

# **Companies Act (Part V, Part VI, Part VII and Part VIII)**

(Act No. 86 of July 26, 2005)

## **Part V Entity Conversion, Merger, Company Split, Share Exchange, and Share Transfer**

### **Chapter I Entity Conversion**

#### **Section 1 Common Provisions**

(Preparation of Entity Conversion Plan)

Article 743 A Company may effect Entity Conversion. In such cases, the Company shall prepare an Entity Conversion plan.

#### **Section 2 Entity Conversion of a Stock Company**

(Entity Conversion Plan of a Stock Company)

Article 744 (1) In cases where a Stock Company effects Entity Conversion, the Stock Company shall prescribe the following matters in the Entity Conversion plan:

- (i) whether a Membership Company after the Entity Conversion (hereinafter referred to as the "Membership Company after Entity Conversion") is a General Partnership Company, Limited Partnership Company, or Limited Liability Company;
- (ii) the purpose, trade name, and location of the head office of the Membership Company after Entity Conversion;
- (iii) the following matters concerning the partners of the Membership Company after Entity Conversion:
  - (a) the names and domiciles of the partners;
  - (b) whether the partners are unlimited partners or limited partners; and
  - (c) the value of contributions by the partners;
- (iv) in addition to what is listed in the preceding two items, the matters provided for in the articles of incorporation of the Membership Company after Entity Conversion;
- (v) if the Membership Company after Entity Conversion is to deliver to shareholders of the Stock Company effecting the Entity Conversion Monies, etc. (excluding the equity interests of the Membership Company after Entity Conversion; hereinafter the same shall apply in this item and the following item) in lieu of the shares thereof when effecting the Entity Conversion, the following matters concerning such Monies, etc.:

- (a) if such Monies, etc. are Bonds of the Membership Company after Entity Conversion, the description of the classes of such Bonds (meaning the classes of Bonds prescribed in Article 107 (2)(ii)(b); hereinafter the same shall apply in this Part) and the total amount for each class of Bonds, or the method for calculating that total amount;
  - (b) if such Monies, etc. are property other than Bonds of the Membership Company after Entity Conversion, the description of the features and number or amount of such property, or the method for calculating such number or amount;
  - (vi) in the case prescribed in the preceding item, matters concerning the allotment of Monies, etc. set forth in that item to shareholders of the Stock Company effecting the Entity Conversion (excluding the Stock Company effecting the Entity Conversion);
  - (vii) if the Stock Company effecting Entity Conversion has issued Share Options, the description of the amount of Monies, etc. that the Membership Company after Entity Conversion will deliver in lieu of such Share Options to holders of such Share Options at the time of the Entity Conversion, or the method for calculating such amount;
  - (viii) in the case prescribed in the preceding item, matters concerning the allotment of Monies, etc. set forth in that item to holders of Share Options of the Stock Company effecting the Entity Conversion; and
  - (ix) the day on which the Entity Conversion becomes effective (hereinafter referred to as the "Effective Day" in this Chapter)
- (2) If the Membership Company after Entity Conversion is a General Partnership Company, it shall provide that all of the partners are unlimited partners in prescribing the matter set forth in item (iii)(b) of the preceding paragraph.
- (3) If the Membership Company after Entity Conversion is a Limited Partnership Company, it shall provide that some of the partners are unlimited partners and other partners are limited partners in prescribing the matter set forth in paragraph (1)(iii)(b).
- (4) If the Membership Company after Entity Conversion is a Limited Liability Company, it shall provide that all of the partners are limited partners in prescribing the matter set forth in paragraph (1)(iii)(b).

(Effectuation, etc. of Entity Conversion of a Stock Company)

Article 745 (1) A Stock Company effecting Entity Conversion shall become a Membership Company on the Effective Day.

(2) A Stock Company effecting Entity Conversion shall, in accordance with the provisions on the matters listed in paragraph (1)(ii) to (iv) of the preceding Article, be deemed to have effected changes to the articles of incorporation relating to such matters on the Effective Day.

- (3) Shareholders of a Stock Company effecting Entity Conversion shall, in accordance with the provisions on the matters set forth in paragraph (1)(iii) of the preceding Article, become partners of the Membership Company after Entity Conversion on the Effective Day.
- (4) In cases where there are provisions on the matter set forth in item (v)(a) of paragraph (1) of the preceding Article, shareholders of the Stock Company effecting Entity Conversion shall, in accordance with the provisions on the matter set forth in item (vi) of that paragraph, become bondholders of the Bonds set forth in item (v)(a) of that paragraph on the Effective Day.
- (5) The Share Options of a Stock Company effecting Entity Conversion shall be extinguished on the Effective Day.
- (6) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 779 are not completed yet or where the Entity Conversion is cancelled.

### **Section 3 Entity Conversion of a Membership Company**

(Entity Conversion Plan of a Membership Company)

Article 746 In cases where a Membership Company effects Entity Conversion, the Membership Company shall prescribe the following matters in the Entity Conversion plan:

- (i) the purpose, trade name, location of the head office, and Total Number of Authorized Shares of the Stock Company after the Entity Conversion (hereinafter referred to as the "Stock Company after Entity Conversion" in this Article);
- (ii) in addition to what is provided for in the preceding item, the matters provided for in the articles of incorporation of the Stock Company after Entity Conversion;
- (iii) the names of the directors of the Stock Company after Entity Conversion;
- (iv) the matters provided for in (a) to (c) below for the categories of cases listed respectively therein:
  - (a) in cases where the Stock Company after Entity Conversion is a Company with Accounting Advisors: the name(s) of the Accounting Advisor(s) of the Stock Company after Entity Conversion;
  - (b) in cases where the Stock Company after Entity Conversion is a Company with Company Auditors (including any Stock Company the articles of incorporation of which provide that the scope of the audit by its company auditor(s) is limited to an audit related to accounting): the name(s) of the company auditor(s) of the Stock Company after Entity Conversion; and
  - (c) in cases where the Stock Company after Entity Conversion is a Company with Accounting Auditors: the name(s) of the accounting auditor(s) of the

- Stock Company after Entity Conversion;
- (v) the number of shares (or, for a Company with Class Shares, the classes of the shares and the number of the shares for each class) of the Stock Company after Entity Conversion to be acquired by partners of the Membership Company effecting Entity Conversion, when effecting the Entity Conversion, or the method for calculating such numbers;
  - (vi) matters concerning the allotment of the shares set forth in the preceding item to partners of the Membership Company effecting Entity Conversion;
  - (vii) if the Stock Company after Entity Conversion is to deliver to partners of the Membership Company effecting the Entity Conversion Monies, etc. (excluding the shares of the Stock Company after Entity Conversion; hereinafter the same shall apply in this item and the following item) in lieu of the equity interests thereof when effecting the Entity Conversion, the following matters concerning such Monies, etc.:
    - (a) if such Monies, etc. are Bonds of the Stock Company after Entity Conversion (excluding those pertaining to Bonds with Share Options), the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
    - (b) if such Monies, etc. are Share Options of the Stock Company after Entity Conversion (excluding those attached to Bonds with Share Options), the description of the features and number of such Share Options, or the method for calculating such number;
    - (c) if such Monies, etc. are Bonds with Share Options of the Stock Company after Entity Conversion, the matters prescribed in (a) concerning such Bonds with Share Options and the matters prescribed in (b) concerning the Share Options attached to such Bonds with Share Options; and
    - (d) if such Monies, etc. are property other than Bonds, etc. (meaning Bonds and Share Options; hereinafter the same shall apply in this Part) of the Stock Company after Entity Conversion, the description of the features and number or amount of such property, or the method for calculating such number or amount;
  - (viii) in the case prescribed in the preceding item, matters concerning the allotment of Monies, etc. set forth in that item to partners of the Membership Company effecting the Entity Conversion; and
  - (ix) the Effective Day.

(Effectuation, etc. of Entity Conversion of a Membership Company)

Article 747 (1) A Membership Company effecting Entity Conversion shall become a Stock Company on the Effective Day.

(2) A Membership Company effecting Entity Conversion shall, in accordance with the provisions on the matters listed in item (i) and item (ii) of the preceding

Article, be deemed to have effected changes to the articles of incorporation relating to such matters on the Effective Day.

- (3) Partners of a Membership Company effecting Entity Conversion shall, in accordance with the provisions on the matters set forth in item (vi) of the preceding Article, become shareholders of the shares set forth in item (v) of that Article on the Effective Day.
- (4) In the cases listed in the following items, partners of a Membership Company effecting Entity Conversion shall become the persons specified respectively in those items, in accordance with the provisions on the matters set forth in item (viii) of the preceding Article, on the Effective Day:
  - (i) in cases where there is a provision on the matters set forth in (a) of item (vii) of the preceding Article: bondholders of the Bonds set forth in (a) of that item;
  - (ii) in cases where there is a provision on the matters set forth in (b) of item (vii) of the preceding Article: holders of the Share Options set forth in (b) of that item; and
  - (iii) in cases where there is a provision on the matters set forth in (c) of item (vii) of the preceding Article: bondholders of the Bonds pertaining to Bonds with Share Options set forth in (c) of that item, and holders of the Share Options attached to such Bonds with Share Options.
- (5) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 779 (excluding paragraph (2) (ii)) as applied mutatis mutandis pursuant to Article 781 (2) are not completed yet or where the Entity Conversion is cancelled.

