

# Regulation on Deposits by Foreign Insurance Companies

(Order of the Ministry of Justice and the Ministry of Finance No. 1 of February 29, 1996)

Pursuant to the provisions of Article 190, paragraph (11) of the Insurance Business Act (Act No. 105 of 1995), the Regulation on Deposits by Foreign Insurance Companies is hereby enacted as follows.

## (Procedures for Filing a Petition for the Fulfillment of Rights)

Article 1 A person who intends to file a petition for the fulfillment of the right prescribed in Article 26, 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 Appended Form No. 1 by attaching a document proving that the person has the right prescribed in Article 190, paragraph (6) of the Insurance Business Act (Act No. 105 of 1995; hereinafter referred to as the "Act") (the right is hereinafter referred to as the "Right").

## (Procedures for Reporting of Rights)

Article 2 A person who intends to report the Right prescribed in Article 26, paragraph (2) of the Order must submit to the Commissioner of the Financial Services Agency a written report prepared using Appended Form No. 2 by attaching a document proving that the person has the Right.

## (Preparation of a Provisional Distribution List)

Article 3 In order to assess the Right pursuant to the provisions of Article 26, 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 give notice of the contents thereof to the Foreign Insurance Company, etc. (meaning a Foreign Insurance Company, etc. prescribed in Article 2, paragraph (7) of the Act; the same applies hereinafter) and the trustee (meaning a person who has concluded the agreement prescribed in Article 190, paragraph (3) of the Act (hereinafter referred to as the "Guarantee Commissioning Agreement") with the Foreign Insurance Company, etc.; the same applies hereinafter) pertaining to the deposit subject to the assessment of the Right.

(Holding of a Hearing Session)

Article 4 (1) The procedures for the assessment of the Right pursuant to the provisions of Article 26, 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) If a person who has filed a petition for the fulfillment of the Right pursuant to the provisions of Article 26, paragraph (1) of the Order; a person who has reported the Right within the period prescribed in paragraph (2) of the same Article; or a Foreign Insurance Company, etc. or a trustee prescribed in the preceding Article (hereinafter these persons are collectively referred to as "Relevant Persons") is unable to attend the hearing session due to illness or any other compelling reason, the Relevant Persons may submit a written statement, which they have signed and sealed, in lieu of making a statement at the hearing session.

Article 5 If 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.

Article 6 (1) If the chairperson finds it necessary for organizing the business of the session, the chairperson may give instructions with regard to the statement of opinions, production of evidence, and any other necessary matters.

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

Article 7 If 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 so notify the Foreign Insurance Company, etc. and trustee prescribed in Article 3 in advance.

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:

- (i) indication of the case concerning the hearing session;
- (ii) date and place of the hearing session;
- (iii) job title and name of the chairperson;
- (iv) names and domiciles of the Relevant Persons who were present;
- (v) names of any other persons present;
- (vi) gist of the opinions stated;
- (vii) if any written statement referred to in Article 4, paragraph (2) has been submitted, a statement to that effect and the gist thereof;

- (viii) if any evidence has been produced, a statement to that effect and a list of the evidence; and
- (ix) other matters found to be necessary by the chairperson.

Article 9 Relevant Persons may inspect the record referred to in the preceding Article.

(Order of Distribution)

Article 10 If the deposit prescribed in Article 3 includes a portion deposited by a trustee, beyond the portion deposited by a Foreign Insurance Company, etc., the Commissioner of the Financial Services Agency must first distribute the deposit deposited by the Foreign Insurance Company, etc.

(Procedures for Distribution)

Article 11 (1) The Commissioner of the Financial Services Agency must, for the purpose of implementing distribution, send a payment entrustment document prepared using Form No. 27, Form No. 28 or Form No. 28-2 of the Deposit Regulation (Order of the Ministry of Justice No. 2 of 1959) to the official depository and deliver certificates prepared using Form No. 29 of the Deposit Regulation to the persons who are to receive the distribution.

