

Cabinet Office Order on the Regulation of Over-the-Counter Derivatives Transactions

(Cabinet Office Order No. 48 of July 11, 2012)

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Chapter I General Provisions

Article 1 (1) The terms "financial instruments business," "financial instruments business operator," "over-the-counter derivatives transactions," "financial instruments," "financial index," "financial instruments obligation assumption service," "financial instruments clearing organization," and "foreign financial instruments clearing organization" as used in this Cabinet Office Order mean financial instruments business, financial instruments business operator, over-the-counter derivatives transactions, financial instruments, financial index, financial instruments obligation assumption service, financial instruments clearing organization, and foreign financial instruments clearing organization as defined in Article 2 of the Financial Instruments and Exchange Act (hereinafter referred to as the "Act").

- (2) The meanings of the terms set forth in the following items are as prescribed respectively in those items in this Cabinet Office Order:
- (i) options: options as defined in Article 2, paragraph (1), item (xix) of the Act;
 - (ii) registered financial institution: a registered financial institution as defined in Article 2, paragraph (11) of the Act;
 - (iii) type-I financial instruments business: type-I financial instruments business as defined in Article 28, paragraph (1) of the Act;
 - (iv) financial instruments business operator, etc.: a financial instruments business operator, etc. as defined in Article 34 of the Act;
 - (v) clearing member: a clearing member prescribed in Article 156-7, paragraph (2), item (iii) of the Act;
 - (vi) collaborating clearing organization, etc.: a collaborating clearing organization, etc. as defined in Article 156-20-16, paragraph (1) of the Act;
 - (vii) collaborative financial instruments obligation assumption service:

- collaborative financial instruments obligation assumption service as defined in Article 156-20-16, paragraph (1) of the Act;
- (viii) financial instruments clearing organization, etc.: a financial instruments clearing organization, etc. as defined in Article 156-63, paragraph (1) of the Act;
- (ix) trade repository: a trade repository as defined in Article 156-63, paragraph (1) of the Act;
- (x) designated foreign trade repository: a designated foreign trade repository as defined in Article 156-63, paragraph (1) of the Act;
- (xi) trade repository business: trade repository business as defined in Article 156-63, paragraph (1) of the Act;
- (xii) trade data: trade data as defined in Article 156-63, paragraph (3) of the Act;
- (xiii) data on centrally cleared trades: data on centrally cleared trades as defined in Article 156-63, paragraph (3) of the Act;
- (xiv) data on non-centrally cleared trades: data on non-centrally cleared trades as defined in Article 156-64, paragraph (1) of the Act; and
- (xv) contract for trade data collection: a contract for trade data collection prescribed in Article 156-74, paragraph (1), item (i) of the Act.

Chapter II Centralization of Clearing

(Transactions Subject to Centralization of Clearing)

Article 2 (1) The transactions specified by Cabinet Office Order as prescribed in Article 156-62, item (i) of the Act are the transactions set forth in Article 2, paragraph (22), item (vi) of the Act whose grounds prescribed in that item is either the grounds related to the credit statuses of multiple domestic corporations (meaning a corporation that has its head office or principal office located in Japan; hereinafter the same applies in this paragraph) or the grounds prescribed in Article 20 of the Cabinet Office Order on Definitions under Article 2 of the Financial Instruments and Exchange Act (Ministry of Finance Order No. 14 of 1993) (limited to the grounds related to multiple domestic corporations), which are designated by the Commissioner of the Financial Services Agency.

(2) The transactions specified by Cabinet Office Order as prescribed in Article 156-62, item (ii) of the Act are the transactions set forth in Article 2, paragraph (22), item (v) of the Act in which the parties mutually promise that, using the amount the parties have agreed to as the principal (limited to yen-dominated principal), one of the parties will pay an amount of money (limited to an yen-dominated amount; hereinafter the same applies in this paragraph) calculated based on the interest rate agreed upon with the counterparty or the

rate of change in the agreed period of the market interest rate (hereinafter referred to as the "interest rate, etc." in this paragraph), and the counterparty will pay the amount of money calculated based on the interest rate, etc. agreed upon with the other party, which are designated by the Commissioner of the Financial Services Agency.

(3) Notwithstanding the provisions of paragraph (1), if a transaction prescribed in that paragraph is a transaction that falls under any of the following items at the time the contract for the transaction is concluded, the transaction is considered not to fall under a transaction specified by Cabinet Office Order as prescribed in Article 156-62, item (i) of the Act:

(i) the transaction in which one of the parties is a person other than a financial instruments business operator, etc.;

(ii) a transaction for which the accounting is to be settled as a transaction belonging to a trust account;

(iii) the transaction in which the counterparty is a parent company, etc.

(meaning a parent company, etc. prescribed in Article 15-16, paragraph (3) of the Order for Enforcement of the Financial Instruments and Exchange Act (Cabinet Order No. 321 of 1965); hereinafter the same applies in this Article and Article 6, paragraph (2), item (vi)) or a subsidiary company, etc.

(meaning a subsidiary company, etc. prescribed in Article 15-16, paragraph (3) of that Order; hereinafter the same applies in this Article and Article 6, paragraph (2), item (vi)) of a financial instruments business operator, etc. that conducts a transaction, or a subsidiary company, etc. (excluding the financial instruments business operator, etc. itself) of the parent company, etc. of that financial instrument business operator, etc.;

(iv) the transaction in cases other than the case in which one of the parties or its parent company, etc. or subsidiary company, etc., and the counterparty, or its parent company, etc. or subsidiary company, etc., serve as clearing members for the transaction by the same financial instruments clearing organization, etc. that covers obligations under that transaction in its financial instruments obligation assumption service (the financial instruments clearing organization, etc. excludes foreign financial instruments clearing organizations, if that transaction falls under the transaction prescribed in paragraph (1); the same applies in the following item) (limited to cases in which there are reasonable grounds for either or both of the parties (including their parent companies, etc. or subsidiary companies, etc.) do not serve as clearing members for the transaction); or

(v) a transaction conducted by a financial instruments business operator, etc. in cases designated by the Commissioner of the Financial Services Agency as cases in which there are special circumstances to consider it inappropriate to have the financial instruments clearing organization, etc. undertake the

obligation under the transaction conducted by the financial instruments business operator, etc.