## **Chapter II Merger**

### **Section 1 Common Provisions**

(Conclusion of a Merger Agreement)

Article 748 A Company may effect a merger with another Company. In such cases, the merging Companies shall conclude a merger agreement.

### **Section 2 Absorption-type Merger**

#### **Subsection 1 Absorption-type Merger in Which a Stock Company Survives**

(Absorption-type Merger Agreement in Which a Stock Company Survives)

Article 749 (1) In the case where a Company effects an Absorption-type Merger, if the Company surviving the Absorption-type Merger (hereinafter referred to as the "Company Surviving Absorption-type Merger") is a Stock Company, it shall prescribe the following matters in the Absorption-type Merger agreement:

- (i) the trade names and domiciles of the Company Surviving Absorption-type Merger that is a Stock Company (hereinafter referred to as the "Stock Company Surviving Absorption-type Merger" in this Part) and the Company absorbed in the Absorption-type Merger (hereinafter referred to as the "Company Absorbed in Absorption-type Merger" in this Part);
- (ii) if the Stock Company Surviving Absorption-type Merger is to deliver to shareholders of the Company Absorbed in Absorption-type Merger that is a Stock Company (hereinafter referred to as the "Stock Company Absorbed in Absorption-type Merger" in this Part) or to partners of the Company Absorbed in Absorption-type Merger that is a Membership Company (hereinafter referred to as the "Membership Company Absorbed in Absorption-type Merger" in this Part) Monies, etc. in lieu of the shares or equity interests thereof when effecting the Absorption-type Merger, the following matters concerning such Monies, etc.:
  - (a) if such Monies, etc. are shares of the Stock Company Surviving Absorption-type Merger, the description of the number of such shares (or, for a Company with Class Shares, the classes of the shares and the number of the shares for each class) or the method for calculating such numbers, and matters concerning the amount of the stated capital and capital reserves of the Stock Company Surviving Absorption-type Merger;
  - (b) if such Monies, etc. are Bonds of the Stock Company Surviving Absorption-type Merger (excluding those pertaining to Bonds with Share Options), the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
  - (c) if such Monies, etc. are Stock Options of the Stock Company Surviving Absorption-type Merger (excluding those attached to Bonds with Share Options), the description of the features and number of such Share Options, or the method for calculating such number;
  - (d) if such Monies, etc. are Bonds with Share Options of the Stock Company Surviving Absorption-type Merger, the matters prescribed in (b) concerning such Bonds with Share Options and the matters prescribed in (c) concerning the Share Options attached to such Bonds with Share Options;  
or
  - (e) if such Monies, etc. are property other than shares, etc. of the Stock Company Surviving Absorption-type Merger, the description of the features and number or amount of such property, or the method for calculating such number or amount;
- (iii) in the case prescribed in the preceding item, matters concerning the allotment of Monies, etc. set forth in that item to shareholders of the Stock Company Absorbed in Absorption-type Merger (excluding the Stock Company Absorbed in Absorption-type Merger and the Stock Company Surviving

- Absorption-type Merger) or to partners of the Membership Company Absorbed in Absorption-type Merger (excluding the Stock Company Surviving Absorption-type Merger);
- (iv) if the Stock Company Absorbed in Absorption-type Merger has issued Share Options, the following matters concerning the Share Options of the Stock Company Surviving Absorption-type Merger or monies that the Stock Company Surviving Absorption-type Merger will deliver in lieu of such Share Options to holders of such Share Options at the time of the Absorption-type Merger:
- (a) when delivering Share Options of the Stock Company Surviving Absorption-type Merger to holders of Share Options of the Stock Company Absorbed in Absorption-type Merger, the description of the features and number of such Share Options, or the method for calculating such number;
  - (b) in the case prescribed in (a), if the Share Options of the Stock Company Absorbed in Absorption-type Merger set forth in (a) are Share Options attached to Bonds with Share Options, a statement to the effect that the Stock Company Surviving Absorption-type Merger will succeed to the obligations relating to the Bonds pertaining to such Bonds with Share Options and the description of the classes of the Bonds subject to such succession and the total amount for each class of Bonds, or the method for calculating that total amount; and
  - (c) when delivering monies to holders of Share Options of the Stock Company Absorbed in Absorption-type Merger, the description of the amount of such monies or the method for calculating such amount;
- (v) in the case prescribed in the preceding item, matters concerning allotment of the Share Options of the Stock Company Surviving Absorption-type Merger or monies set forth in that item to holders of Share Options of the Stock Company Absorbed in Absorption-type Merger; and
- (vi) the day on which the Absorption-type Merger becomes effective (hereinafter referred to as the "Effective Day" in this Section).
- (2) In the case prescribed in the preceding paragraph, if the Stock Company Absorbed in Absorption-type Merger is a Company with Class Shares, the Stock Company Surviving Absorption-type Merger and the Stock Company Absorbed in Absorption-type Merger may provide for the following matters in prescribing the matters set forth in item (iii) of that paragraph in accordance with the features of the classes of shares issued by the Stock Company Absorbed in Absorption-type Merger:
- (i) if there is any arrangement that no Monies, etc. are allotted to shareholders of a certain class of shares, a statement to such effect and such class of shares; and
  - (ii) in addition to the matters listed in the preceding item, if there is any

arrangement that each class of shares shall be treated differently with respect to allotment of Monies, etc., a statement to such effect and the details of such different treatment.

- (3) In the case prescribed in paragraph (1), the provisions on the matters listed in item (iii) of that paragraph shall be such that the Monies, etc. are delivered in proportion to the number of the shares (or, in cases where there are provisions on the matters listed in item (ii) of the preceding paragraph, the number of the shares of each class) held by the shareholders of the Stock Company Absorbed in Absorption-type Merger (excluding the Stock Company Absorbed in Absorption-type Merger and the Stock Company Surviving Absorption-type Merger and shareholders of the class of shares referred to in item (i) of the preceding paragraph).

(Effectuation, etc. of an Absorption-type Merger in Which a Stock Company Survives)

- Article 750 (1) A Stock Company Surviving Absorption-type Merger shall succeed to the rights and obligations of a Company Absorbed in Absorption-type Merger on the Effective Day.
- (2) Dissolution of a Company Absorbed in Absorption-type Merger resulting from the Absorption-type Merger may not be duly asserted against a third party until the registration of the Absorption-type Merger has been completed.
- (3) In the cases listed in the following items, the shareholders of a Stock Company Absorbed in Absorption-type Merger or partners of a Membership Company Absorbed in Absorption-type Merger shall become the persons specified respectively in those items, in accordance with the provisions on the matters set forth in paragraph (1) (iii) of the preceding Article, on the Effective Day:
- (i) in cases where there is a provision on the matters set forth in (a) of item (ii) of paragraph (1) of the preceding Article: shareholders of shares set forth in (a) of that item;
  - (ii) in cases where there is a provision on the matters set forth in (b) of item (ii) of paragraph (1) of the preceding Article: bondholders of Bonds set forth in (b) of that item;
  - (iii) in cases where there is a provision on the matters set forth in (c) of item (ii) of paragraph (1) of the preceding Article: holders of Share Options set forth in (c) of that item; or
  - (iv) in cases where there is a provision on the matters set forth in (d) of item (ii) of paragraph (1) of the preceding Article: bondholders of the Bonds pertaining to Bonds with Share Options set forth in (d) of that item, and holders of the Share Options attached to such Bonds with Share Options.
- (4) The Share Options of a Stock Company Absorbed in Absorption-type Merger



shall be extinguished on the Effective Day.

- (5) In the case prescribed in item (iv)(a) of paragraph (1) of the preceding Article, the holders of Share Options of a Stock Company Absorbed in Absorption-type Merger shall, in accordance with the provisions on the matters set forth in item (v) of that paragraph, become holders of Share Options of a Stock Company Surviving Absorption-type Merger set forth in item (iv)(a) of that paragraph on the Effective Day.
- (6) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 789 (excluding paragraph (1)(iii) and paragraph (2)(iii), and including the case where it is applied mutatis pursuant to Article 793 (2)) or Article 799 are not completed yet or where the Absorption-type Merger is cancelled.