(2) If the Commissioner of the Financial Services Agency has conducted the procedures referred to in the preceding paragraph, the Commissioner must deliver a copy of the payment entrustment document to the Foreign Insurance Company, etc. pertaining to the deposit subject to the distribution and the trustee who has deposited all or part of the deposit pursuant to the provisions of Article 190, paragraph (4) of the Act.

(Recovery of Deposits)

Article 12 (1) If a person who has deposited a deposit pursuant to the provisions of Article 190, paragraph (1), (2), (4) or (8) of the Act (if the provisions of Article 16, paragraph (3) apply, the person includes a Foreign Insurance Company, etc. deemed to have deposited a deposit pursuant to the provisions of the same paragraph; referred to as the "Depositor" in paragraphs (1) and (2) of the following Article and Article 14, paragraph (1)) intends to file a petition for recovery pursuant to the provisions of Article 27, paragraph (1) of the Order, the Depositor must submit to the Commissioner of the Financial Services Agency a petition prepared using Appended Form No. 3, stating the grounds therefor and the amount of money to be recovered or the name, quantity, total face value, etc. of the securities to be recovered (including a Japanese government bond where the ownership of the right for the bond is based on the description or record in the book-entry account pursuant to the provisions of

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) (the issue, price, etc. are stated for Book-Entry Japanese Government Bonds; the same applies hereinafter).

- (2) A person who intends to report the Right referred to in Article 27, paragraph (3) of the Order must submit to the Commissioner of the Financial Services Agency a written report prepared using Appended Form No. 4 by attaching a document proving that the person has the Right.
- (3) The provisions of Article 3 through the preceding Article apply *mutatis mutandis* to the case where there has been reporting of the Right within the period prescribed in Article 22, paragraph (3) of the Order. In this case, the term "Article 26, paragraph (4) of the Order" in Article 3 is deemed to be replaced with "Article 26, paragraph (4) of the Order as applied *mutatis mutandis* pursuant to Article 27, paragraph (5) of the Order," the term "paragraph (2) of the same Article" in the same Article is deemed to be replaced with "paragraph (3) of the same Article," the term "Foreign Insurance Company, etc. (meaning a Foreign Insurance Company, etc. prescribed in Article 2, paragraph (7) of the Act; the same applies hereinafter)" in the same Article is deemed to be replaced with "a person who was a Foreign Insurance Company, etc.," the term "the Foreign Insurance Company, etc." in the same Article is deemed to be replaced with "a person who was the Foreign Insurance Company, etc.," the term "Article 26, paragraph (4) of the Order" in Article 4, paragraph (1) is deemed to be replaced with "Article 26, paragraph (4) of the Order as applied *mutatis mutandis* pursuant to Article 27, paragraph (5) of the Order," the term "the person who has filed a petition for the fulfillment of the Right pursuant to the provisions of Article 26, paragraph (1) of the Order, the person who has reported the Right within the period prescribed in paragraph (2) of the same Article" in paragraph (2) of the same Article is deemed to be replaced with "the person who has reported the Right within the period prescribed in Article 27, paragraph (3) of the Order," the term "Foreign Insurance Company, etc. or the trustee prescribed in the preceding Article" in the same paragraph is deemed to be replaced with "a person who was a Foreign Insurance Company, etc. prescribed in Article 3 or a trustee," the term "Foreign Insurance Company, etc." in Articles 7 and 10 and paragraph (2) of the preceding Article is deemed to be replaced with "a person who was a Foreign Insurance Company, etc."
- (4) If the Commissioner of the Financial Services Agency has granted the approval pursuant to the provisions of Article 27, paragraph (4) or (6) of the Order, the Commissioner must deliver a certificate of the approval of the recovery, prepared using Appended Form No. 5, to the person who has filed a petition referred to in paragraph (1) of the same Article.

