

# 金融機関等が行う特定金融取引の一括清算に関する法律

## Act on Close-Out Netting of Specified Financial Transactions Conducted by Financial Institutions

(平成十年六月十五日法律第百八号)

(Act No. 108 of June 15, 1998)

(目的)

(Purpose)

第一条 この法律は、金融機関等が行う特定金融取引の一括清算についての破産手続等における取扱いを確定することにより、金融機関等が行う特定金融取引の決済の安定性の確保とこれによる特定金融取引の活性化を図り、もって我が国の金融の機能に対する内外の信頼の向上と国民経済の健全な発展に資することを目的とする。

Article 1 This Act aims to ensure the stable settlement of specified financial transactions and to promote the use of these transactions by clarifying the handling of close-out netting of specified financial transactions entered into by financial institutions in bankruptcy and similar proceedings, thereby contributing to increased confidence in Japan's financial system both at home and abroad and to the sound development of the national economy.

(定義)

(Definitions)

第二条 この法律において「特定金融取引」とは、金利、通貨の価格、金融商品市場（金融商品取引法（昭和二十三年法律第二十五号）第二条第十四項に規定する金融商品市場をいう。）における相場その他の指標に係る変動、市場間の格差等（以下この項において「金利変動等」という。）に基づいて算出される金銭の授受を約する取引その他の金利変動等を利用して行われる取引のうち、同条第二十二項に規定する店頭デリバティブ取引その他の内閣府令で定めるものをいう。

Article 2 (1) In this Act, the term "specified financial transaction" means Over-the-Counter Derivatives Transactions defined in Article 2, paragraph (22) of the Financial Instruments and Exchange Act (Act No. 25 of 1948) and any other transactions specified by Cabinet Office Order, among transactions based on fluctuations or inter-market price differences (hereinafter referred to as "interest rate or other fluctuations" in this paragraphs) in market variables such as interest rates, currency values, and quotations on financial instruments markets (meaning "financial instruments market" as defined in paragraph (14) of that Article) that include transactions entered into for the exchange of cash based on interest rate or other fluctuations.

2 この法律において「金融機関等」とは、次に掲げる法人をいう。

(2) In this Act, the term "financial institution" means any legal person set forth in the following:

一 銀行法（昭和五十六年法律第五十九号）第二条第一項に規定する銀行又は長期信用銀行法（昭和二十七年法律第百八十七号）第二条に規定する長期信用銀行

(i) a bank defined in Article 2, paragraph (1) of the Banking Act (Act No. 59 of 1981) or long-term credit bank defined in Article 2 of the Long-term Credit Bank Act (Act No. 187 of 1952);

二 金融商品取引法第二条第九項に規定する金融商品取引業者（同法第二十八条第一項に規定する第一種金融商品取引業を行う者（同法第二十九条の四の二第九項に規定する第一種少額電子募集取扱業者を除く。）に限る。）

(ii) a Financial Instruments Business Operator defined in Article 2, paragraph (9) of the Financial Instruments and Exchange Act (provided that the legal entity is engaged in a Type I Financial Instruments Business under Article 28, paragraph (1) of that Act (unless it is a Type I Small Amount Electronic Public Offering Business Operator under Article 29-4-2, paragraph (9) of that Act)); and

三 その他我が国の法令により営業若しくは事業の免許、登録等を受けている法人又は特別の法律により設立された法人であつて、自己又は顧客の計算において特定金融取引を相当の規模で行うものとして政令で定めるもの

(iii) any other legal person whose operations or business is licensed or registered pursuant to the laws and regulations of Japan or any other legal person that is established pursuant to special laws, as may be designated by Cabinet Order, as conducting a substantial volume of specified financial transactions for its own account or for the account of its customer.

3 この法律において「破産手続等」とは、破産手続、再生手続又は更生手続をいう。

(3) In this Act, the term "bankruptcy and similar proceedings" means bankruptcy proceedings, rehabilitation proceedings, or reorganization proceedings.

4 この法律において「一括清算事由」とは、破産手続開始、再生手続開始又は更生手続開始の申立てをいう。

(4) In this Act, the term "close-out netting event" means a petition for the commencement of bankruptcy proceedings, rehabilitation proceedings, or reorganization proceedings.