### **Subsection 2 Absorption-type Merger in Which a Membership Company Survives**

(Absorption-type Merger Agreement in Which a Membership Company Survives)

Article 751 (1) In the case where a Company effects an Absorption-type Merger, if the Company Surviving Absorption-type Merger is a Membership Company, it shall prescribe the following matters in the Absorption-type Merger agreement:

- (i) the trade names and domiciles of the Company Surviving Absorption-type Merger that is a Membership Company (hereinafter referred to as the "Membership Company Surviving Absorption-type Merger" in this Section) and the Company Absorbed in Absorption-type Merger;
- (ii) if shareholders of the Stock Company Absorbed in Absorption-type Merger or partners of the Membership Company Absorbed in Absorption-type Merger are to become partners of the Membership Company Surviving Absorption-type Merger when effecting the Absorption-type Merger, the matters provided for in (a) to (c) below for the categories of Membership Company Surviving Absorption-type Merger listed respectively therein:
- (a) General Partnership Company: the names and domiciles of the partners and the value of contributions by the partners;
- (b) Limited Partnership Company: the names and domiciles of the partners, whether the partners are unlimited partners or limited partners, and the value of contributions by the partners; or
- (c) Limited Liability Company: the names and domiciles of the partners and the value of contributions by the partners;
- (iii) if the Membership Company Surviving Absorption-type Merger is to deliver to shareholders of the Stock Company Absorbed in Absorption-type

Merger or partners of the Membership Company Absorbed in Absorption-type Merger Monies, etc. (excluding the equity interests of the Membership Company Surviving Absorption-type Merger) in lieu of the shares or equity interests thereof when effecting the Absorption-type Merger, the following matters concerning such Monies, etc.:

- (a) if such Monies, etc. are Bonds of the Membership Company Surviving Absorption-type Merger, the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount; or
  - (b) if such Monies, etc. are property other than Bonds of the Membership Company Surviving Absorption-type Merger, the description of the features and number or amount of such property, or the method for calculating such number or amount;
  - (iv) in the case prescribed in the preceding item, matters concerning allotment of Monies, etc. set forth in that item to shareholders of the Stock Company Absorbed in Absorption-type Merger (excluding the Stock Company Absorbed in Absorption-type Merger and the Membership Company Surviving Absorption-type Merger) or partners of the Membership Company Absorbed in Absorption-type Merger (excluding the Membership Company Surviving Absorption-type Merger);
  - (v) if the Stock Company Absorbed in Absorption-type Merger has issued Share Options, the description of the amount of Monies, etc. that the Membership Company Surviving Absorption-type Merger will deliver in lieu of such Share Options to holders of such Share Options at the time of the Absorption-type Merger, or the method for calculating such amount;
  - (vi) in the case prescribed in the preceding item, matters concerning the allotment of Monies, etc. set forth in that item to holders of Share Options of the Stock Company Absorbed in Absorption-type Merger; and
  - (vii) the Effective Day.
- (2) In the case prescribed in the preceding paragraph, if the Stock Company Absorbed in Absorption-type Merger is a Company with Class Shares, the Membership Company Surviving Absorption-type Merger and the Stock Company Absorbed in Absorption-type Merger may provide for the following matters in prescribing the matters set forth in item (iv) of that paragraph in accordance with the features of the classes of shares issued by the Stock Company Absorbed in Absorption-type Merger:
- (i) if there is any arrangement that no Monies, etc. are allotted to shareholders of a certain class of shares, a statement to such effect and such class of shares; and
  - (ii) in addition to the matters listed in the preceding item, if there is any arrangement that each class of shares shall be treated differently with

respect to allotment of Monies, etc., a statement to such effect and the details of such different treatment.

- (3) In the case prescribed in paragraph (1), the provisions on the matters listed in item (iv) of that paragraph shall be such that the Monies, etc. are delivered in proportion to the number of the shares (or, in cases where there are provisions on the matters listed in item (ii) of the preceding paragraph, the number of the shares of each class) held by shareholders of the Stock Company Absorbed in Absorption-type Merger (excluding the Stock Company Absorbed in Absorption-type Merger and the Membership Company Surviving Absorption-type Merger and shareholders of the class of shares referred to in item (i) of the preceding paragraph).

(Effectuation, etc. of an Absorption-type Merger in Which a Membership Company Survives)

Article 752 (1) A Membership Company Surviving Absorption-type Merger shall succeed to the rights and obligations of the Company Absorbed in Absorption-type Merger on the Effective Day.

- (2) Dissolution of the Company Absorbed in Absorption-type Merger resulting from the Absorption-type Merger may not be duly asserted against a third party until the registration of the Absorption-type Merger has been completed.
- (3) In the case prescribed in item (ii) of paragraph (1) of the preceding Article, the shareholders of the Stock Company Absorbed in Absorption-type Merger or partners of the Membership Company Absorbed in Absorption-type Merger shall, in accordance with the provisions on the matters set forth in that item, become partners of the Membership Company Surviving Absorption-type Merger on the Effective Day. In such cases, the Membership Company Surviving Absorption-type Merger shall be deemed to have effected changes to the articles of incorporation relating to the partners set forth in that item on the Effective Day.
- (4) In cases where there are provisions on the matter set forth in item (iii)(a) of paragraph (1) of the preceding Article, the shareholders of the Stock Company Absorbed in Absorption-type Merger or partners of the Membership Company Absorbed in Absorption-type Merger shall, in accordance with the provisions on the matter set forth in item (iv) of that paragraph, become bondholders of Bonds set forth in item (iii)(a) of that paragraph on the Effective Day.
- (5) The Share Options of the Stock Company Absorbed in Absorption-type Merger shall be extinguished on the Effective Day.
- (6) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 789 (excluding paragraph (1)(iii) and paragraph (2)(iii)), and including the case where it is applied mutatis pursuant to Article 793 (2) or Article 799 (excluding paragraph (2)(iii)) as applied

mutatis mutandis pursuant to Article 802 (2) are not completed yet or where the Absorption-type Merger is cancelled.

### **Section 3 Consolidation-type Merger**

#### **Subsection 1 Consolidation-type Merger by Which a Stock Company is Incorporated**

(Consolidation-type Merger Agreement by Which a Stock Company is Incorporated)

Article 753 (1) In the case where two or more Companies effect a Consolidation-type Merger, if the Company incorporated through the Consolidation-type Merger (hereinafter referred to as the "Company Incorporated through Consolidation-type Merger" in this Part) is a Stock Company, it shall prescribe the following matters in the Consolidation-type Merger agreement:

- (i) the trade names and domiciles of the companies consolidated by the Consolidation-type Merger (hereinafter referred to as the "Companies Consolidated through Consolidation-type Merger" in this Part);
- (ii) the purpose, trade name, location of the head office, and Total Number of Authorized Shares of the Company Incorporated through Consolidation-type Merger that is a Stock Company (hereinafter referred to as the "Stock Company Incorporated through Consolidation-type Merger" in this Part);
- (iii) in addition to what is provided for in the preceding item, the matters provided for in the articles of incorporation of the Stock Company Incorporated through Consolidation-type Merger;
- (iv) the names of the Directors at Incorporation of the Stock Company Incorporated through Consolidation-type Merger;
- (v) the matters provided for in (a) to (c) below for the categories of cases listed respectively therein:
  - (a) in cases where the Stock Company Incorporated through Consolidation-type Merger is a Company with Accounting Advisors: the name(s) of the Accounting Advisor(s) at Incorporation of the Stock Company Incorporated through Consolidation-type Merger;
  - (b) in cases where the Stock Company Incorporated through Consolidation-type Merger is a Company with Company Auditors (including any Stock Company the articles of incorporation of which provide that the scope of the audit by its company auditor(s) is limited to an audit related to accounting): the name(s) of the Company Auditor(s) at Incorporation of the Stock Company Incorporated through Consolidation-type Merger; or
  - (c) in cases where the Stock Company Incorporated through Consolidation-type Merger is a Company with Accounting Auditors: the name(s) of the Accounting Auditor(s) at Incorporation of the Stock Company Incorporated

- through Consolidation-type Merger;
- (vi) the number of shares (or, for a Company with Class Shares, the classes of the shares and the number of the shares for each class) of the Stock Company Incorporated through Consolidation-type Merger to be delivered by the Stock Company Incorporated through Consolidation-type Merger to shareholders of the Company(ies) Consolidated through Consolidation-type Merger that is a Stock Company (hereinafter referred to as the "Stock Company(ies) Consolidated through Consolidation-type Merger" in this Part) or to partners of the Company(ies) Consolidated through Consolidation-type Merger that is a Membership Company (hereinafter referred to as the "Membership Company(ies) Consolidated through Consolidation-type Merger" in this Part), when effecting the Consolidation-type Merger, or the method for calculating such numbers, and matters concerning the amount of the stated capital and capital reserves of the Stock Company Incorporated through Consolidation-type Merger;
- (vii) matters concerning allotment of the shares set forth in the preceding item to shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger (excluding the Stock Company(ies) Consolidated through Consolidation-type Merger) or to partners of the Membership Company(ies) Consolidated through Consolidation-type Merger;
- (viii) if the Stock Company Incorporated through Consolidation-type Merger is to deliver to shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger or to partners of the Membership Company(ies) Consolidated through Consolidation-type Merger Bonds, etc. of the Stock Company Incorporated through Consolidation-type Merger in lieu of the shares or equity interests thereof when effecting the Consolidation-type Merger, the following matters concerning such Bonds, etc.:
- (a) if such Bonds, etc. are Bonds of the Stock Company Incorporated through Consolidation-type Merger (excluding those pertaining to Bonds with Share Options), the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
- (b) if such Bonds, etc. are Share Options of the Stock Company Incorporated through Consolidation-type Merger (excluding those attached to Bonds with Share Options), the description of the features and number of such Share Options, or the method for calculating such number; or
- (c) if such Bonds, etc. are Bonds with Share Options of the Stock Company Incorporated through Consolidation-type Merger, the matters prescribed in (a) concerning such Bonds with Share Options and the matters prescribed in (b) concerning the Share Options attached to such Bonds with Share Options;

