

信託兼営金融機関営業保証金規則

Regulation on Security Deposits by Financial Institutions Engaged in Trust Business

(平成十六年十二月二十八日内閣府・法務省令第四号)
(Cabinet Office and Ministry of Justice Order No. 4 of December 28, 2004)

金融機関の信託業務の兼営等に関する法律（昭和十八年法律第四十三号）第四条第一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、信託兼営金融機関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 4, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions (Act No. 43 of 1943), the Regulation on Security Deposits by Financial Institutions Engaged in Trust Business is hereby enacted as follows.

(申立ての手續)

(Procedures for Filing a Petition)

第一条 金融機関の信託業務の兼営等に関する法律施行令（平成五年政令第三十一号。以下「令」という。）第六条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金融機関の信託業務の兼営等に関する法律（以下「法」という。）第二条第一項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、信託業務を営む金融機関（令第十八条第一項に定める金融庁長官の指定する信託業務を営む金融機関を除く。）の場合にあっては本店等（令第七条第一項第一号に規定する本店等をいう。第二条及び第十五条において同じ。）の所在地を管轄する財務局長（財務支局長を含む。以下同じ。）に、令第十八条第一項に定める金融庁長官の指定する信託業務を営む金融機関の場合にあっては金融庁長官にそれぞれ提出しなければならない。

Article 1 A person who intends to file a petition for the enforcement of the right as prescribed in Article 6, paragraph (1) of the Enforcement Order of the Act on Engagement in Trust Business Activities by Financial Institutions (Cabinet Order No. 31 of 1993; hereinafter referred to as the "Order") must submit a written petition by Form 1, together with a document proving that that person holds the right (hereinafter, said right is referred to as the "Right") set forth in Article 11, paragraph (6) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions (hereinafter referred to as the "Act"), respectively, to the Director General of the Local Finance Bureau (including the Director General of the Local Finance Branch Bureau; the same applies hereinafter) that has jurisdiction over the location of the head office,

etc. (meaning the head office, etc. prescribed in Article 7, paragraph (1), item (i) of the Order; the same applies in Article 2 and Article 15) when that person is a financial institution engaged in trust business (excluding the financial institutions engaged in trust business designated by the Commissioner of the Financial Services Agency as prescribed in Article 18, paragraph (1) of the Order), or to the Commissioner of the Financial Services Agency when that person is a financial institution engaged in trust business designated by the Commissioner of the Financial Services Agency as prescribed in Article 18, paragraph (1) of the Order.

(申出の手續)

(Procedures for Reporting the Right)

第二条 令第六条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、金融庁長官又は信託業務を営む金融機関（令第十八条第一項に定める金融庁長官の指定する信託業務を営む金融機関を除く。）の本店等の所在地を管轄する財務局長（以下「金融庁長官等」という。）に提出しなければならない。

Article 2 A person who intends to report the Right as prescribed in Article 6, paragraph (2) of the Order must submit a written report by Form 2, together with a document proving that that person holds the Right, to the Commissioner of the Financial Services Agency or the Director General of the Local Finance Bureau that has jurisdiction over the location of the head office, etc. of the financial institution engaged in trust business (excluding the financial institutions engaged in trust business designated by the Commissioner of the Financial Services Agency as prescribed in Article 18, paragraph (1) of the Order) (hereinafter referred to as the "Commissioner of the Financial Services Agency, etc.").

(仮配当表)

(Provisional Distribution List)

第三条 令第六条第四項の規定による権利の調査のため、金融庁長官等は、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（供託者が法第二条第一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法第一条第一項の認可を受けた金融機関（以下「信託兼営金融機関」という。）のために法第二条第一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、当該信託兼営金融機関を含む。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 make an examination into the Rights pursuant to the provisions of Article 6, paragraph (4) of the Order, the Commissioner of the Financial Services Agency, etc. must, without delay after the expiration of the period set forth in paragraph (2) of the Article, prepare a provisional

distribution list, give public notice thereof, and also give a notice thereof to the depositor (if, pursuant to the order set forth in Article 11, paragraph (4) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act and under the contract set forth in paragraph (3) of the Article, the depositor has deposited the entire security deposit set forth in Article 11, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act for a financial institution that has obtained the authorization set forth in Article 1, paragraph (1) of the Act (hereinafter referred to as the "Financial Institution Engaged in Trust Business"), including that Financial Institution Engaged in Trust Business; the same applies in paragraph (2) of the following Article and Article 7).

