

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施行規則

Regulation for Enforcement of the Act on Close-Out Netting of Specified Financial Transactions Conducted by Financial Institutions

(平成十年十一月二十七日総理府・大蔵省令第四十八号)

(Order of the Prime Minister's Office and the Ministry of Finance No. 48 of November 27, 1998)

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（平成十年法律第百八号）第二条第一項及び第六項の規定に基づき、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施行規則を次のように定める。

Pursuant to the provisions of Article 2, paragraphs (1) and (6) of the Act on Close-Out Netting of Specified Financial Transactions Conducted by Financial Institutions (Act No. 108 of 1998), the Regulation for Enforcement of the Act on Close-Out Netting of Specified Financial Transactions Conducted by Financial Institutions is hereby established as follows.

(特定金融取引)

(Specified Financial Transactions)

第一条 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（以下「法」という。）第二条第一項に規定する内閣府令で定めるものは、次に掲げるものとする。

Article 1 The transactions specified by Cabinet Office Order as prescribed in Article 2, paragraph (1) of the Act on Close-Out Netting of Specified Financial Transactions Conducted by Financial Institutions (hereinafter referred to as "the Act") are as follows:

一 金融商品取引法（昭和二十三年法律第二十五号）第二条第二十二項に規定する店頭デリバティブ取引及びその担保の目的で行う金銭又は有価証券の貸借又は寄託（以下「担保取引」という。）

(i) over-the-counter derivatives transactions prescribed in Article 2, paragraph (22) of the Financial Instruments and Exchange Act (Act No. 25 of 1948), and loan or deposit of cash or securities conducted for the purpose of providing collateral for those transactions (hereinafter referred to as "collateral transactions");

二 銀行法（昭和五十六年法律第五十九号）第十条第二項第十四号に規定する金融等デリバティブ取引及びその担保取引

(ii) financial derivatives transactions prescribed in Article 10, paragraph (2), item (xiv) of the Banking Act (Act No. 59 of 1981) and collateral transactions

thereof;

三 有価証券の買戻又は売戻条件付売買及びその担保取引

(iii) repurchase agreement and reverse repurchase agreement for securities and collateral transactions thereof;

四 有価証券の貸借及びその担保取引

(iv) lending and borrowing of securities and collateral transactions thereof;

五 当事者の一方が受渡日を指定できる権利を有する債券売買であつて、一定の期間内に当該権利が行使されない場合には、当該売買契約が解除される取引及びその担保取引

(v) bond trading in which one party thereto is entitled to designate the delivery date, and in which the contract for the trading of bonds will be cancelled if the party does not exercise the right within a certain period, and collateral transactions thereof;

六 先物外国為替取引及びその担保取引

(vi) foreign exchange futures transactions and collateral transactions thereof; and

七 商品先物取引法（昭和二十五年法律第二百三十九号）第二条第十四項に規定する店頭商品デリバティブ取引及びその担保取引（第二号に掲げるものに該当するものを除く。）

(vii) over-the-counter commodity derivative transactions under Article 2, paragraph (14) of the Commodity Derivatives Transaction Act (Act No. 239 of 1950) and collateral transactions thereof (excluding those that fall under item (ii)).

（評価額の算出）

(Calculation of Appraisal Value)

第二条 法第二条第六項に規定する内閣府令で定めるところにより算出した評価額は、金利、通貨の価格、金融商品市場（金融商品取引法第二条第十四項に規定する金融商品市場をいう。第四条において同じ。）における相場その他の指標の実勢条件に基づき、公正な方法により算出した額とする。

Article 2 The values, as determined pursuant to a method to be established by Cabinet Office Order as prescribed in Article 2, paragraph (6) of the Act, are the values calculated by a fair method based on actual conditions of market variables including the interest rates, currency values, and quotations on financial instruments markets (meaning the financial instruments market under Article 2, paragraph (14) of the Financial Instruments and Exchange Act; the same applies in Article 4).

（一括清算対象財産）

(Property Subject to Close-out Netting)

第三条 法第四条第一項（同条第四項において準用する場合を含む。）に規定する内閣

府令で定めるものは、有価証券その他の金融庁長官が定める財産（二以上の担保権が設定されているものを除く。）とする。

Article 3 The property specified by Cabinet Office Order prescribed in Article 4, paragraph (1) of the Act (including cases where applied mutatis mutandis pursuant to paragraph (4) of that Article) refers to securities and other property specified by the Commissioner of the Financial Services Agency (excluding those for which multiple security rights are established).

（一括清算対象財産の評価額の算出）

(Calculation of Appraisal Value of Property Subject to Close-out Netting)

第四条 法第四条第二項に規定する内閣府令で定めるところにより算出した評価額は、更生手続開始の申立てがあったときにおける次の各号に掲げる場合の区分に応じ、当該各号に定める時における金利、通貨の価格、金融商品市場における相場その他の指標の実勢条件に基づき、公正な方法により算出した額とする。

Article 4 (1) The values, as determined pursuant to a method to be established by Cabinet Office Order as prescribed in Article 4, paragraph (2) of the Act, are the values calculated by a fair method based on actual conditions of market variables including the interest rates, currency values, and quotations on financial instruments markets as of the time specified in the following items in accordance with the categories of cases listed therein when a petition for commencement of reorganization proceedings is filed:

一 法第四条第一項に規定する担保権の設定を目的とする契約（次号において「担保権設定契約」という。）の契約条項中において、一括清算対象財産（同項に規定する一括清算対象財産をいう。以下この条において同じ。）の評価額の算出時点を、更生手続開始の申立てがあった時から特定金融取引について将来発生し得る費用又は損失の合理的な見積額の算出その他当該算出に係る手続をするために通常必要と認められる期間を経過した時とすることを約定している場合 当該期間を経過した時

(i) cases where it is stipulated in the clauses of a contract for creation of a security right prescribed in Article 4, paragraph (1) of the Act (referred to as a "contract for creation of a security right" in the following item) that the calculation time of appraisal value of property subject to close-out netting (meaning the property subject to close-out netting prescribed in the same paragraph; hereinafter the same applies in this Article) is to be the time when a period normally recognized as necessary for calculating reasonable estimates of the amounts of costs or losses that may arise in the future in relation to specified financial transactions and conducting other procedures for the relevant calculation has elapsed since the filing of a petition for commencement of reorganization proceedings: the time when that period has elapsed;

二 担保権設定契約の契約条項中において、一括清算対象財産の評価額の算出時点を、

前号に定める時とすることを約定していない場合 更生手続開始の申立てがあった時

(ii) cases where it is not stipulated in the clauses of a contract for creation of a security right that the calculation time of appraisal value of property subject to close-out netting is to be the time prescribed in the preceding item: when a petition for commencement of reorganization proceedings is filed.

2 法第四条第四項の規定により読み替えて準用する同条第二項に規定する内閣府令で定めるところにより算出した評価額は、一括清算対象財産が第三者に譲渡された時における金利、通貨の価格、金融商品市場における相場その他の指標の実勢条件に基づき、公正な方法により算出した額とする。

(2) The values, as determined pursuant to a method to be established by Cabinet Office Order as prescribed in Article 4, paragraph (2) of the Act as applied *mutatis mutandis* pursuant to paragraph (4) of that Article after replacement of terms, are the values calculated by a fair method based on actual conditions of market variables including the interest rates, currency values, and quotations on financial instruments markets as of the time when the property subject to close-out netting is transferred to a third party.