- (ix) in the case prescribed in the preceding item, matters concerning the allotment of Bonds, etc. set forth in that item to shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger (excluding the Stock Company(ies) Consolidated through Consolidation-type Merger) or partners of the Membership Company(ies) Consolidated through Consolidation-type Merger;
  - (x) if the Stock Company(ies) Consolidated through Consolidation-type Merger has issued Share Options, the following matters concerning the Share Options of the Stock Company Incorporated through Consolidation-type Merger or monies that the Stock Company Incorporated through Consolidation-type Merger will deliver in lieu of such Share Options to holders of such Share Options at the time of the Consolidation-type Merger:
    - (a) when delivering Share Options of the Stock Company Surviving Absorption-type Merger to holders of Share Options of the Stock Company Absorbed in Absorption-type Merger, the description of the features and number of such Share Options, or the method for calculating such number;
    - (b) in the case prescribed in (a), if the Share Options of the Stock Company(ies) Consolidated through Consolidation-type Merger set forth in (a) are Share Options attached to Bonds with Share Options, a statement to the effect that the Stock Company Incorporated through Consolidation-type Merger will succeed to the obligations relating to the Bonds pertaining to such Bonds with Share Options and the description of the classes of the Bonds subject to such succession and the total amount for each class of Bonds, or the method for calculating that total amount; and
    - (c) when delivering monies to holders of Share Options of the Stock Company(ies) Consolidated through Consolidation-type Merger, the description of the amount of such monies or the method for calculating such amount; and
  - (xi) in the case prescribed in the preceding item, matters concerning the allotment of the Share Options of the Stock Company Incorporated through Consolidation-type Merger or monies set forth in that item to holders of Share Options of the Stock Company(ies) Consolidated through Consolidation-type Merger.
- (2) In the case prescribed in the preceding paragraph, if all or part of the Stock Company(ies) Consolidated through Consolidation-type Merger are Companies with Class Shares, the Companies Consolidated through Consolidation-type Merger may provide for the following matters in prescribing the matters set forth in item (vii) of that paragraph (limited to matters pertaining to shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger; the same shall apply in the following paragraph) in accordance with the features of the classes of shares issued by the Stock Company(ies)

Consolidated through Consolidation-type Merger:

- (i) if there is any arrangement that no shares of the Stock Company Incorporated through Consolidation-type Merger are allotted to shareholders of a certain class of shares, a statement to such effect and such class of shares; and
  - (ii) in addition to the matters listed in the preceding item, if there is any arrangement that each class of shares shall be treated differently with respect to allotment of shares of the Stock Company Incorporated through Consolidation-type Merger, a statement to such effect and the details of such different treatment.
- (3) In the case prescribed in paragraph (1), the provisions on the matters listed in item (vii) of that paragraph shall be such that shares of the Stock Company Incorporated through Consolidation-type Merger shall be delivered in proportion to the number of the shares (or, in cases where there are provisions on the matters listed in item (ii) of the preceding paragraph, the number of the shares of each class) held by shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger (excluding the Companies Consolidated through Consolidation-type Merger and shareholders of the class of shares referred to in item (i) of the preceding paragraph).
- (4) The provisions of the preceding two paragraphs shall apply mutatis mutandis to paragraph (1)(ix). In such cases, the term "shares of the Stock Company Incorporated through Consolidation-type Merger" in the preceding two paragraphs shall be deemed to be replaced with "Bonds, etc. of the Stock Company Incorporated through Consolidation-type Merger."

(Effectuation, etc. of Consolidation-type Merger by Which a Stock Company is Incorporated)

Article 754 (1) A Stock Company Incorporated through Consolidation-type Merger shall succeed to the rights and obligations of the Companies Consolidated through Consolidation-type Merger on the day of its formation.

- (2) In the case prescribed in paragraph (1) of the preceding Article, the shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger or partners of the Membership Company(ies) Consolidated through Consolidation-type Merger shall become shareholders of the shares set forth in item (vi) of that paragraph, in accordance with the provisions on the matters set forth in item (vii) of that paragraph, on the day of formation of the Stock Company Incorporated through Consolidation-type Merger.
- (3) In the cases listed in the following items, shareholders of a Stock Company(ies) Consolidated through Consolidation-type Merger or partners of a Membership Company(ies) Consolidated through Consolidation-type Merger shall become the persons specified respectively in those items, in accordance

with the provisions on the matters set forth in paragraph (1)(ix) of the preceding Article, on the day of formation of the Stock Company Incorporated through Consolidation-type Merger:

- (i) in cases where there is a provision on the matters set forth in (a) of item (viii) of paragraph (1) of the preceding Article: bondholders of Bonds set forth in (a) of that item;
  - (ii) in cases where there is a provision on the matters set forth in (b) of item (viii) of paragraph (1) of the preceding Article: holders of Share Options set forth in (b) of that item; or
  - (iii) in cases where there is a provision on the matters set forth in (c) of item (viii) paragraph (1) of the preceding Article: bondholders of the Bonds pertaining to Bonds with Share Options set forth in (c) of that item, and holders of the Share Options attached to such Bonds with Share Options.
- (4) The Share Options of a Stock Company(ies) Consolidated through Consolidation-type Merger shall be extinguished on the day of formation of the Stock Company Incorporated through Consolidation-type Merger.
- (5) In the case prescribed in item (x)(a) of paragraph (1) of the preceding Article, the holders of Share Options of a Stock Company(ies) Consolidated through Consolidation-type Merger shall, in accordance with the provisions on the matters set forth in item (xi) of that paragraph, become holders of Share Options of the Stock Company Incorporated through Consolidation-type Merger set forth in item (x)(a) of that paragraph on the day of formation of the Stock Company Incorporated through Consolidation-type Merger.

#### **Subsection 2 Consolidation-type Merger by Which a Membership Company is Incorporated**

(Consolidation-type Merger Agreement by Which a Membership Company is Incorporated)

Article 755 (1) In the case where two or more Companies effect a Consolidation-type Merger, if the Company Incorporated through Consolidation-type Merger is a Membership Company, it shall prescribe the following matters in the Consolidation-type Merger agreement:

- (i) the trade names and domiciles of the Companies Consolidated through Consolidation-type Merger;
- (ii) whether the Company Incorporated through Consolidation-type Merger that is a Membership Company (hereinafter referred to as the "Membership Company Incorporated through Consolidation-type Merger" in this Part) is a General Partnership Company, a Limited Partnership Company, or a Limited Liability Company;
- (iii) the purpose, trade name, location of the head office of the Membership



- Company Incorporated through Consolidation-type Merger;
- (iv) the following matters concerning the partners of the Membership Company Incorporated through Consolidation-type Merger:
    - (a) the names and domiciles of the partners;
    - (b) whether the partners are unlimited partners or limited partners; and
    - (c) the value of contributions by the partners;
  - (v) in addition to what is listed in the preceding two items, the matters provided for in the articles of incorporation of the Membership Company Incorporated through Consolidation-type Merger;
  - (vi) if the Membership Company Incorporated through Consolidation-type Merger is to deliver to shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger or to partners of the Membership Company(ies) Consolidated through Consolidation-type Merger Bonds of the Membership Company Incorporated through Consolidation-type Merger in lieu of the shares or equity interests thereof when effecting the Consolidation-type Merger, the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount
  - (vii) in the case prescribed in the preceding item, matters concerning allotment of Bonds set forth in that item to shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger (excluding the Stock Company(ies) Consolidated through Consolidation-type Merger) or to partners of the Membership Company(ies) Consolidated through Consolidation-type Merger;
  - (viii) if the Stock Company(ies) Consolidated through Consolidation-type Merger has issued Share Options, the description of the amount of monies that the Membership Company Incorporated through Consolidation-type Merger shall deliver in lieu of such Share Options to holders of such Share Options at the time of the Consolidation-type Merger, or the method for calculating such amount
  - (ix) in the case prescribed in the preceding item, matters concerning allotment of monies set forth in that item to holders of Share Options of the Stock Company(ies) Consolidated through Consolidation-type Merger.
- (2) If the Membership Company Incorporated through Consolidation-type Merger is a General Partnership Company, it shall provide that all of the partners are unlimited partners in prescribing the matter set forth in item (iv)(b) of the preceding paragraph.
- (3) If the Membership Company Incorporated through Consolidation-type Merger is a Limited Partnership Company, it shall provide that some of the partners are unlimited partners and other partners are limited partners in prescribing the matter set forth in paragraph (1)(iv)(b).

(4) If the Membership Company Incorporated through Consolidation-type Merger is a Limited Liability Company, it shall provide that all of the partners are limited partners in prescribing the matter set forth in paragraph (1)(iv)(b).