(4) Notwithstanding the provisions of paragraph (2), if a transaction prescribed in that paragraph is a transaction that falls under any of the following items at the time of concluding the contract for the transaction, the transaction does not fall under the transaction specified by Cabinet Office Order as prescribed in Article 156-62, item (ii) of the Act:

(i) the transaction in which one of the parties is a person other than a financial instruments business operator, etc.;

(ii) a transaction for which the accounting is to be settled as a transaction belonging to a trust account (excluding a transaction relating to the trust property for which the average total amount of notional principal for the over-the-counter derivatives transactions (limited to the transactions subject to trade data) at the end of each month during the period from April two years before the year in which the time the contract for the transaction is concluded falls until March of the year preceding the year in which that time falls (or, during the period from April of the preceding year in which that time falls until March of the year in which that time falls, if that time falls in December) is 300 billion yen or more);

(iii) the transaction in which the counterparty is a parent company, etc. or a subsidiary company, etc. of the financial instruments business operator, etc. that conducts the transaction, or a subsidiary company, etc. of the parent company, etc. of that financial instrument business operator, etc. (excluding that financial instruments business operator, etc. itself);

(iv) the transaction in which one or both of the parties are any of the following persons (excluding a transaction for which the accounting is to be settled as a transaction belonging to a trust account, for the person set forth in sub-item (b)):

(a) a financial instruments business operator, etc. which is other than a financial instruments business operator that conducts type-I financial instruments business, a bank, The Shoko Chukin Bank, Ltd., Development Bank of Japan Inc., a federation of Shinkin banks whose district is the entire nation, The Norinchukin Bank, an insurance company (meaning an insurance company as defined in Article 2, paragraph (2) of the Insurance Business Act (Act No. 105 of 1995) and including a foreign insurance company, etc. as defined in paragraph (7) of that Article) (hereinafter referred to as a "business operator to prepare trade data"), which is a registered financial institution; or

(b) a financial instruments business operator, etc. for which the average total amount of notional principal for the over-the-counter derivatives transactions (limited to the transactions subject to trade data, and

excluding those for which the accounting is to be settled as transactions belonging to a trust account; the same applies in paragraph (1), items (i) and (ii) of the following Article) at the end of each month during the period from April two years before the year in which the time the contract for the transaction is concluded falls until March of the year preceding the year in which that time falls (or, the period from April of the preceding year in which that time falls until March of the year in which that time falls if that time falls in December) is less than 300 billion yen (excluding the person set forth in sub-item (a)); and

- (v) a transaction conducted by a financial instruments business operator, etc. in cases designated by the Commissioner of the Financial Services Agency as cases in which there are special circumstances to consider it inappropriate to have the financial instruments clearing organization, etc. undertake the obligation under the transaction conducted by the financial instruments business operator, etc.

(Notification of the Size of Transactions)

Article 2-2 (1) If a financial instruments business operator, etc. (limited to a business operator to prepare trade data) falls under any of the following items each year, the financial instruments business operator, etc. must make a notification of that fact to the Commissioner of the Financial Services Agency (including necessary particulars to identify the trust related to the notification under the provisions of the respective items, if the financial instruments business operator, etc. falls under item (iii) or item (iv)), during the period from April 1 to May 31:

- (i) if the average total amount of notional principal for the over-the-counter derivatives transactions at the end of each month during the period from April two years before the year in question until March of the year preceding the year in question is less than 300 billion yen, and the average total amount of notional principal for the over-the-counter derivatives transactions at the end of each month during the period from April of the preceding year to March of the year in question is 300 billion yen or more;
- (ii) if the average total amount of notional principal for the over-the-counter derivatives transactions at the end of each month during the period from April two years before the year in question until March of the year preceding the year in question is 300 billion yen or more, and the average total amount of notional principal for the over-the-counter derivatives transactions at the end of each month during the period from April of the preceding year until March of the year in question is less than 300 billion;
- (iii) if there is a trust property for which the average total amount of notional principal for the over-the-counter derivatives transactions (limited to the

- transactions subject to trade data, for which the accounting is to be settled as transactions belonging to a trust account; the same applies in the following item) at the end of each month during the period from April two years before the year in question until March of the year preceding the year in question is less than 300 billion yen, and the average total amount of notional principal for the over-the-counter derivatives transactions at the end of each month during the period from April of the preceding year until March of the year in question is 300 billion yen or more; or
- (iv) if there is a trust property for which the average total amount of notional principal for the over-the-counter derivatives transactions at the end of each month during the period from April two years before the year in question until March of the year preceding the year in question is 300 billion yen or more, and the average total amount of notional principal for the over-the-counter derivatives transactions at the end of each month during the period from April of the preceding year until March of the year in question is less than 300 billion yen.
- (2) The Commissioner of the Financial Services Agency is to publicize every year, the trade names or names of persons that have made a notification under the provisions of item (i) of the preceding paragraph but, since making that notification for the last time, have not made a notification under the provisions of item (ii) of that paragraph for the last time, and the trade names or names of persons that have made a notification under the provisions of item (iii) of that paragraph but, since making that notification for the last time, have not made a notification under the provisions of item (iv) of that paragraph, as well as necessary particulars to identify the trust, by the means of making those particulars available for public inspection using the internet.

Chapter III Preservation and Report of Trade Data

(Provision of Data on Centrally Cleared Trades to the Trade Repository or Designated Foreign Trade Repository)

Article 3 (1) If a financial instruments clearing organization, etc. assumes the obligation under a transaction covered by data on centrally cleared trades, it must provide the data on centrally cleared trades to the trade repository or the designated foreign trade repository within three business days from the day on which it has assumed the obligation under the transaction (or, if there is any change to a particular prescribed in Article 4, paragraph (1) for the data on centrally cleared trades within the three business days, within an additional three-business-day period from the day on which the change has occurred) as prescribed by the trade repository or the designated foreign trade repository, pursuant to the provisions of Article 156-63, paragraph (1) of the Act.