(意見聴取会)

(Hearing Session)

第四条 令第六条第四項の規定による権利の調査の手続は、金融庁長官等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 an examination into the Rights pursuant to the provisions of Article 6, paragraph (4) of the Order are to be implemented through a hearing session in which an official designated by the Commissioner of the Financial Services Agency, etc. presides as the chairperson.

2 令第六条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。）、令第六条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) When a person who has filed a petition pursuant to the provisions of Article 6, 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 set forth in Article 6, 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, that person may submit an affidavit, on which that person has affixed signature and seal, 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 finding it necessary, the chairperson may request a person with relevant knowledge and experience or any other person of reference 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 finding 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 finding 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 finding 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 also give a notice thereof to the depositor.

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 affix the chairperson's signature and seal thereon:

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) official 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 present;

五 その他の出席者の氏名

(v) names of 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つては、その旨及びその要旨

(vii) if any affidavit is submitted, a statement to that effect and the gist thereof;

八 証拠が提示された場合にあつては、その旨及び証拠の標目

(viii) if any evidence is produced, a statement to that effect and a list of the

evidence;

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 The Relevant Persons may inspect the record set forth in the preceding Article.

(配当の実施)

(Distribution)

第十条 信託兼営金融機関に係る営業保証金のうちに、法第二条第一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信託兼営金融機関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、金融庁長官等は、まず当該信託兼営金融機関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 security deposit pertaining to a Financial Institution Engaged in Trust Business includes a security deposit from a person who has concluded a contract set forth in Article 11, paragraph (3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act with that Financial Institution Engaged in Trust Business, the Commissioner of the Financial Services Agency, etc. must first conduct a distribution with regard to the security deposit deposited by that Financial Institution Engaged in Trust Business.

(配当の手続)

(Procedures for Distribution)

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

2 法第二条第一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、令第六条第六項に規定する期間を経過した時に、法第二条第一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 2, paragraph (1) of the Act, the Right is deemed to have been enforced as set forth in Article 11,

paragraph (6) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act when the period prescribed in Article 6, paragraph (6) of the Order has elapsed.

3 金融庁長官等は、第一項の手續をしたときは、様式第三による通知書に、支払委託書の写しを添付して、信託兼営金融機関に送付しなければならない。

(3) Having taken the procedures as set forth in paragraph (1), the Commissioner of the Financial Services Agency, etc. must send a written notice by Form 3, together with a copy of the payment entrustment document, to the Financial Institution Engaged in Trust Business.

(有価証券の換価)

(Realization of Securities)

第十二条 金融庁長官等は、令第六条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, etc. intends to receive the return of securities (including Japanese Government Bonds for which the ownership of the right is to be determined based on the statement or record in the book-entry account pursuant to the provisions of the Act on Book-Entry of Corporate Bonds and Shares (Act No. 75 of 2001) (hereinafter referred to as "Book-Entry Transfer Japanese Government Bonds"); the same applies hereinafter) in order to realize them pursuant to the provisions of Article 6, paragraph (7) of the Order, the Commissioner, etc. must submit to the official depository two copies of the written request for paying out of deposited property.

2 金融庁長官等は、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) Having realized securities, the Commissioner of the Financial Services Agency, etc. must deposit the amount that remained after deducting the expense for the realization from the realized value, as a security deposit in lieu of the relevant 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 deposited the securities that were refunded pursuant to the provisions of paragraph (1).

4 金融庁長官等は、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) Having realized a security deposit pursuant to the provisions of paragraph (2),

the Commissioner of the Financial Services Agency, etc. must give a 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 信託兼営金融機関若しくはその承継人又は当該信託兼営金融機関のために営業保証金を供託した者が、令第七条の規定により金融庁長官等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等に提出しなければならない。

Article 13 (1) A Financial Institution Engaged in Trust Business or its successor, or a person who has deposited a security deposit for that Financial Institution Engaged in Trust Business, which intends to obtain the approval of the Commissioner of the Financial Services Agency, etc. pursuant to the provisions of Article 7 of the Order, must submit to the Commissioner of the Financial Services Agency, etc. a written application for approval by Form 4 that states 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 (or the issue, price, etc. in the case of Book-Entry Transfer Japanese Government Bonds).