(Effectuation, etc. of Consolidation-type Merger by Which a Membership Company is Incorporated)

Article 756 (1) A Membership Company Incorporated through Consolidation-type Merger shall succeed to the rights and obligations of the Companies Consolidated through Consolidation-type Merger on the day of its formation.

(2) In the case prescribed in paragraph (1) of the preceding Article, the shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger or partners of the Membership Company(ies) Consolidated through Consolidation-type Merger shall become partners of the Membership Company Incorporated through Consolidation-type Merger, in accordance with the provisions on the matters set forth in item (iv) of that paragraph, on the day of formation of the Membership Company Incorporated through Consolidation-type Merger.

(3) In cases where there are provisions on the matter set forth in item (vi) of paragraph (1) of the preceding Article, the shareholders of a Stock Company(ies) Consolidated through Consolidation-type Merger or partners of a Membership Company(ies) Consolidated through Consolidation-type Merger shall, in accordance with the provisions on the matter set forth in item (vii) of that paragraph, become bondholders of Bonds set forth in item (vi) of that paragraph on the day of formation of the Membership Company Incorporated through Consolidation-type Merger.

(4) The Share Options of a Stock Company(ies) Consolidated through Consolidation-type Merger shall be extinguished on the day of formation of the Membership Company Incorporated through Consolidation-type Merger.

### **Chapter III Company Split**

#### **Section 1 Absorption-type Company Split**

##### **Subsection 1 Common Provisions**

(Conclusion of an Absorption-type Company Split Agreement)

Article 757 A Company (limited to a Stock Company or a Limited Liability Company) may effect an Absorption-type Company Split. In such cases, such Company shall conclude an Absorption-type Company Split agreement with the Company which succeeds to all or part of the rights and obligations held by such Company in connection with its business by transfer from such Company (hereinafter referred to as the "Succeeding Company in Absorption-type Company Split" in this Part).

## **Subsection 2 Absorption-type Company Split Which Causes a Stock Company to Succeed to Rights and Obligations**

(Absorption-type Company Split Agreement Which Causes a Stock Company to Succeed to Rights and Obligations)

Article 758 In the case where a Company effects an Absorption-type Company Split, if the Succeeding Company in Absorption-type Company Split is a Stock Company, it shall prescribe the following matters in the Absorption-type Company Split agreement:

- (i) the trade names and domiciles of the Company effecting the Absorption-type Company Split (hereinafter referred to as the "Splitting Company in Absorption-type Company Split" in this Part) and the Succeeding Company in Absorption-type Company Split that is a Stock Company (hereinafter referred to as the "Succeeding Stock Company in Absorption-type Company Split" in this Part);
- (ii) matters concerning the assets, obligations, employment agreements, and any other rights and obligations that the Succeeding Stock Company in Absorption-type Company Split succeeds to by transfer from the Splitting Company in Absorption-type Company Split through the Absorption-type Company Split (excluding obligations pertaining to shares of the Splitting Company in Absorption-type Company Split that is a Stock Company (hereinafter referred to as the "Splitting Stock Company in Absorption-type Company Split" in this Part) and of the Succeeding Stock Company in Absorption-type Company Split and to Share Options of the Splitting Stock Company in Absorption-type Company Split);
- (iii) when the Succeeding Stock Company in Absorption-type Company Split succeeds to shares of the Splitting Stock Company in Absorption-type Company Split or of the Succeeding Stock Company in Absorption-type Company Split through the Absorption-type Company Split, matters concerning such shares;
- (iv) if the Succeeding Stock Company in Absorption-type Company Split is to deliver to the Splitting Company in Absorption-type Company Split Monies, etc. in lieu of all or part of the rights and obligations in connection with the business thereof when effecting the Absorption-type Company Split, the following matters concerning such Monies, etc.:
  - (a) if such Monies, etc. are shares of the Succeeding Stock Company in Absorption-type Company Split, the description of the number of such shares (or, for a Company with Class Shares, the classes of the shares and the number of the shares for each class) or the method for calculating such numbers, and matters concerning the amount of the stated capital and

- capital reserves of the Succeeding Stock Company in Absorption-type Company Split;
- (b) if such Monies, etc. are Bonds of the Succeeding Stock Company in Absorption-type Company Split (excluding those pertaining to Bonds with Share Options), the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
  - (c) if such Monies, etc. are Stock Options of the Succeeding Stock Company in Absorption-type Company Split (excluding those attached to Bonds with Share Options), the description of the features and number of such Share Options, or the method for calculating such number;
  - (d) if such Monies, etc. are Bonds with Share Options of the Succeeding Stock Company in Absorption-type Company Split, the matters prescribed in (b) concerning such Bonds with Share Options and the matters prescribed in (c) concerning the Share Options attached to such Bonds with Share Options; and
  - (e) if such Monies, etc. are property other than shares, etc. of the Succeeding Stock Company in Absorption-type Company Split, the description of the features and number or amount of such property, or the method for calculating such number or amount;
  - (v) if the Succeeding Stock Company in Absorption-type Company Split is to deliver to holders of Share Options of the Splitting Stock Company in Absorption-type Company Split Share Options of the Succeeding Stock Company in Absorption-type Company Split in lieu of such Share Options at the time of the Absorption-type Company Split, the following matters concerning such Share Options:
    - (a) the description of the features of the Share Options (hereinafter referred to as "Share Options under Absorption-type Company Split Agreement" in this Part) held by holders of Share Options of the Splitting Stock Company in Absorption-type Company Split who shall receive delivery of Share Options of the Succeeding Stock Company in Absorption-type Company Split;
    - (b) the description of the features and number of Share Options of the Succeeding Stock Company in Absorption-type Company Split to be delivered to holders of Share Options under Absorption-type Company Split Agreement, or the method for calculating such number; and
    - (c) if Share Options under Absorption-type Company Split Agreement are Share Options attached to Bonds with Share Options, a statement to the effect that the Succeeding Stock Company in Absorption-type Company Split will succeed to the obligations relating to the Bonds pertaining to such Bonds with Share Options and the description of the classes of the

- Bonds subject to such succession and the total amount for each class of Bonds, or the method for calculating that total amount;
- (vi) in the case prescribed in the preceding item, matters concerning allotment of the Share Options of the Succeeding Stock Company in Absorption-type Company Split set forth in that item to holders of Share Options under Absorption-type Company Split Agreement;
- (vii) the day on which the Absorption-type Company Split becomes effective (hereinafter referred to as the "Effective Day" in this Section);
- (viii) if the Splitting Stock Company in Absorption-type Company Split conducts any one of the following acts on the Effective Day, a statement to that effect:
- (a) acquisition of shares under the provisions of paragraph (1) of Article 171 (limited to the case where the Consideration for Acquisition prescribed in item (i) of that paragraph is only the shares of the Succeeding Stock Company in Absorption-type Company Split (excluding shares that had been held by the Splitting Stock Company in Absorption-type Company Split prior to effecting the Absorption-type Company Split, and including shares prescribed by the applicable Ordinance of the Ministry of Justice as those equivalent to shares of the Succeeding Stock Company in Absorption-type Company Split; the same shall apply in (b))); or
- (b) payment of dividends of surplus (limited to the case where the Dividend Property is only the shares of the Succeeding Stock Company in Absorption-type Company Split).

(Effectuation, etc. of an Absorption-type Company Split Which Causes a Stock Company to Succeed to Rights and Obligations)

Article 759 (1) A Succeeding Stock Company in Absorption-type Company Split shall succeed to the rights and obligations of the Splitting Company in Absorption-type Company Split, in accordance with the provisions of the Absorption-type Company Split agreement, on the Effective Day.

(2) Notwithstanding the provisions of the preceding paragraph, if a creditor of the Splitting Company in Absorption-type Company Split who is able to state an objection (limited to a creditor to whom the separate notice set forth in Article 789 (2) (excluding item (iii) and including the case where it is applied mutatis mutandis pursuant to Article 793 (2); hereinafter the same shall apply in this paragraph and the following paragraph) shall be given; the same shall apply in the following paragraph) pursuant to the provisions of Article 789 (1)(ii) (including the case where it is applied mutatis mutandis pursuant to Article 793 (2); the same shall apply in the following paragraph) has not received the separate notice set forth in Article 789 (2), such creditor may request the Splitting Company in Absorption-type Company Split to perform

the obligations to the extent of the value of property held by the Splitting Company in Absorption-type Company Split on the Effective Day, even in the case where such creditor is not allowed, under the Absorption-type Company Split agreement, to request the Splitting Company in Absorption-type Company Split to perform the obligations after the Absorption-type Company Split.