(2) If, after a financial instruments clearing organization, etc. has provided data on centrally cleared trades pursuant to the preceding paragraph, there is a change to a particular prescribed in Article 4, paragraph (1) for the data on centrally cleared trades in relation to the provision of data, the financial instruments clearing organization, etc. that has provided the data must notify the trade repository or the designated foreign trade repository of the particular changed or provide it with data on centrally cleared trades that reflects the particular changed, within three business days from the day on which the change has occurred, as prescribed by the trade repository or designated foreign trade repository to which it has provided that data.

(Cases in Which There Is a Compelling Reason for Being Unable to Provide Data on Centrally Cleared Trades)

Article 3-2 The compelling reasons specified by Cabinet Office Order as prescribed in Article 156-63, paragraph (2) of the Act are the following reasons:

- (i) there is no trade repository or designated foreign trade repository;
- (ii) the trade repository or the designated foreign trade repository suspends all of its trade repository business;
- (iii) a failure occurs in telecommunication lines to be used for providing data on centrally cleared trades, and there is no prospect for recovery; or
- (iv) any other compelling reasons specified by the Commissioner of the Financial Services Agency.

(Preservation of Data on Centrally Cleared Trades by the Financial Instruments Clearing Organization)

Article 4 (1) The particulars specified by Cabinet Office Order for data on centrally cleared trades as prescribed in Article 156-63, paragraph (2) of the Act are the following particulars:

- (i) the date and time of execution of the transaction, the date and time of appraisal of the contract for the transaction, and other particulars concerning the date and time related to the transaction;
- (ii) particulars concerning the parties to the transaction and the person reporting the trade data;
- (iii) particulars concerning assumption of obligations, settlement, and identification of the transaction, by the financial instruments clearing organization, etc.;
- (iv) the method of calculation of the number of days for the transaction, the period of periodic payment of money, and other particulars concerning payment;
- (v) particulars concerning the estimated amount and the estimation method as well as security and margins for the contract related to the transaction;

- (vi) particulars concerning the transaction price;
 - (vii) particulars concerning the notional principal of the transaction;
 - (viii) whether it is a new transaction, or a change to or cancellation of a transaction, and other particulars concerning the process of the transaction;
 - (ix) the agreed financial index and other particulars concerning the subject of the transaction;
 - (x) particulars concerning the type of the contract for the transaction; and
 - (xi) other particulars that the Commissioner of the Financial Services Agency finds to be necessary.
- (2) If a financial instruments clearing organization, etc. assumes the obligation under a transaction covered by data on centrally cleared trades, but is unable to provide the data on centrally cleared trades due to a disaster or the reason prescribed in the preceding Article, it must prepare a record of the particulars prescribed in the preceding paragraph for the data on centrally cleared trades in relation to the transaction by the time of submission pursuant to the provisions of paragraph (1) of the following Article, and must preserve that record for five years from the day prescribed in the following items in accordance with the category of transactions set forth in each of those items:
- (i) transactions set forth in Article 6, paragraph (1), item (i): the date of delivery;
 - (ii) transactions set forth in Article 6, paragraph (1), items (ii) and (iv): the last day of the exercise period; and
 - (iii) transactions set forth in Article 6, paragraph (1), item (iii): the last day of the transaction period or the date of delivery, whichever comes later.
- (3) If there is a change to particulars prescribed in paragraph (1) for the data on centrally cleared trades that the financial instruments clearing organization, etc. preserves, the financial instruments clearing organization, etc. must make the record referred to in the preceding paragraph related to the data on centrally cleared trades reflect the particulars changed by the time of submission pursuant to the provisions of paragraph (2) of the following Article (or, if the change occurs before the submission pursuant to the provisions of paragraph (1) of that Article, by the time of that submission).
- (4) The record referred to in paragraph (2) must be prepared as an electronic or magnetic record (meaning an electronic or magnetic record prescribed in Article 13, paragraph (5) of the Act; the same applies in Article 8, paragraph (6) and Article 10, paragraph (4)).

(Report of Data on Centrally Cleared Trades by Financial Instruments Clearing Organizations)

Article 5 (1) A financial instruments clearing organization, etc. must submit the record that it has prepared pursuant to the provisions of paragraph (2) of the

- preceding Article to the Commissioner of the Financial Services Agency within three business days from the day on which the financial instruments clearing organization, etc. has assumed the obligation under the transaction covered by data on centrally cleared trades related to that record (or, if there is any change to the particulars prescribed in paragraph (1) of the preceding Article for the data on centrally cleared trades within the three business days, within an additional three-business-day period from the day on which that change has occurred), pursuant to the provisions of Article 156-63, paragraph (2) of the Act.
- (2) If there is a change to the particulars prescribed in paragraph (1) of the preceding Article for the data on centrally cleared trades in relation to the submission pursuant to the provisions of the preceding paragraph after the submission, the financial instruments clearing organization, etc. must prepare a record of the changed particulars and submit the record to the Commissioner of the Financial Services Agency within three business days from the day on which the change has occurred.
- (3) The submissions pursuant to the provisions of the preceding two paragraphs must be made by electronic or magnetic means (meaning the means of using the electronic data processing system prescribed in Article 6, paragraph (1) of the Act on the Advancement of Government Administration Processes That Use Information and Communications Technology (Act No. 151 of 2002); the same applies in Article 9, paragraph (3) and Article 11, paragraphs (3) and (5)).

