisions of that paragraph.

Article 17 When the representative of a juridical person, or an agent, employee, or other worker of a juridical person or individual, with regard to the services of the juridical person or individual, commits any of the violations set forth in the preceding three Articles, not only the offender is punished, but also the juridical person or individual is also punished by the fine specified in the respective Articles.

Supplementary Provisions

(Effective Date)

- (1) This Act comes into effect on the day specified by Cabinet Order within a period not exceeding six months from the date of its promulgation.

(Transitional Measures)

- (2) The provisions of Article 3, paragraph (2), Article 8 and Article 9 do not apply to deposit transaction agreements that were concluded prior to the enforcement of this Act.

Supplementary Provisions [Act No. 160 of December 22, 1999] [Extract]

(Effective Date)

Article 1 This Act (except Article 2 and Article 3) comes into effect on January 6, 2001.

Supplementary Provisions [Act No. 49 of June 5, 2009] [Extract]

(Effective Date)

Article 1 This Act comes into effect on the date on which the Act for the Establishment of the Consumer Affairs Agency and the Consumer Commission (Act No. 48 of 2009) comes into effect; provided, however, that the provisions set forth in the following items come into effect on the dates set forth

respectively in those items.

(i) the provisions of Article 9 of the Supplementary Provisions: the date of promulgation of this Act

(Transitional Measures Concerning the Application of Penal Provisions)

Article 8 Prior laws continue to govern the applicability of penal provisions to conduct in which a person engages prior to the enforcement of this Act and conduct in which a person engages after the enforcement of this Act which, pursuant to the provisions of the Supplementary Provisions of this Act, is continued to be governed by prior laws.

(Provisions Governed by Cabinet Order)

Article 9 In addition to what is provided for in Article 2 through the preceding Article of the Supplementary Provisions, any transitional measures necessary for the enforcement of this Act (including transitional measures concerning penal provisions) are specified by Cabinet Order.