- (3) Notwithstanding the provisions of paragraph (1), if a creditor of the Splitting Company in Absorption-type Company Split who is able to state an objection pursuant to the provisions of paragraph (1)(ii) of Article 789 has not received the separate notice set forth in paragraph (2) of that Article, such creditor may request the Succeeding Stock Company in Absorption-type Company Split to perform the obligations to the extent of the value of property to which it has succeeded, even in the case where such creditor is not allowed, under the Absorption-type Company Split agreement, to request the Succeeding Stock Company in Absorption-type Company Split to perform the obligations after the Absorption-type Company Split.
- (4) In the cases listed in the following items, the Splitting Company in Absorption-type Company Split shall become the persons specified respectively in those items, in accordance with the provisions of the Absorption-type Company Split agreement, on the Effective Day:
- (i) in cases where there is a provision on the matters set forth in (a) of item (iv) of the preceding Article: shareholders of shares set forth in (a) of that item;
  - (ii) in cases where there is a provision on the matters set forth in (b) of item (iv) of the preceding Article: bondholders of Bonds set forth in (b) of that item;
  - (iii) in cases where there is a provision on the matters set forth in (c) of item (iv) of the preceding Article: holders of Share Options set forth in (c) of that item; or
  - (iv) in cases where there is a provision on the matters set forth in (d) of item (iv) of the preceding Article: bondholders of the Bonds pertaining to Bonds with Share Options set forth in (d) of that item, and holders of the Share Options attached to such Bonds with Share Options.
- (5) In the case prescribed in item (v) of the preceding Article, the Share Options under Absorption-type Company Split Agreement shall be extinguished and holders of the Share Options under Absorption-type Company Split Agreement shall become holders of the Share Options of the Succeeding Stock Company in Absorption-type Company Split set forth in item (v)(b) of that Article, in accordance with the provisions on the matters set forth in item (vi) of that Article, on the Effective Day.
- (6) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 789 (excluding paragraph (1)(iii) and

paragraph (2)(iii), and including the case where it is applied mutatis pursuant to Article 793 (2) or Article 799 are not completed yet or where the Absorption-type Company Split is cancelled.

### **Subsection 3 Absorption-type Company Split Which Causes a Membership Company to Succeed to Rights and Obligations**

(Absorption-type Company Split Agreement Which Causes a Membership Company to Succeed to Rights and Obligations)

Article 760 In the case where a Company effects an Absorption-type Company Split, if the Succeeding Company in Absorption-type Company Split is a Membership Company, it shall prescribe the following matters in the Absorption-type Company Split agreement:

- (i) the trade names and domiciles of the Splitting Company in Absorption-type Company Split and the Succeeding Company in Absorption-type Company Split that is a Membership Company (hereinafter referred to as the "Succeeding Membership Company in Absorption-type Company Split" in this Part);
- (ii) matters concerning the assets, obligations, employment agreements, and any other rights and obligations that the Succeeding Membership Company in Absorption-type Company Split succeeds to by transfer from the Splitting Company in Absorption-type Company Split through the Absorption-type Company Split (excluding obligations pertaining to shares of the Splitting Stock Company in Absorption-type Company Split);
- (iii) when the Succeeding Membership Company in Absorption-type Company Split succeeds to shares of the Splitting Stock Company in Absorption-type Company Split through the Absorption-type Company Split, matters concerning such shares;
- (iv) if the Splitting Company in Absorption-type Company Split is to become a partner of the Succeeding Membership Company in Absorption-type Company Split when effecting the Absorption-type Company Split, the matters provided for in (a) to (c) below for the categories of Succeeding Membership Company in Absorption-type Company Split listed respectively therein:
  - (a) General Partnership Company: the name and domicile of the partner and the value of the contribution by the partner;
  - (b) Limited Partnership Company: the name and domicile of the partner, whether the partner is an unlimited partner or a limited partner, and the value of the contribution by the partner; or
  - (c) Limited Liability Company: the name and domicile of the partner and the value of the contribution by the partner;

- (v) if the Succeeding Membership Company in Absorption-type Company Split is to deliver to the Splitting Company in Absorption-type Company Split Monies, etc. (excluding the equity interests of the Succeeding Membership Company in Absorption-type Company Split) in lieu of all or part of the rights and obligations in connection with the business thereof when effecting the Absorption-type Company Split, the following matters concerning such Monies, etc.:
  - (a) if such Monies, etc. are Bonds of the Succeeding Membership Company in Absorption-type Company Split, the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount; or
  - (b) if such Monies, etc. are property other than Bonds of the Succeeding Membership Company in Absorption-type Company Split, the description of the features and number or amount of such property, or the method for calculating such number or amount;
- (vi) the Effective Day;
- (vii) if the Splitting Stock Company in Absorption-type Company Split conducts any one of the following acts on the Effective Day, a statement to that effect:
  - (a) acquisition of shares under the provisions of paragraph (1) of Article 171 (limited to the case where the Consideration for Acquisition prescribed in item (i) of that paragraph is only equity interests of the Succeeding Membership Company in Absorption-type Company Split (excluding equity interests that had been held by the Splitting Stock Company in Absorption-type Company Split prior to effecting the Absorption-type Company Split, and including shares prescribed by the applicable Ordinance of the Ministry of Justice as those equivalent to equity interests of the Succeeding Membership Company in Absorption-type Company Split; the same shall apply in (b)); or
  - (b) payment of dividends of surplus (limited to the case where the Dividend Property is only equity interests of the Succeeding Membership Company in Absorption-type Company Split).

(Effectuation, etc. of an Absorption-type Company Split Which Causes a Membership Company to Succeed to Rights and Obligations)

Article 761 (1) A Succeeding Membership Company in Absorption-type Company Split shall succeed to the rights and obligations of the Splitting Company in Absorption-type Company Split, in accordance with the provisions of the Absorption-type Company Split agreement, on the Effective Day.

(2) Notwithstanding the provisions of the preceding paragraph, if a creditor of the Splitting Company in Absorption-type Company Split who is able to state an objection (limited to a creditor to whom the separate notice set forth in



Article 789 (2) (excluding item (iii) and including the case where it is applied mutatis mutandis pursuant to Article 793 (2); hereinafter the same shall apply in this paragraph and the following paragraph) shall be given; the same shall apply in the following paragraph) pursuant to the provisions of Article 789 (1)(ii) (including the case where it is applied mutatis mutandis pursuant to Article 793 (2); the same shall apply in the following paragraph) has not received the separate notice set forth in Article 789 (2), such creditor may request the Splitting Company in Absorption-type Company Split to perform the obligations to the extent of the value of property held by the Splitting Company in Absorption-type Company Split on the Effective Day, even in the case where such creditor is not allowed, under the Absorption-type Company Split agreement, to request the Splitting Company in Absorption-type Company Split to perform the obligations after the Absorption-type Company Split.

- (3) Notwithstanding the provisions of paragraph (1), if a creditor of the Splitting Company in Absorption-type Company Split who is able to state an objection pursuant to the provisions of paragraph (1)(ii) of Article 789 has not received the separate notice set forth in paragraph (2) of that Article, such creditor may request the Succeeding Membership Company in Absorption-type Company Split to perform the obligations to the extent of the value of property to which it has succeeded, even in the case where such creditor is not allowed, under the Absorption-type Company Split agreement, to request the Succeeding Membership Company in Absorption-type Company Split to perform the obligations after the Absorption-type Company Split.
- (4) In the case prescribed in item (iv) of the preceding Article, the Splitting Company in Absorption-type Company Split shall, in accordance with the provisions on the matters set forth in that item, become a partner of the Succeeding Membership Company in Absorption-type Company Split on the Effective Day. In such cases, the Succeeding Membership Company in Absorption-type Company Split shall be deemed to have effected changes to the articles of incorporation relating to the partner set forth in that item on the Effective Day.
- (5) In cases where there are provisions on the matter set forth in (a) of item (v) of the preceding Article, the Splitting Company in Absorption-type Company Split shall, in accordance with the provisions of the Absorption-type Company Split agreement, become bondholders of Bonds set forth in (a) of that item on the Effective Day.
- (6) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 789 (excluding paragraph (1)(iii) and paragraph (2)(iii)), and including the case where it is applied mutatis pursuant to Article 793 (2) or Article 799 (excluding paragraph (2)(iii)) as applied

mutatis mutandis pursuant to Article 802 (2) are not completed yet or where the Absorption-type Merger is cancelled.

## **Section 2 Incorporation-type Company Split**

### **Subsection 1 Common Provisions**

(Preparation of an Incorporation-type Company Split Plan)

Article 762 (1) A Stock Company(ies) and/or a Limited Liability Company(ies) may effect an Incorporation-type Company Split. In such cases, such Company(ies) shall prepare an Incorporation-type Company Split plan.

(2) In the case where two or more Stock Companies and/or Limited Liability Companies jointly effect an Incorporation-type Company Split, said two or more Stock Companies and/or Limited Liability Companies shall prepare an Incorporation-type Company Split plan jointly.