(Transactions for Which the Status of Transactions by a Financial Instruments Business Operator is Required to Be Clarified)

Article 6 (1) The transactions specified by Cabinet Office Order as transactions for which the status of transactions by a financial instruments business operator, etc. as prescribed in Article 156-63, paragraph (3) of the Act is required to be clarified are the following transactions:

- (i) transactions set forth in Article 2, paragraph (22), items (i) and (ii) of the Act (excluding transactions for which the period from the contract date to the date of delivery is two business days or less);
- (ii) transactions set forth in Article 2, paragraph (22), items (iii) and (iv) of the Act (excluding transactions in which the exercise period is two business days or less);
- (iii) transactions set forth in Article 2, paragraph (22), item (v) of the Act; and
- (iv) transactions set forth in Article 2, paragraph (22), item (vi) of the Act (limited to the transactions whose grounds prescribed in (b) of that item is considered to be the grounds set forth in that item).
- (2) Notwithstanding the provisions of the preceding paragraph, transactions in which the counterparty is any of the following entities are considered not to fall under the transaction specified by Cabinet Office Order as transactions for

which the status of transactions by a financial instruments business operator, etc. as prescribed in Article 156-63, paragraph (3) of the Act is required to be clarified:

- (i) the national government;
- (ii) local governments;
- (iii) the Bank of Japan;
- (iv) foreign governments and persons equivalent to those set forth in the preceding three items under the laws or regulations of a foreign country;
- (v) international organizations designated by the Commissioner of the Financial Services Agency; and
- (vi) a parent company, etc. or a subsidiary company, etc. of the financial instruments business operator, etc. conducting the transaction, or a subsidiary company, etc. of the parent company, etc. of that financial instruments business operator, etc. (excluding the financial instruments business operator, etc. itself).

(Transactions Subject to the Provision of Data on Centrally Cleared Trades by a Financial Instruments Clearing Organization)

Article 6-2 The transactions specified by Cabinet Office Order in consideration of the status of trade, etc. as prescribed in Article 156-63, paragraph (3) of the Act are the transactions set forth in the items of paragraph (1) of the preceding Article (excluding the transactions set forth in the items of Article 156-62 of the Act; and excluding the transactions related to the financial index set forth in Article 2, paragraph (25), item (ii), item (iii), or item (iv) of the Act (item (iv) is limited to the part related to item (ii) and item (iii) of that paragraph) for the transactions set forth in Article 2, paragraph (22), item (ii), item (iv), and item (v)).

(Provision of Data on Non-Centrally Cleared Trades to Trade Repository or Designated Foreign Trade Repository)

Article 7 (1) If a financial instruments business operator, etc. conducts a transaction covered by data on non-centrally cleared trades (limited to transactions in which one or both of the parties are business operators to prepare trade data; and excluding the transactions related to the financial index set forth in Article 2, paragraph (25), item (ii), item (iii), or item (iv) of the Act (item (iv) is limited to the part related to item (ii) and item (iii) of that paragraph) for the transactions set forth in Article 2, paragraph (22), item (ii), item (iv) and item (v); referred to as a "transaction subject to the preparation of data on non-centrally cleared trades" in paragraph (4) and Article 8, paragraphs (2) and (5)), the financial instruments business operator, etc. must provide the data on non-centrally cleared trades to the trade repository or the

designated foreign trade repository within three business days from the day on which the transaction covered by the data on non-centrally cleared trades has been closed (or, if there is a change to a particular prescribed in Article 8, paragraph (1) for the data on non-centrally cleared trades within the three business days, within an additional three-business-day period from the day on which the change has occurred) as specified by the trade repository or the designated foreign trade repository, pursuant to the provisions of Article 156-64, paragraph (1) of the Act.

- (2) If, after data on non-centrally cleared trades is provided pursuant to the provisions of the preceding paragraph, there is a change to a particular prescribed in Article 8, paragraph (1) for the data on non-centrally cleared trades related to the provision of data, the financial instruments business operator, etc. that has provided the data on non-centrally cleared trades pursuant to the provisions of the preceding paragraph must notify the trade repository or designated foreign trade repository of the particular changed or provide it with data on non-centrally cleared trades that reflects the particular changed within three business days from the day on which the change has occurred, as specified by the trade repository or the designated foreign trade repository to which it has provided that data on non-centrally cleared trades.
- (3) Notwithstanding the provisions of the preceding two paragraphs, it is sufficient for a financial instruments business operator, etc. which is designated by the Commissioner of the Financial Services Agency to provide data on non-centrally cleared trades for the transactions specified by the Commissioner of the Financial Services Agency.
- (4) If both parties to a transaction subject to the preparation of data on non-centrally cleared trades are financial instruments business operators, etc., and either of the financial instruments business operators, etc. is a business operator to prepare trade data, the other financial instruments business operator, etc. is not required to provide data on non-centrally cleared trades pursuant to the provisions of paragraph (1), notwithstanding the provisions of that paragraph.
- (5) If a financial instruments business operator, etc. is unable to provide data on non-centrally cleared trades prescribed in paragraph (1) and paragraph (2) by the date provided for in those paragraphs due to compelling reasons (excluding the reasons prescribed in Article 156-64, paragraph (2) of the Act and the following Article), the financial instruments business operator, etc. may postpone the provision of the data with the approval of the Commissioner of the Financial Services Agency.
- (6) If a financial instruments business operator, etc. seeks to obtain the approval under the provisions of the preceding paragraph, the financial instruments business operator, etc. must submit a written application for approval with a

written statement of reasons attached to the Commissioner of the Financial Services Agency by the date specified in paragraph (1) and paragraph (2).

(7) When an application for approval under the provisions of the preceding paragraph is filed, the Commissioner of the Financial Services Agency is to examine whether there is a compelling reason for the financial instruments business operator, etc. filing the application to postpone the provision of data pursuant to the provisions of paragraph (1) and paragraph (2).

(8) For applying the provisions of paragraph (1) and paragraph (2) when a financial instruments business operator, etc. postpones the provision of data prescribed in paragraph (5) pursuant to the provisions of that paragraph, the term "day on which the transaction covered by the data on non-centrally cleared trades has been closed" in paragraph (1) and the term "day on which the change has occurred" in paragraph (2) are deemed to be replaced with "day on which the compelling reason provided in paragraph (5) has ceased to exist."