2 金融庁長官等は、前項の承認申請書の提出があった場合（令第七条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。）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) When the written application for approval set forth in the preceding paragraph is submitted (excluding cases where the written application for approval set forth in the preceding paragraph is submitted when the case set forth in Article 7, paragraph (1), item (i) of the Order has become applicable), the Commissioner of the Financial Services Agency, etc. must give public notice of the fact that the person should report the Right within a certain period of not less than the periods respectively prescribed in the following items according to the cases set forth therein, and that the person is to be excluded from the distribution procedures if the person fails to make the report within that period:

一 令第七条第一項第二号の規定による承認の申請があった場合 六月

(i) when an application for approval pursuant to the provisions of Article 7, paragraph (1), item (ii) of the Order is filed: six months;

二 令第七条第二項の規定による承認の申請があった場合 一月

(ii) when an application for approval pursuant to the provisions of Article 7, paragraph (2) of the Order is 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、金融庁長官等に提出しなければならない。

(3) A person who intends to report the Right as prescribed in the preceding paragraph must submit to the Commissioner of the Financial Services Agency, etc. a written report by Form 5, together with a document proving that that person holds the Right.

4 金融庁長官等は、第二項の期間内にその申出があった場合には、令第六条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) When the report is made within the period set forth in paragraph (2), the Commissioner of the Financial Services Agency, etc. must take the procedures to pay out the security deposit to the relevant person in accordance with the provisions of Article 6, paragraph (4) to paragraph (6) of the Order and Article 3 to the preceding Article.

5 金融庁長官等は、前三項の手続をしたとき、又は令第七条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) When the Commissioner of the Financial Services Agency, etc. takes the procedures set forth in the preceding three paragraphs or finds that the case set forth in Article 7, paragraph (1), item (i) of the Order has become applicable, the Commissioner, etc. must deliver a written approval by Form 6 to the person who requested the approval set forth 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 submit the written approval delivered thereto 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 Place 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信託兼営金融機関の本店等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等にその旨を届け出なければならない。

Article 15 (1) When a person deposits the security deposit in the form of money alone and if the nearest official depository changes due to a change in the

location of the head office, etc. of the Financial Institution Engaged in Trust Business pertaining to that security deposit and that person intends to request the official depository to which that person has deposited the security deposit to transfer the place of deposit thereof, that person must submit a notification to that effect to the Commissioner of the Financial Services Agency, etc. without delay.

2 金融庁長官等は、前項の届出があったときは、令第六条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七条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) When the notification set forth in the preceding paragraph is submitted, the Commissioner of the Financial Services Agency, etc. must deliver an authenticated copy of the deposit certificate for the relevant security deposit to the person who has submitted that notification, except for cases where a petition for the enforcement of the Right is being filed as prescribed in Article 6, paragraph (1) of the Order or an application for approval is being filed as prescribed in Article 7, paragraph (2) of the Order.

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信託兼営金融機関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 submitted the notification set forth in paragraph (1) must request the official depository to which that person has deposited the security deposit to transfer the place of deposit thereof to the official depository nearest to the head office, etc. of the Financial Institution Engaged in Trust Business after the change of the location thereof, by prepaying the expense, without delay after receiving the delivery of the authenticated copy of the deposit certificate pursuant to the provisions of the preceding paragraph.

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、金融庁長官等に対し、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 place of deposit set forth in the preceding paragraph must submit to the Commissioner of the Financial Services Agency, etc. a written notification by Form 7, together with an authenticated copy of the deposit certificate delivered thereto pursuant to the provisions of Article 21-5, paragraph (3) of the Deposit Regulation, without delay after completing the relevant procedures for the transfer of place of deposit.

5 金融庁長官等は、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) Having received an authenticated copy of the deposit certificate attached to

the written notification set forth in the preceding paragraph, the Commissioner of the Financial Services Agency, etc. must deliver a retention certificate to the person who has requested that transfer of place of deposit.

(公示)

(Public Notice)

第十六条 令第六条第二項、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 6, paragraph (2), paragraph (4) and paragraph (5) of the Order and Article 3, Article 7, and Article 13, paragraph (2) is to be 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つては、当該取戻しをしようとする者）及び令第六条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 pursuant to the provisions of the preceding paragraph is to be borne by the petitioner (in the case of the recovery of a security deposit, the person who intends to recover the same) and the person who has reported the Right as prescribed in Article 6, paragraph (2) of the Order or Article 13, paragraph (2).

(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 the deposit and paying out of a security deposit.