

Regulation on Security Deposits by Insurance Brokers

(Order of the Ministry of Justice and the Ministry of Finance No. 3 of February 29, 1996)

Pursuant to the provisions of Article 291, paragraph (12) of the Insurance Business Act (Act No. 105 of 1995), the Regulation on Security Deposits by Insurance Brokers 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 43, 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 (if the authority of the Commissioner of the Financial Services Agency has been delegated to the Director-General of the Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau pursuant to the provisions of Article 47, paragraph (8) of the Order, the Director-General of the Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau; the same applies hereinafter) a petition prepared using Appended Form No. 1 by attaching a document proving that the person has the right prescribed in Article 291, paragraph (6) of the Insurance Business Act (Act No. 105 of 1995; hereinafter referred to as the "Act") (such 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 43, 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 such Right.

(Preparation of a Provisional Distribution List)

Article 3 (1) In order to assess the Right under Article 43, 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 Insurance Broker (meaning an Insurance Broker prescribed in Article 2, paragraph (25) of the Act; the same applies hereinafter) pertaining to the security deposit subject to the assessment of the Right and a person who

has concluded a contract referred to in Article 291, paragraph (3) of the Act with the Insurance Broker (hereinafter referred to as a "Trustee") of the contents thereof.

- (2) If the Commissioner of the Financial Services Agency cannot ascertain the location of the office of the Insurance Broker, the Commissioner is not required to notify the Insurance Broker under the preceding paragraph.

(Holding of a Hearing Session)

Article 4 (1) The procedures for the assessment of the Right under Article 43, 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) When a person who has filed a petition for the fulfillment of the Right under Article 43, paragraph (1) of the Order, a person who has reported the Right within the period prescribed in paragraph (2) of the same Article, or an Insurance Broker or a Trustee prescribed in paragraph (1) of 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 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.

Article 6 (1) When 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) 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.

Article 7 (1) 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 Insurance Broker and Trustee prescribed in Article 3, paragraph (1) thereof in advance.

- (2) The provisions of Article 3, paragraph (2) applies mutatis mutandis to the notice to the Insurance Broker under the preceding paragraph.

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 When the security deposit prescribed in Article 3, paragraph (1) includes, beyond the portion deposited by an Insurance Broker, a portion deposited by a Trustee, the Commissioner of the Financial Services Agency must first distribute the security deposit deposited by the Insurance Broker.

(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 (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 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 Insurance Broker pertaining to the security deposit subject to the distribution and the Trustee who has deposited all or part of the security deposit pursuant to the provisions of Article 291, paragraph (4) of the Act.

(3) The provisions of Article 3, paragraph (2) applies mutatis mutandis to the delivery of a copy of the payment entrustment document to the Insurance Broker under the preceding paragraph.

(Recovery of Security Deposit)

- Article 12 (1) When a person who has deposited a security deposit pursuant to the provisions of Article 291, paragraph (1), (4) or (8) of the Act (when the provisions of Article 15, paragraph (3) apply, such person includes an Insurance Broker which is deemed to have deposited a security deposit pursuant to the provisions of the same paragraph; such person is referred to as the "Depositor" in paragraphs (1) through (3) and (6) of the following Article) intends to obtain the approval of the Commissioner of the Financial Services Agency for the recovery of the security deposit pursuant to the provisions of Article 291, paragraph (10) of the Act, the person must submit to the Commissioner of the Financial Services Agency a written application for approval prepared using Appended Form No. 3, stating the grounds for recovery and the amount of money to be recovered or the name, quantity, total face value, etc. of the securities to be recovered (including Japanese government bonds where the ownership of the right for the bond is based on the entry or record in the book-entry transfer 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) (the issue, price, etc. are stated in the case of Book-Entry Japanese Government Bonds; the same applies hereinafter) by attaching a document proving that the person is entitled to the recovery and a document that provides a reference for the designation referred to in Article 291, paragraph (11) of the Act.
- (2) When the Commissioner of the Financial Services Agency intends to grant the approval referred to in the preceding paragraph, the Commissioner must, excluding the case of approving the recovery of security deposit under Article 291, paragraph (10), item (iii) of the Act, give public notice of the fact that the person who has the Right to the security deposit referred to in the preceding paragraph is to report the Right within a certain period of not less than six months, and is to be excluded from the distribution procedures if the person fails to make the report within the period, and must notify the Insurance Broker and Trustee pertaining to the security deposit to that effect.
- (3) The provisions of Article 3, paragraph (2) applies mutatis mutandis to the notice to the Insurance Broker under the preceding paragraph.
- (4) A person who intends to report the Right referred to in paragraph (2) 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 such Right.
- (5) The provisions of paragraphs (4) through (8) of Article 43 of the Order and Articles 3 through 11 of the Order apply mutatis mutandis to the case where reporting of the Right is made within the period referred to in paragraph (2). In this case, the term "paragraph (2)" in Article 43, paragraph (4) of the Order