(Cases in Which There Is a Compelling Reason for Being Unable to Provide Data on Non-Centrally Cleared Trades)

Article 7-2 The compelling reasons specified by Cabinet Office Order as prescribed in Article 156-64, paragraph (2) of the Act are the following reasons:

- (i) there is no trade repository or designated foreign trade repository;
- (ii) the trade repository or the designated foreign trade repository has suspended all of its trade repository business;
- (iii) a failure occurs in telecommunication lines to be used to provide data on non-centrally cleared trades, and there is no prospect for recovery; or
- (iv) any other compelling reasons specified by the Commissioner of the Financial Services Agency.

(Preservation of Data on Non-Centrally Cleared Trades by Financial Instruments Business Operators)

Article 8 (1) The particulars specified by Cabinet Office Order for data on non-centrally cleared trades as prescribed in Article 156-64, paragraph (2) of the Act are the particulars provided for in Article 4, paragraph (1).

(2) If a financial instruments business operator, etc. conducts a transaction subject to the preparation of data on non-centrally cleared trades but is unable to provide the data on non-centrally cleared trades due to a disaster or the reason prescribed in the preceding Article, the financial instruments business operator, etc. must prepare a record of the particulars prescribed in the preceding paragraph for the data on non-centrally cleared trades related to the transaction by the time of submission pursuant to the provisions of paragraph (1) of the following Article and must preserve the record for five years from the day of the preparation.

- (3) If there is a change to the particulars prescribed in paragraph (1) for the data on non-centrally cleared trades that the financial instruments business operator, etc. preserves, the financial instruments business operator, etc. must have the record referred to in the preceding paragraph of that data on non-centrally cleared trades reflect the particulars changed by the time of submission pursuant to the provisions of paragraph (2) of the following Article (or, if the change occurs before the submission pursuant to the provisions of paragraph (1) of that Article, by the time of the submission).
- (4) Notwithstanding the provisions of the preceding two paragraphs, it is sufficient for a financial instruments business operator, etc. that is designated by the Commissioner of the Financial Services Agency to prepare a record for the data on non-centrally cleared trades related to the transactions specified by the Commissioner of the Financial Services Agency, and to preserve that record.
- (5) Notwithstanding the provisions of paragraph (2), if both of the parties to a transaction subject to the preparation of data on non-centrally cleared trades are financial instruments business operators, etc. and either of them is a business operator to prepare trade data, the other party is not required to prepare the record referred to in that paragraph.
- (6) The record referred to in paragraph (2) must be prepared as an electronic or magnetic record.

(Report of Data on Non-Centrally Cleared Trades by Financial Instruments Business Operators)

- Article 9 (1) A financial instruments business operator, etc. must submit each week (meaning the seven days from Monday to Sunday; hereinafter the same applies in this Article) the record it has prepared pursuant to the provisions of paragraph (2) of the preceding Article for the transactions covered by data on non-centrally cleared trades which have been closed during each week, to the Commissioner of the Financial Services Agency within three business days from the first business day in or after the week following that week (or, if there is a change to a particular prescribed in paragraph (1) of the preceding Article for the data on non-centrally cleared trades within the three business days, within an additional three-business-day period from the first business day in or after the week following the week in which the day of that change falls), pursuant to the provisions of Article 156-64, paragraph (2) of the Act.
- (2) If, after the submission pursuant to the provisions of the preceding paragraph is made, there is a change to a particular prescribed in paragraph (1) of the preceding Article for the data on non-centrally cleared trades related to the submission, the financial instruments business operator, etc. must prepare a record of the particular changed and submit the record to the Commissioner of the Financial Services Agency within three business days from the first

business day in or after the week following the week in which the day of the change falls.

- (3) The submission pursuant to the provisions of the preceding two paragraphs must be made by electronic or magnetic means.
- (4) If a financial instruments business operator, etc. is unable to submit the records prescribed in paragraph (1) or paragraph (2) by the date specified in that paragraph due to compelling reasons, the financial instruments business operator, etc. may postpone the submission with the approval of the Commissioner of the Financial Services Agency.
- (5) If a financial instruments business operator, etc. seeks to obtain an approval under the provisions of the preceding paragraph, the financial instruments business operator, etc. must submit a written application for approval with a written statement of reasons attached to the Commissioner of the Financial Services Agency by the date specified in paragraph (1) and paragraph (2).
- (6) When an application for approval under the provisions of the preceding paragraph is filed, the Commissioner of the Financial Services Agency is to examine whether there is a compelling reason for the financial instruments business operator, etc. filing the application to postpone the submission pursuant to the provisions of paragraph (4).
- (7) If a financial instruments business operator, etc. postpones the submission pursuant to the provisions of paragraph (4) for the reason prescribed in Article 156-64, paragraph (2) of the Act and Article 7-2, the financial instruments business operator, etc. is to provide data on non-centrally cleared trades to the trade repository or designated foreign trade repository pursuant to the provisions of Article 7.

(Preservation of Trade Data by a Trade Repository)

Article 10 (1) The particulars specified by Cabinet Office Order as prescribed in Article 156-65, paragraph (1) of the Act are the particulars provided for in Article 4, paragraph (1).

- (2) If a trade repository is provided with trade data under the provisions of Article 3 or Article 7, it must prepare a record of the particulars prescribed in the preceding paragraph for the trade data by the time of submission specified in paragraph (1) of the following Article, and must preserve the record for five years from the day specified in the following items in accordance with the category of transactions set forth in each of those items:
 - (i) transactions set forth in Article 6, paragraph (1), item (i): the date of delivery;
 - (ii) transactions set forth in Article 6, paragraph (1), items (ii) and (iv): the last day of the exercise period; and
 - (iii) transactions set forth in item Article 6, paragraph (1), item (iii): the last

day of the transaction period or the date of the delivery, whichever comes later.

- (3) If a trade repository comes to know that there has been a change to the particular prescribed in paragraph (1) for the trade data that it preserves, it must make the record referred to in the preceding paragraph related to the trade data reflect the change to that particular by the time of submission pursuant to the provisions of paragraph (2) of the following Article (or, if it comes to know that the change has occurred before the submission pursuant to paragraph (1) of that Article, by the time of that submission).
- (4) The record referred to in paragraph (2) must be prepared as an electronic or magnetic record.