### **Subsection 2 Incorporation-type Company Split by Which a Stock Company is Incorporated**

(Incorporation-type Company Split Plan by Which a Stock Company is Incorporated)

Article 763 In the case where a Stock Company(ies) and/or a Limited Liability Company(ies) effect an Incorporation-type Company Split, if the Company incorporated through the Incorporation-type Company Split (hereinafter referred to as the "Company Incorporated through Incorporation-type Company Split" in this Part) is a Stock Company, said company(ies) shall prescribe the following matters in the Incorporation-type Company Split plan:

- (i) the purpose, trade name, location of the head office, and the Total Number of Authorized Shares of the Company Incorporated through Incorporation-type Company Split that is a Stock Company (hereinafter referred to as the "Stock Company Incorporated through Incorporation-type Company Split" in this Part);
- (ii) in addition to what is provided for in the preceding item, the matters provided for in the articles of incorporation of the Stock Company Incorporated through Incorporation-type Company Split;
- (iii) the names of the Directors at Incorporation of the Stock Company Incorporated through Incorporation-type Company Split;
- (iv) the matters provided for in (a) to (c) below for the categories of cases listed respectively therein:
  - (a) in cases where the Stock Company Incorporated through Incorporation-type Company Split is a Company with Accounting Advisors: the name(s) of the Accounting Advisor(s) at Incorporation of the Stock Company

- Incorporated through Incorporation-type Company Split;
- (b) in cases where the Stock Company Incorporated through Incorporation-type Company Split is a Company with Auditors (including any Stock Company the articles of incorporation of which provide that the scope of the audit by its company auditor(s) is limited to an audit related to accounting): the name(s) of the Company Auditor(s) at Incorporation of the Stock Company Incorporated through Incorporation-type Company Split; and
  - (c) in cases where the Stock Company Incorporated through Incorporation-type Company Split is a Company with Accounting Auditors: the name(s) of the Accounting Auditor(s) at Incorporation of the Stock Company Incorporated through Incorporation-type Company Split;
  - (v) matters concerning the assets, obligations, employment agreements, and any other rights and obligations that the Stock Company Incorporated through Incorporation-type Company Split succeeds to by transfer from the Company(ies) effecting the Incorporation-type Company Split (hereinafter referred to as the "Splitting Company(ies) in Incorporation-type Company Split" in this Part) through the Incorporation-type Company Split (excluding obligations pertaining to shares and Share Options of the Splitting Company(ies) in Incorporation-type Company Split that is a Stock Company(ies) (hereinafter referred to as the "Splitting Stock Company(ies) in Incorporation-type Company Split" in this Part));
  - (vi) the number of shares (or, for a Company with Class Shares, the classes of the shares and the number of the shares for each class) of the Stock Company Incorporated through Incorporation-type Company Split to be delivered by the Stock Company Incorporated through Incorporation-type Company Split to the Splitting Company(ies) in Incorporation-type Company Split in lieu of all or part of the rights and obligations in connection with the business thereof when effecting the Incorporation-type Company Split, or the method for calculating such numbers, and matters concerning the amount of the stated capital and capital reserves of the Stock Company Incorporated through Incorporation-type Company Split;
  - (vii) if two or more Stock Companies and/or Limited Liability Companies are to jointly effect the Incorporation-type Company Split, matters concerning allotment of the shares set forth in the preceding item to the Splitting Company(ies) in Incorporation-type Company Split;
  - (viii) if the Stock Company Incorporated through Incorporation-type Company Split is to deliver to shareholders of the Splitting Company(ies) in Incorporation-type Company Split Bonds, etc. of the Stock Company Incorporated through Incorporation-type Company Split in lieu of all or part of the rights and obligations in connection with the business thereof when

effecting the Incorporation-type Company Split, the following matters concerning such Bonds, etc.:

- (a) if such Bonds, etc. are Bonds of the Stock Company Incorporated through Incorporation-type Company Split (excluding those pertaining to Bonds with Share Options), the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
- (b) if such Bonds, etc. are Share Options of the Stock Company Incorporated through Incorporation-type Company Split (excluding those attached to Bonds with Share Options), the description of the features and number of such Share Options, or the method for calculating such number; or
- (c) if such Bonds, etc. are Bonds with Share Options of the Stock Company Incorporated through Incorporation-type Company Split, the matters prescribed in (a) concerning such Bonds with Share Options and the matters prescribed in (b) concerning the Share Options attached to such Bonds with Share Options;
- (ix) in the case prescribed in the preceding item, if two or more Stock Companies and/or Limited Liability Companies are to jointly effect the Incorporation-type Company Split, matters concerning allotment of Bonds, etc. set forth in that item to the Splitting Company(ies) in Incorporation-type Company Split;
- (x) if the Stock Company Incorporated through Incorporation-type Company Split is to deliver to holders of Share Options of the Splitting Stock Company(ies) in Incorporation-type Company Split Share Options of the Stock Company Incorporated through Incorporation-type Company Split in lieu of such Share Options at the time of the Incorporation-type Company Split, the following matters concerning such Share Options:
  - (a) the description of the features of the Share Options (hereinafter referred to as the "Share Options under Incorporation-type Company Split Plan" in this Part) held by holders of Share Options of the Splitting Stock Company(ies) in Incorporation-type Company Split who will receive delivery of Share Options of the Stock Company Incorporated through Incorporation-type Company Split;
  - (b) the description of the features and number of the Share Options of the Stock Company Incorporated through Incorporation-type Company Split to be delivered to holders of Share Options under Incorporation-type Company Split Plan, or the method for calculating such number; and
  - (c) if the Share Options under Incorporation-type Company Split Plan are Share Options attached to Bonds with Share Options, a statement to the effect that the Stock Company Incorporated through Incorporation-type Company Split will succeed to the obligations relating to the Bonds

- pertaining to such Bonds with Share Options and the description of the classes of the Bonds subject to such succession and the total amount for each class of Bonds, or the method for calculating that total amount;
- (xi) in the case prescribed in the preceding item, matters concerning allotment of the Share Options of the Stock Company Incorporated through Incorporation-type Company Split set forth in that item to holders of Share Options under Incorporation-type Company Split Plan; and
- (xii) if the Splitting Stock Company(ies) in Incorporation-type Company Split conducts any one of the following acts on the day of formation of the Stock Company Incorporated through Incorporation-type Company Split, a statement to that effect:
- (a) acquisition of shares under the provisions of paragraph (1) of Article 171 (limited to the case where the Consideration for Acquisition prescribed in item (i) of that paragraph is only shares of the Stock Company Incorporated through Incorporation-type Company Split (including shares prescribed by the applicable Ordinance of the Ministry of Justice as those equivalent thereto; the same shall apply in (b)); or
- (b) payment of dividends of surplus (limited to the case where the Dividend Property is only shares of the Stock Company Incorporated through Incorporation-type Company Split).

(Effectuation, etc. of an Incorporation-type Company Split by Which a Stock Company is Incorporated)

Article 764 (1) A Stock Company Incorporated through Incorporation-type Company Split shall succeed to the rights and obligations of the Splitting Company(ies) in Incorporation-type Company Split, in accordance with the provisions of the Incorporation-type Company Split plan, on the day of its formation.

- (2) Notwithstanding the provisions of the preceding paragraph, if a creditor of the Splitting Company(ies) in Incorporation-type Company Split who is able to state an objection (limited to a creditor to whom the separate notice set forth in Article 810 (2) (excluding item (iii) and including the case where it is applied mutatis mutandis pursuant to Article 813 (2); hereinafter the same shall apply in this paragraph and the following paragraph) shall be given; the same shall apply in the following paragraph) pursuant to the provisions of Article 810 (1)(ii) (including the case where it is applied mutatis mutandis pursuant to Article 813 (2); the same shall apply in the following paragraph) has not received the separate notice set forth in Article 810 (2), such creditor may request the Splitting Company(ies) in Incorporation-type Company Split to perform the obligations to the extent of the value of property held by the Splitting Company(ies) in Incorporation-type Company Split on the day of

formation of the Stock Company Incorporated through Incorporation-type Company Split, even in the case where such creditor is not allowed, under the Incorporation-type Company Split plan, to request the Splitting Company(ies) in Incorporation-type Company Split plan to perform the obligations after the Incorporation-type Company Split.

- (3) Notwithstanding the provisions of paragraph (1), if a creditor of the Splitting Company(ies) in Incorporation-type Company Split who is able to state an objection pursuant to the provisions of paragraph (1)(ii) of Article 810 has not received the separate notice set forth in paragraph (2) of that Article, such creditor may request the Stock Company Incorporated through Incorporation-type Company Split to perform the obligations to the extent of the value of property to which it has succeeded, even in the case where such creditor is not allowed, under the Incorporation-type Company Split plan, to request the Stock Company Incorporated through Incorporation-type Company Split to perform the obligations after the Incorporation-type Company Split.
- (4) In the case prescribed in the preceding Article, the Splitting Company(ies) in Incorporation-type Company Split shall become a shareholder(s) of shares set forth in item (vi) of that Article, in accordance with the provisions of the Incorporation-type Company Split plan, on the day of formation of the Stock Company Incorporated through Incorporation-type Company Split.
- (5) In the cases listed in the following items, the Splitting Company(ies) in Incorporation-type Company Split shall become the person(s) specified respectively in those items, in accordance with the provisions on the Incorporation-type Company Split plan, on the day of formation of the Stock Company Incorporated through Incorporation-type Company Split:
  - (i) in cases where there is a provision on the matters set forth in (a) of item (viii) of the preceding Article: Bondholders of Bonds set forth in (a) of that item;
  - (ii) in cases where there is a provision on the matters set forth in (b) of item (viii) of the preceding Article: holders of Share Options set forth in (b) of that item; or
  - (iii) in cases where there is a provision on the matters set forth in (c) of item (viii) of the preceding Article: bondholders of the Bonds pertaining to Bonds with Share Options set forth in (c) of that item, and holders of the Share Options attached to such Bonds with Share Options.
- (6) With regard to the application of the provisions of the preceding two paragraphs in the case where two or more Stock Companies and/or Limited Liability Companies are to jointly effect an Incorporation-type Company Split, the phrase "provisions of the Incorporation-type Company Split plan" in paragraph (4) shall be deemed to be replaced with "provisions on the matters set forth in item (vii) of that Article," and the phrase "provisions of the

Incorporation-type Company Split plan" in the preceding paragraph shall be deemed to be replaced with "provisions on the matters set forth in item (ix) of the preceding Article."