- (5) It is sufficient for a person who has filed a petition referred to in Article 27, paragraph (1) of the Order to attach the certificate of the approval of the recovery delivered pursuant to the provisions of the preceding paragraph 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.

Article 13 (1) If a Depositor concludes a Guarantee Commissioning Agreement and makes notification to that effect pursuant to the provisions of Article 190, paragraph (3) of the Act (including cases where a Depositor changes the terms of the Guarantee Commissioning Agreement upon obtaining the approval prescribed in Article 25, item (iii) of the Order and submits the Guarantee Commissioning Agreement to the Commissioner of the Financial Services Agency), and the amount of the deposit already deposited plus the agreement amount prescribed in Article 190, paragraph (3) of the Act exceeds the amount to be deposited pursuant to the provisions of paragraphs (1) and (2) of Article 190 of the Act, the Depositor may file with the Commissioner of the Financial Services Agency an application for approval for the recovery of the excess amount (if the excess amount is greater than the amount of the deposit, the amount of the deposit).

- (2) If a Depositor intends to file the application referred to in the preceding paragraph, the Depositor must submit to the Commissioner of the Financial Services Agency a written application for approval prepared using Appended Form No. 6, stating the grounds for the recovery and the amount of money to be recovered or the name, quantity, total face value, etc. of the securities to be recovered.

- (3) If the Commissioner of the Financial Services Agency grants the approval for the recovery of deposit pertaining to the application for approval referred to in paragraph (1), the Commissioner must deliver a certificate of the approval of the recovery, prepared using Appended Form No. 7, to the person who has filed an application for approval referred to in the same paragraph.

- (4) It is sufficient for a person who has filed an application for approval referred to in paragraph (1) to attach the certificate of the approval of the recovery that has been delivered pursuant to the provisions of the preceding paragraph 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.

(Transfer of Deposit)

Article 14 (1) If a Foreign Insurance Company, etc. relocates its principal office in Japan referred to in Article 187, paragraph (1), item (iv) of the Act

(hereinafter referred to as the "Principal Branch") for which a deposit was made, resulting in a change to its nearest official depository, then the Depositor that made the deposit in the form of money alone must so notify the Commissioner of the Financial Services Agency without delay.

- (2) If the Commissioner of the Financial Services Agency has received the notification referred to in the preceding paragraph, then the Commissioner must deliver an authenticated copy of the deposit certificate for the deposit to the Depositor who made the notification, except when the procedures for the fulfillment of the Right prescribed in Article 26 of the Order or the procedures for the recovery prescribed in Article 27 of the Order or the preceding Article are pending.
- (3) A Depositor who has given the notification referred to in paragraph (1) must, without delay after receiving delivery of the authenticated copy of the deposit certificate under the preceding paragraph, and upon prepaying the costs, request the official depository with which Depositor has deposited the deposit to transfer the deposit to the official depository nearest to the Principal Branch after relocation.
- (4) A person who has requested the transfer of deposit referred to in the preceding paragraph must submit to the Commissioner of the Financial Services Agency, without delay after completing the procedures for the transfer of deposit, a written notification prepared using Appended Form No. 8, 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) 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 for the authenticated copy of the deposit certificate to the person who has requested the transfer of deposit.
- (6) A Depositor who has deposited a deposit in the form of securities or in the form of money and securities pursuant to the provisions of Article 190, paragraph (9) of the Act must, if, due to a change in the location of the Principal Branch of the Foreign Insurance Company, etc. pertaining to the deposit, the official depository nearest thereto has changed, make a deposit in the same amount as the deposit with the official depository nearest to the Principal Branch as of after the change of the location without delay.
- (7) A person who has made the deposit pursuant to the provisions of the preceding paragraph may file with the Commissioner of the Financial Services Agency an application for approval for the recovery of the deposit deposited with the official depository nearest to the Principal Branch as of before the change of the location.