(Report of Trade Data by a Trade Repository)

- Article 11 (1) A trade repository must submit the record it has prepared pursuant to the provisions of paragraph (2) of the preceding Article to the Commissioner of the Financial Services Agency by the business day following the day on which it has been provided with the trade data pursuant to the provisions of Article 3 or Article 7 (or, if it comes to know that there has been a change to a particular prescribed in paragraph (1) of the preceding Article for the trade data in the record before that business day, by the business day following the day on which it has come to know that the change has occurred).
- (2) If a trade repository comes to know that there has been a change to a particular prescribed in paragraph (1) of the preceding Article for the trade data related to the submission after the submission pursuant to the provisions of the preceding paragraph has been made, the trade repository must prepare a record of the particular changed and submit the record to the Commissioner of the Financial Services Agency by the business day following the day on which it has come to know that the change has occurred.
 - (3) A trade repository must submit the record that it preserves pursuant to the provisions of paragraph (2) of the preceding Article to the Commissioner of the Financial Services Agency at least once a month.
 - (4) The submissions under the provisions of the preceding three paragraphs must be made by electronic or magnetic means.
 - (5) The measures specified by Cabinet Office Order as prescribed in Article 156-65, paragraph (3) of the Act are measures that enable the Commissioner of the Financial Services Agency to receive trade data containing the particulars prescribed in paragraph (1) of the preceding Article using the internet, and that enables the trade data to be recorded in a recording medium in a telecommunication facility managed by the Commissioner of the Financial Services Agency.
 - (6) When taking the measures referred to in the preceding paragraph, a trade

repository is to notify the Commissioner of the Financial Services Agency by an electronic or magnetic means that it will take or has taken those measures, in advance, or at the same time as taking the measures.

(Publication of Trade Data by a Trade Repository)

Article 11-2 (1) The particulars specified by Cabinet Office Order as prescribed in Article 156-66, paragraph (1) of the Act are the following particulars:

- (i) the total outstanding balance of transactions set forth in the items of Article 6, paragraph (1) and the total number of transactions;
 - (ii) the total outstanding balance of transactions set forth in the items of Article 6, paragraph (1) and the total number of transactions for each business type of business operator to prepare trade data;
 - (iii) the total outstanding balance of transactions set forth in the items of Article 6, paragraph (1) and the total number of transactions of the financial instruments clearing organization, etc.;
 - (iv) the total outstanding balance and the total number of transactions for each type of transaction covered by trade data; and
 - (v) other necessary particulars for clarifying the outline of transactions.
- (2) A trade repository must disclose the particulars prescribed in the preceding paragraph by the means of making them available for public inspection using the internet, at least once a month.

Chapter IV Trade Repositories

(A Person Unable to Properly Perform Their Duties due to a Mental or Physical Disorder)

Article 11-3 The person specified by Cabinet Office Order as prescribed in Article 156-67, paragraph (1), item (iv), sub-item (a) of the Act is a person who is unable to appropriately carry out reasoning, decision making, and communication necessary for properly performing their duties due to mental impairment.

(Documents to Be Attached to a Written Application for Designation)

Article 12 The documents specified by Cabinet Office Order as prescribed in Article 156-68, paragraph (2), item (vi) of the Act are the following documents:

- (i) a document stating the name or the trade name, or address, or the location of the principal office or office of a person that holds voting rights accounting for ten percent or more of the number of voting rights held by all the shareholders, etc. (meaning the voting rights held by all the shareholders, etc. as defined in Article 29-4, paragraph (2) of the Act; the same applies in the following item) of the person that seeks to obtain the designation under

- the provisions of Article 156-67, paragraph (1) of the Act (referred to as the "applicant" in the following item and item (viii)), and the number of the voting rights held by the person;
- (ii) a document stating the trade name or the name, the location of the principal office or office, and the business content of the parent corporation (meaning a corporation or any other organization that holds the majority of the voting rights held by all the shareholders, etc. of the applicant) and subsidiary corporations (meaning a corporation or any other organization for which the applicant holds the majority of voting rights held by all the shareholders, etc.) of the applicant;
 - (iii) an extract of a resident record of the officers (meaning an officer prescribed in Article 156-67, paragraph (1), item (iv) of the Act, and including a person who is to perform their duties if the officer is a corporation; hereinafter the same applies in this item, item (iv), item (vi), and item (vii) of this Article, Article 17, paragraph (2), items (viii) through (x), and Article 20, paragraph (2), item (iii), sub-items (c) and (d), and paragraph (3), item (iii)) (or a certificate of registered information of the officers, if the officer is a corporation) or a document that substitutes for the extract;
 - (iv) a document certifying the former surname (meaning the former surname prescribed in Article 30-13 of the Order for Enforcement of the Act for Basic Register of Residents (Cabinet Order No. 292 of 1967); the same applies hereinafter) and given name of an officer if they are entered together with the officer's current surname and given name in a written application for designation referred to in Article 156-68, paragraph (1) of the Act and the document set forth in the preceding item does not certify the officer's former surname and given name;
 - (v) a document with which an officer (meaning an officer prescribed in Article 156-67, paragraph (1), item (iv) of the Act; hereinafter the same applies in this item, Article 14, Article 17, paragraph (2), item (iv), and Article 18, item (iv)) pledges that they do not fall under Article 156-67, paragraph (1), item (iv), sub-item (a), and a certification issued by a public agency indicating the fact that an officer does not fall under sub-item (b) of that item (or, a document with which an officer pledges that they do not fall under sub-item (a) or (b) of that item, if the officer does not have Japanese nationality);
 - (vi) resumes of officers (or, a document stating the history of an officer, if the officer is a corporation);
 - (vii) a document stating the situation of securing officers and employees with knowledge of and experience in trade repository business (hereinafter referred to as the "officer and employees") and the situation of the placement of the officers and employees;
 - (viii) a document stating the applicant's organizational structure and division

of responsibilities for handling affairs; and
(ix) other documents stating the information that should serve as a reference.