5 この法律において「基本契約書」とは、特定金融取引を行おうとする金融機関等とその相手方との間において二以上の特定金融取引を継続して行うために作成される契約書で、契約の当事者間において行われる特定金融取引に係る債務についてその履行の方法その他当該特定金融取引に関する基本的事項を定めるものをいう。

(5) In this Act, the term "master agreement" means an agreement that is entered into for the continuous execution of two or more specified financial transactions between a financial institution seeking to enter into those transaction and its counterparty, and that provides for the performance of any obligations arising from any specified financial transaction between the parties to the agreement

and other basic matters related to the relevant specified financial transactions.

6 この法律において「一括清算」とは、基本契約書に基づき特定金融取引を行っている当事者の一方に一括清算事由が生じた場合には、当該当事者の双方の意思にかかわらず、当該一括清算事由が生じた時において、当該基本契約書に基づいて行われているすべての特定金融取引についてその時における当該特定金融取引のそれぞれにつき内閣府令で定めるところにより算出した評価額を合算して得られる純合計額が、当該当事者間における一の債権又は一の債務となることをいう。

(6) In this Act, the term "close-out netting" means the calculation that is made regardless of both parties' intentions, of a single claim or obligation between the parties, upon the occurrence of a close-out netting event with respect to one of the parties to specified financial transactions entered into pursuant to a master agreement, based on the net aggregate amount obtained by adding up the values, as determined pursuant to a method to be established by Cabinet Office Order, of all the specified financial transactions entered into under the master agreement.

(一括清算と破産手続等との関係)

#### (Relationship Between Close-Out Netting and Bankruptcy and Similar Proceedings)

第三条 破産手続開始の決定、再生手続開始の決定又は更生手続開始の決定（以下この条において「破産手続開始決定等」という。）がなされた者が、一括清算の約定をした基本契約書に基づき特定金融取引を行っていた金融機関等又はその相手方である場合には、当該基本契約書に基づいて行われていたすべての特定金融取引についてこれらの者が有する次の各号に掲げる法律に規定する当該各号に定める財産又は債権は、当該破産手続開始決定等に係る一括清算事由が生じたことにより、それぞれ、当該破産手続開始決定等がなされた者が当該約定に基づき有することとなった一の債権又はその相手方が当該約定に基づき有することとなった一の債権とする。

Article 3 In the event that a financial institution, or a counterparty to a financial institution that has entered into specified financial transactions pursuant to a master agreement that includes a close-out netting provision has been issued an order into bankruptcy proceedings, rehabilitation proceedings, or restructuring proceedings (hereinafter referred to as "bankruptcy proceedings commencement order" in this Article), any assets or claims under any of the laws in the following items arising in connection with any specified financial transaction entered into pursuant to the master agreement are, upon the occurrence of a close-out netting event in connection with the bankruptcy proceedings commencement order, deemed by the party subject to the bankruptcy proceedings commencement order to be a single claim under the relevant provision or a single claim under that provision by its counterparty:

一 破産法（平成十六年法律第七十五号） 破産財団に属する財産又は破産債権  
(i) Bankruptcy Act (Act No. 75 of 2004): property that belongs to a bankruptcy

estate or bankruptcy claims;

二 民事再生法（平成十一年法律第二百二十五号） 再生手続開始の時に再生債務者に属する財産又は再生債権

(ii) Civil Rehabilitation Act (Act No. 225 of 1999): property that belongs to a rehabilitation debtor at the time of commencement of rehabilitation proceedings or rehabilitation claims; and

三 会社更生法（平成十四年法律第百五十四号）又は金融機関等の更生手続の特例等に関する法律（平成八年法律第九十五号） 更生手続開始の時に株式会社若しくは同法第二条第二項に規定する協同組織金融機関若しくは同条第六項に規定する相互会社に属する財産又は会社更生法第二条第十二項本文若しくは金融機関等の更生手続の特例等に関する法律第四条第十二項本文若しくは第百六十九条第十二項本文に規定する更生債権等

(iii) Corporate Reorganization Act (Act No. 154 of 2002) or Act on Special Treatment of Corporate Reorganization Proceedings and Other Insolvency Proceedings of Financial Institutions (Act No. 95 of 1996): property that, at the time of commencement of reorganization proceedings, belongs to a stock company or to a cooperative structured financial institution as defined in Article 2, paragraph (2) of the Act on Special Treatment of Corporate Reorganization Proceedings and Other Insolvency Proceedings of Financial Institutions or to a mutual company as defined in paragraph (6) of that Article; or reorganization claims as defined in the main clause of Article 2, paragraph (12) of the Corporate Reorganization Act or in the main clause of Article 4, paragraph (12) or in the main clause of Article 169, paragraph (12) of the Act on Special Treatment of Corporate Reorganization Proceedings and Other Insolvency Proceedings of Financial Institutions.