- (8) If a person who has made the deposit pursuant to the provisions of paragraph (6) intends to file the application for approval referred to in the preceding paragraph, the person must submit to the Commissioner of the Financial Services Agency a written application for approval prepared using Appended Form No. 9, stating the grounds for the recovery and the amount of money to be recovered or the name, quantity, total face value, etc. of the securities to be recovered.
- (9) The provisions of paragraphs (3) and (4) of the preceding Article apply *mutatis mutandis* to the procedures for recovery referred to in paragraph (7). In this case, the term "paragraph (1)" in paragraph (3) of the same Article is deemed to be replaced with "Article 14, paragraph (7)," the term "Appended Form No. 7" in the same paragraph is deemed to be replaced with "Appended Form No. 10," and the term "approval referred to in paragraph (1)" in paragraph (4) of the same Article is deemed to be replaced with "approval referred to in Article 14, paragraph (7)."

(Replacement of Deposits)

- Article 15 (1) If the maturity date of securities has arrived or the conversion rate prescribed in Article 132, paragraph (4) of the Regulation for Enforcement of the Insurance Business Act (Order of the Ministry of Finance No. 5 of 1996) has changed, then the person who has deposited the securities pursuant to the provisions of Article 190, paragraph (9) of the Act may file an application with the Commissioner of the Financial Services Agency for approval for recovering the securities where a deposit in lieu of the securities is deposited in advance.
- (2) A person who intends to file the application for approval referred to in the preceding paragraph must submit to the Commissioner of the Financial Services Agency a written application for approval prepared using Appended Form No. 11, stating the contents of the deposited property deposited in lieu of the securities and the name, quantity, total face value, etc. of the securities to be recovered.
- (3) The provisions of paragraphs (3) and (4) of Article 13 apply *mutatis mutandis* to the procedures for recovery referred to in paragraph (1). In this case, the term "paragraph (1)" in paragraph (3) of the same Article is deemed to be replaced with "Article 15, paragraph (1)," the term "Appended Form No. 7" in the same paragraph is deemed to be replaced with "Appended Form No. 12," and the term "approval referred to in paragraph (1)" in paragraph (4) of the same Article is deemed to be replaced with "approval referred to in Article 15, paragraph (1)."

(Realization of Securities)

- Article 16 (1) If the Commissioner of the Financial Services Agency intends to

receive the return of securities in order to realize them pursuant to the provisions of Article 28 of the Order, the Commissioner must submit to the official depository two copies of the written request for paying out of deposited property.

- (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 realization, as a deposit in lieu of the securities.
- (3) The deposit deposited pursuant to the provisions of the preceding paragraph is deemed to have been deposited by the Foreign Insurance Company, etc. which has deposited the securities returned pursuant to the provisions of paragraph (1).
- (4) If the Commissioner of the Financial Services Agency has made the deposit pursuant to the provisions of paragraph (2), the Commissioner must so notify the Foreign Insurance Company, etc. prescribed in the preceding paragraph.

#### (Public Notice)

Article 17 (1) The public notice prescribed in Article 26, paragraphs (2), (4) and (5) of the Order (including the cases where applied *mutatis mutandis* pursuant to Article 27, paragraph (5) of the Order); Article 27, paragraph (3) of the Order; and Articles 3 and 7 hereof (including the cases where applied *mutatis mutandis* pursuant to Article 12, paragraph (3)) is given through publication in an official gazette.

- (2) The expense for the public notice pursuant to the provisions of the preceding paragraph and any other expenses necessary for the procedures for the paying out of deposit (excluding the expense for realization referred to in Article 28 of the Order) are borne by the person to whom the deposit will be paid out, with the amount being in accordance with the amount to be paid out through the procedures for return or recovery and not more than the amount.

#### (Application of the Deposit Regulation)

Article 18 Beyond what is provided for in this Regulation, the procedures under the Deposit Regulation apply to a deposit and the paying out of deposit pertaining to a Foreign Insurance Company, etc.