(Restriction on the Concurrent Holding of Positions by Officers)

Article 13 (1) The corporations specified by Cabinet Office Order as prescribed in Article 156-69 of the Act are the following corporations:

- (i) a corporation that is a financial instruments clearing organization, etc.;
- (ii) a corporation that is a financial instruments business operator, etc.; and
- (iii) a corporation equivalent to the corporation set forth in the preceding two items under laws or regulations of a foreign country.

(2) The business specified by Cabinet Office Order as prescribed in Article 156-69 of the Act is financial instruments business and financial instruments obligation assumption service.

(Application for Authorization for the Concurrent Holding of Positions by Officers of a Trade Repository)

Article 14 (1) If a trade repository's representative or an officer engaged in its day-to-day business seeks to obtain an authorization for assuming the position of a representative or for engaging in the day-to-day business of a corporation set forth in the items of paragraph (1) of the preceding Article (hereinafter referred to as "the other corporation" in this Article), or for conducting the business prescribed in paragraph (2) of the preceding Article, pursuant to the provisions of Article 156-69, the representative or officer must submit a written application for authorization with the following documents attached to the Commissioner of the Financial Services Agency through the trade repository:

- (i) a statement of reasons;
- (ii) a resume;
- (iii) a document stating the method of handling the day-to-day business and the working situation at the trade repository;
- (iv) if the representative or officer seeks to engage in the day-to-day business of the other corporation, a document stating the method of handling the day-to-day business at the other corporation and the transactions and any other relations between the trade repository and the other corporation, a document stating the details of the articles of incorporation, final operation report or business report of the other corporation, its balance sheet (including related explanatory notes; the same applies hereinafter), its profit and loss statements (including related explanatory notes; the same applies hereinafter), its surplus appropriation statement or deficit disposition statement, or its statements of changes in net assets (including related explanatory notes), and any other document disclosing the recent status of

- services, assets, and profit and loss of the other corporation;
- (v) if the representative or officer seeks to continue to conduct the business prescribed in paragraph (2) of the preceding Article that they are currently conducting, a document stating the type and method of that business, the status of the recent operations in relation to that business, assets, and profit and loss, and the expected transactions and income and expenditure for the one-year period starting from the day of filing the application,;
 - (vi) if the representative or officer seeks to newly conduct the business prescribed in paragraph (2) of the preceding Article, a document stating the type and method of the business, and the expected transactions and income and expenditure for the one-year period after commencing the business; and
 - (vii) other documents stating the particulars that the Commissioner of the Financial Services Agency finds to be necessary.
- (2) When an application for approval under the preceding paragraph is filed, the Commissioner of the Financial Services Agency is to examine whether the representative or officer to represent or engage in day-to-day business, or engage in business of the other corporation related to the application is likely to hinder the representative or the officer engaging in day-to-day business of the trade repository related to the application to represent the trade repository or to engage in day-to-day business of the trade depository.
- (3) A written application for approval and documents to be attached to the written application for approval (hereinafter referred to as a "written application for approval and attached documents" in this paragraph) under the provisions of paragraph (1) may be submitted to a trade repository by electronic or magnetic means if the written application for approval and attached documents are prepared as an electronic or magnetic record.

(Application for Approval for Concurrent Business)

- Article 15 (1) If a trade repository seeks to obtain an approval pursuant to the proviso to Article 156-72, paragraph (1) of the Act, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency:
- (i) a business for which the trade depository seeks to obtain an approval for concurrent business (hereinafter referred to as a "concurrent business"); and
 - (ii) the date of commencement of the concurrent business.
- (2) The following documents must be attached to the written application referred to in the preceding paragraph:
- (i) a document stating the content and the method of the concurrent business;
 - (ii) a document stating the organization in charge of the concurrent business and the placement of personnel;
 - (iii) the rules concerning the operation of the concurrent business; and

- (iv) a document stating the expected income and expenditure of the concurrent business for a three-year period after commencing the concurrent business.

(Notification of Discontinuation of Concurrent Business)

Article 16 If a trade repository seeks to give a notification that it has discontinued the business for which the approval referred to in the proviso to Article 156-72, paragraph (1) of the Act was obtained pursuant to the provisions of the second sentence of paragraph (2) of that Article, it is to submit a document stating the following particulars to the Commissioner of the Financial Services Agency:

- (i) the content of the discontinued business;
- (ii) the discontinuation date; and
- (iii) the reason for the discontinuation.

(Application for Approval for Entrusting Part of the Business)

Article 17 (1) If a trade repository seeks to obtain approval pursuant to the provisions of Article 156-73, paragraph (1) of the Act, it must submit a written application for approval stating the following particulars to the Commissioner of the Financial Services Agency:

- (i) the trade name or name and the address or location of the counterparty which it entrusts with the business (hereinafter referred to as the "entrusted person");
- (ii) the details and the scope of the business that it is to entrust; and
- (iii) the period of entrustment.

(2) The following documents must be attached to the written application for approval referred to in the preceding paragraph:

- (i) a statement of reasons;
- (ii) a document stating the content of the business entrustment contract;
- (iii) a document pledging that the entrusted person satisfies the same requirements as those set forth in Article 156-67, paragraph (1), item (iii) of the Act;
- (iv) a document pledging that all officers of the entrusted person satisfy the same requirements as those set forth in Article 156-67, paragraph (1), item (iv) of the Act;
- (v) the articles of incorporation of the entrusted person and a certificate of registered information of that corporation (including particulars equivalent to those documents);
- (vi) a document stating the method of performing the business with which it is to entrust;
- (vii) the business report, balance sheet, and profit and loss statement for each of the most recent three fiscal years of the entrusted person, or any document

- that substitutes for those documents;
- (viii) a document stating the names or trade names of the officers of the entrusted person;
 - (ix) an extract of a resident record of the entrusted person's officers (or a certificate of registered information of the officer, if the officer is a corporation), or any document that substitutes for the extract;
 - (x) resumes of the entrusted person's officer (or a document stating the history of the officer, if the officer is a corporation); and
 - (xi) other documents stating the information that should serve as a reference.