- is deemed to be replaced with "Article 12, paragraph (2) of the Regulation on Security Deposits by Insurance Brokers (Order of the Ministry of Justice and the Ministry of Finance No. 3 of 1996)," the term "paragraphs (2), (4) and (5)" in paragraph (7) of the same Article is deemed to be replaced with "paragraphs (4) and (5)," the term "where it is necessary for the fulfillment of the Rights" in paragraph (8) of the same Article is deemed to be replaced with "where it is necessary for the fulfillment of the Rights if reporting of the Rights prescribed in Article 12, paragraph (2) of the Regulation on Security Deposits by Insurance Brokers has been made," the term "Article 43, paragraph (4) of the Order" in Article 3, paragraph (1) is deemed to be replaced with "Article 43, paragraph (4) of the Order as applied mutatis mutandis pursuant to Article 12, paragraph (5)," the term "paragraph (2) of the same Article" in the same paragraph is deemed to be replaced with "Article 12, paragraph (2)," the term "Article 43, paragraph (4) of the Order" in Article 4, paragraph (1) is deemed to be replaced with "Article 43, paragraph (4) of the Order as applied mutatis mutandis pursuant to Article 12, paragraph (5)," the term "a person who has filed a petition for the fulfillment of the Right pursuant to the provisions of Article 43, paragraph (1) of the Order, a 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 "a person who has reported the Right within the period referred to in Article 12, paragraph (2)."
- (6) If the Commissioner of the Financial Services Agency has granted the approval referred to in paragraph (1), the Commissioner must deliver a certificate of the approval of the recovery prepared using Appended Form No. 5 to the person who has file the application for approval referred to in the same paragraph; provided, however, that if, pursuant to the provisions of Article 291, paragraph (11) of the Act, the Commissioner of the Financial Services Agency has designated the period in which the security deposit may be recovered and the amount of security deposit that may be recovered, the second page of the certificate of the approval of the recovery is delivered if such period has arrived (when the procedures for the fulfillment of the Right prescribed in Article 43 of the Order, transfer of deposit, etc. referred to in the following Article, or recovery referred to in Article 14 is still pending, it is delivered if the procedures have completed).
- (7) It is sufficient for a person who has obtained the 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 of Security Deposit)

- Article 13 (1) A Depositor who has deposited a security deposit in the form of money alone must, if, due to a change in the location of the principal office of the Insurance Broker pertaining to the security deposit, the official depository nearest thereto has changed, notify the Commissioner of the Financial Services Agency to that effect without delay.
- (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 43 of the Order or the recovery referred to in the preceding Article or the following Article are still pending, deliver an authenticated copy of the deposit certificate for the security deposit to the Depositor.
- (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 pursuant to the provisions of the preceding paragraph, and upon prepaying the costs, request the official depository with which the Depositor has deposited the security deposit to transfer the deposit of the security deposit to the official depository nearest to the principal office after relocation.
- (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 Appended Form No. 6 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 and a statement of security deposit, etc. prescribed in Article 221, paragraph (3) of the Regulation for Enforcement of the Insurance Business Act (Order of the Ministry of Finance No. 5 of 1996).
- (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 security deposit in the form of securities or in the form of money and securities pursuant to the provisions of Article 291, paragraph (9) of the Act must, if, due to a change in the location of the principal office of the Insurance Broker pertaining to the security deposit, the official depository nearest thereto has changed, make a security deposit in the same amount as the security deposit with the official depository nearest to the principal office 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 security deposit deposited with the official depository nearest to the principal office as of before the change of the location.

- (8) When 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. 7, 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 the main clause of paragraph (6) and paragraph (7) of the preceding Article apply mutatis mutandis to the procedures for recovery referred to in paragraph (7). In this case, the term "has granted the approval referred to in paragraph (1)" in the main clause of paragraph (6) of the same Article is deemed to be replaced with "has granted the approval for the recovery of the security deposit pertaining to the application for approval referred to in Article 13, paragraph (7)," the term "Appended Form No. 5" in the same clause is deemed to be replaced with "Appended Form No. 8," the term "person who has obtained the approval referred to in paragraph (1)" in paragraph (7) of the same Article is deemed to be replaced with "person who has obtained the approval pertaining to the application referred to in Article 13, paragraph (7)."

(Replacement of Security Deposit)

- Article 14 (1) A person who has deposited securities pursuant to the provisions of Article 291, paragraph (9) of the Act may, if the maturity date of the securities has arrived, if the person has deposited a security deposit in lieu of the securities in advance, file with the Commissioner of the Financial Services Agency an application for approval for the recovery of the securities.
- (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. 9, 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 the main clause of paragraph (6) and paragraph (7) of Article 12 apply mutatis mutandis to the procedures for recovery referred to in paragraph (1). In this case, the term "has granted the approval referred to in paragraph (1)" in the main clause of paragraph (6) of the same Article is deemed to be replaced with "has granted the approval for the recovery of the security deposit pertaining to the application for approval referred to in Article

14, paragraph (1)," the term "Appended Form No. 5" in the same clause is deemed to be replaced with "Appended Form No. 10," and the term "person who has obtained the approval referred to in paragraph (1)" in paragraph (7) of the same Article is deemed to be replaced with "person who has obtained the approval pertaining to the application referred to in Article 14, paragraph (1)."

(Realization of Securities)

Article 15 (1) When 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 43, paragraph (8) of the Order (including the cases where applied mutatis mutandis pursuant to Article 12, paragraph (5)), 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 the 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 Insurance Broker who has deposited the securities that were 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 notify the Insurance Broker prescribed in the preceding paragraph to that effect.

(Public Notice)

Article 16 (1) The public notice prescribed in Article 43, paragraphs (2), (4) and (5) of the Order (including the cases where applied mutatis mutandis pursuant to Article 12, paragraph (5)) and Article 3, paragraphs (1) and Article 7, paragraph (1) (including the cases where applied mutatis mutandis pursuant to Article 12, paragraph (5)) and Article 12, paragraph (2) is given through publication in an official gazette.

(2) The expense for the public notice under the preceding paragraph and any other expenses necessary for the procedures for the paying out of security deposit (excluding the expense for realization referred to in Article 43, paragraph (8) of the Order (including the cases where applied mutatis mutandis pursuant to Article 12, paragraph (5)) are borne by the person to whom the security 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 17 Beyond what is provided for in this Regulation, the procedures under

the Deposit Regulation apply to a deposit and the paying out of security deposit pertaining to an Insurance Broker.