(Criteria for Approval for Entrusting Part of the Business)

Article 18 If the Commissioner of the Financial Services Agency receives a written application for approval referred to in paragraph (1) of the preceding Article and finds that the application complies with the following criteria, the Commissioner is to approve the application:

- (i) the entrustment of the business will not hinder proper and reliable implementation of the trade repository business;
- (ii) the entrusted person is a corporation with social credibility, and has a proper plan for the business with which they are entrusted and can reliably perform the business;
- (iii) the entrusted person satisfies the same requirements as those set forth in Article 156-67, paragraph (1), item (iii) of the Act;
- (iv) the officers of the entrusted person satisfies the same requirements as those set forth in Article 156-67, paragraph (1), item (iv) of the Act; and
- (v) the trade repository is capable of taking measures for ensuring the proper and reliable implementation of the business with which it has entrusted.

(Particulars to Be Stated in the Operational Rules)

Article 19 The particulars specified by Cabinet Office Order as prescribed in Article 156-74, paragraph (1), item (viii) of the Act are the following particulars:

- (i) particulars concerning the hours for engaging in trade repository business and the non-working days;
- (ii) particulars concerning the system for supervising employees;
- (iii) particulars concerning provision of trade data, if the trade repository is to provide trade data;
- (iv) particulars concerning the disclosure of trade data;
- (v) particulars concerning the provisions of the contract for trade data collection; and
- (vi) other necessary particulars concerning trade repository business.

(Particulars Requiring Notification)

- Article 20 (1) A notification pursuant to the provisions of the paragraphs of Article 156-78 of the Act must be filed after the grounds for notification have occurred, without delay.
- (2) If a trade repository seeks to file a notification pursuant to the provisions of the paragraphs of Article 156-78 of the Act, the trade repository must submit a written notification with a written statement of reasons and other documents stating the information that should serve as a reference (or, the document prescribed in one of the following items, in the case set forth in that item) attached, to the Commissioner of the Financial Services Agency:
- (i) the case set forth in item (i) of the following paragraph: a document stating the particulars changed; and
 - (ii) the case set forth in item (ii) of the following paragraph: a document stating the following particulars:
 - (a) an outline of the accident; and
 - (b) improvement measures.
 - (iii) the case set forth in item (iii) of the following paragraph: the following documents:
 - (a) the document set forth in Article 156-68, paragraph (2), item (i) of the Act;
 - (b) a certificate of registered information of a corporation (including documents equivalent to the certificate); and
 - (c) the documents set forth in Article 12, item (iii), item (v), and item (vi) concerning a person that has become a new officer; and
 - (d) a document certifying the former surname and given name of a person that has become a new officer if they are stated together with the person's current surname and given name in a written notification, and the extract of the resident record or its substitute document referred to in sub-item (c) above does not certify the former surname and given name; and
 - (iv) the case set forth in item (iv) or (v) of the following paragraph: a document stating the following particulars:
 - (a) the name of the business office or office at which the act occurred;
 - (b) the name or trade name and the title of the officer and employees that performed the act;
 - (c) a summary of the act; and
 - (d) improvement measures.
- (3) The cases specified by Cabinet Office Order as prescribed in Article 156-78, paragraph (3) of the Act are the following cases:
- (i) if there is a change to a particular stated in the document set forth in Article 12, item (vii) or (viii);
 - (ii) if an accident in which the whole or a part of the trade repository business

- is to be suspended occurs due to the failure of an electronic data processing system or any other accidental circumstances;
- (iii) if there is a person that has become a new officer of the trade repository after submitting the written application for designation referred to in Article 156-68, paragraph (1) of the Act;
 - (iv) if the trade repository comes to know that an act violating laws or regulations or violating the trade repository's operational rules has occurred while the officer and employees of the trade repository or of the entity with which the business of the trade repository has been entrusted (for an entity entrusted with the business, limited to the business related to the business with which the trade repository entrusts); and
 - (v) if the trade repository comes to know that a person that has concluded a contract for trade data collection with the trade repository or the officer and employees of that person has conducted an act in violation of the operational rules of the trade repository.

(Submission of Reports on Business and Assets)

- Article 21 (1) The report on business and assets which is required to be prepared by a trade repository pursuant to the provisions of Article 156-79, paragraph (1) of the Act must be prepared using the appended form and submitted to the Commissioner of the Financial Services Agency within three months after the end of the business year.
- (2) The inventory of property, the balance sheet, and the income and expenditure statement or profit and loss statement, or documents equivalent to them, and other documents stating the information that should serve as a reference must be attached to the report referred to in the preceding paragraph.
 - (3) If a trade repository is unable to submit the report prescribed in paragraph (1) within the period provided for in that paragraph due to compelling reasons, it may postpone the submission with the approval of the Commissioner of the Financial Services Agency.
 - (4) If a trade repository seeks to obtain the approval pursuant to the preceding paragraph, the trade repository must submit a written application for approval to the Commissioner of the Financial Services Agency with the statement of reasons attached.
 - (5) When an application for approval under the provisions of the preceding paragraph is filed, the Commissioner of the Financial Services Agency is to examine whether there is a compelling reason for the trade repository filing the application to postpone the submission pursuant to the provisions of paragraph (3).

Chapter V Miscellaneous Provisions

Article 22 (1) When an application for designation, authorization, or approval set forth in the following items is filed, the Commissioner of the Financial Services Agency is to endeavor to render a disposition on the application within the period provided in the relevant item that starts from the day on which the application has arrived at the office:

(i) the designation referred to in Article 156-67, paragraph (1) of the Act: two months;

(ii) the authorization referred to in Article 156-69, Article 156-74, paragraph (1), or Article 156-82, paragraph (1), or the approval referred to in the proviso to Article 156-72, paragraph (1), or Article 156-73, paragraph (1): one month; and

(iii) the approval referred to in Article 7, paragraph (5), Article 9, paragraph (4), or paragraph (3) of the preceding Article: one month.

(2) The periods referred to in the preceding paragraph do not include the following periods:

(i) any period required to amend the application;

(ii) any period required for the applicant to change the content of the application; and

(iii) any period required for the applicant to add materials that are found to be necessary for the examination of the application.