- (7) In the case prescribed in item (x) of the preceding Article, the Share Options under Incorporation-type Company Split Plan shall be extinguished and holders of the Share Options under Incorporation-type Company Split Plan shall become holders of the Share Options of the Stock Company Incorporated through Incorporation-type Company Split set forth in item (x)(b) of that Article, in accordance with the provisions on the matters set forth in item (xi) of that Article, on the day of formation of the Stock Company Incorporated through Incorporation-type Company Split.

### **Subsection 3 Incorporation-type Company Split by Which a Membership Company is Incorporated**

(Incorporation-type Company Split Plan by Which a Membership Company is Incorporated)

Article 765 (1) In the case where a Stock Company(ies) and/or a Limited Liability Company(ies) effect an Incorporation-type Company Split, if the Company Incorporated through Incorporation-type Company Split is a Membership Company, said company(ies) shall prescribe the following matters in the Incorporation-type Company Split plan:

- (i) whether the Company Incorporated through Incorporation-type Company Split which is a Membership Company (hereinafter referred to as the "Membership Company Incorporated through Incorporation-type Company Split" in this Part) is a General Partnership Company, Limited Partnership Company, or Limited Liability Company;
- (ii) the purpose, trade name, and location of the head office of the Membership Company Incorporated through Incorporation-type Company Split;
- (iii) the following matters concerning the partners of the Membership Company Incorporated through Incorporation-type Company Split:
  - (a) the names and domiciles of the partners;
  - (b) whether the partners are unlimited partners or limited partners; and
  - (c) the value of contributions by the partners;
- (iv) in addition to what is listed in the preceding two items, the matters provided for in the articles of incorporation of the Membership Company Incorporated through Incorporation-type Company Split;
- (v) matters concerning the assets, obligations, employment agreements, and any other rights and obligations that the Membership Company Incorporated through Incorporation-type Company Split succeeds to by transfer from the Splitting Company(ies) in Incorporation-type Company Split through the

- Incorporation-type Company Split (excluding obligations pertaining to shares and Share Options of the Splitting Stock Company(ies) in Incorporation-type Company Split);
- (vi) if the Membership Company Incorporated through Incorporation-type Company Split is to deliver to the Splitting Company(ies) in Incorporation-type Company Split Bonds of the Membership Company Incorporated through Incorporation-type Company Split in lieu of all or part of the rights and obligations in connection with the business thereof when effecting the Incorporation-type Company Split, the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
  - (vii) in the case prescribed in the preceding item, if two or more Stock Companies and/or Limited Liability Companies are to jointly effect the Incorporation-type Company Split, matters concerning allotment of Bonds set forth in that item to the Splitting Company(ies) in Incorporation-type Company Split; and
  - (viii) if the Splitting Stock Company(ies) in Incorporation-type Company Split conducts any one of the following acts on the day of formation of the Membership Company Incorporated through Incorporation-type Company Split, a statement to that effect:
    - (a) acquisition of shares under the provisions of paragraph (1) of Article 171 (limited to the case where the Consideration for Acquisition prescribed in item (i) of that paragraph is only shares of the Membership Company Incorporated through Incorporation-type Company Split (including shares prescribed by the applicable Ordinance of the Ministry of Justice as those equivalent thereto; the same shall apply in (b)); or
    - (b) payment of dividends of surplus (limited to the case where the Dividend Property is only shares of the Membership Company Incorporated through Incorporation-type Company Split).
- (2) If the Membership Company Incorporated through Incorporation-type Company Split is a General Partnership Company, it shall provide that all of the partners are unlimited partners in prescribing the matter set forth in item (iii)(b) of the preceding paragraph.
- (3) If the Membership Company Incorporated through Incorporation-type Company Split is a Limited Partnership Company, it shall provide that some of the partners are unlimited partners and other partners are limited partners in prescribing the matter set forth in paragraph (1)(iii)(b).
- (4) If the Membership Company Incorporated through Incorporation-type Company Split is a Limited Liability Company, it shall provide that all of the partners are limited partners in prescribing the matter set forth in paragraph (1)(iii)(b).



(Effectuation, etc. of an Incorporation-type Company Split by Which a Membership Company is Incorporated)

Article 766 (1) A Membership Company Incorporated through Incorporation-type Company Split shall succeed to the rights and obligations of the Splitting Company(ies) in Incorporation-type Company Split, in accordance with the provisions of the Incorporation-type Company Split plan, on the day of its formation.

(2) Notwithstanding the provisions of the preceding paragraph, if a creditor of the Splitting Company(ies) in Incorporation-type Company Split who is able to state an objection (limited to a creditor to whom the separate notice set forth in Article 810 (2) (excluding item (iii) and including the case where it is applied mutatis mutandis pursuant to Article 813 (2); hereinafter the same shall apply in this paragraph and the following paragraph) shall be given; the same shall apply in the following paragraph) pursuant to the provisions of Article 810 (1)(ii) (including the case where it is applied mutatis mutandis pursuant to Article 813 (2); the same shall apply in the following paragraph) has not received the separate notice set forth in Article 810 (2), such creditor may request the Splitting Company(ies) in Incorporation-type Company Split to perform the obligations to the extent of the value of property held by the Splitting Company(ies) in Incorporation-type Company Split on the day of formation of the Membership Company Incorporated through Incorporation-type Company Split, even in the case where such creditor is not allowed, under the Incorporation-type Company Split plan, to request the Splitting Company(ies) in Incorporation-type Company Split to perform the obligations after the Incorporation-type Company Split.

(3) Notwithstanding the provisions of paragraph (1), if a creditor of the Splitting Company(ies) in Incorporation-type Company Split who is able to state an objection pursuant to the provisions of paragraph (1)(ii) of Article 810 has not received the separate notice set forth in paragraph (2) of that Article, such creditor may request the Membership Company Incorporated through Incorporation-type Company Split to perform the obligations to the extent of the value of property to which it has succeeded, even in the case where such creditor is not allowed, under the Incorporation-type Company Split plan, to request the Membership Company Incorporated through Incorporation-type Company Split to perform the obligations after the Incorporation-type Company Split.

(4) In the case prescribed in paragraph (1) of the preceding Article, the Splitting Company(ies) in Incorporation-type Company Split shall become a partner(s) of the Membership Company Incorporated through Incorporation-type Company Split, in accordance with the provisions on the matter set forth in item (iii) of

that paragraph, on the day of formation of the Membership Company Incorporated through Incorporation-type Company Split.

(5) In cases where there are provisions on the matter set forth in item (vi) of paragraph (1) of the preceding Article, a Splitting Company(ies) in Incorporation-type Company Split shall, in accordance with the provisions of the Incorporation-type Company Split plan, become a bondholder(s) of Bonds set forth in that item on the day of formation of the Membership Company Incorporated through Incorporation-type Company Split.

(6) With regard to the application of the provisions of the preceding paragraph in the case where two or more Stock Companies and/or Limited Liability Companies are to jointly effect an Incorporation-type Company Split, the phrase "in accordance with the provisions of the Incorporation-type Company Split plan, become a bondholder(s) of Bonds set forth in that item" in that paragraph shall be deemed to be replaced with "in accordance with the provisions on the matter set forth in item (vii) of that paragraph, become bondholders of Bonds set forth in item (vi) of that paragraph."

## **Chapter IV Share Exchange and Share Transfer**

### **Section 1 Share Exchange**

#### **Subsection 1 Common Provisions**

(Conclusion of a Share Exchange Agreement)

Article 767 A Stock Company may effect Share Exchange. In such cases, the Stock Company shall conclude a Stock Exchange agreement with the company acquiring all of its Issued Shares (limited to a Stock Company or a Limited Liability Company; hereinafter referred to as the "Wholly Owing Parent Company in Share Exchange" in this Part).

#### **Subsection 2 Share Exchange Which Causes a Stock Company to Acquire the Issued Shares**

(Share Exchange Agreement Which Causes a Stock Company to Acquire the Issued Shares)

Article 768 (1) In the case where a Stock Company effects a Share Exchange, if the Wholly Owing Parent Company in Share Exchange is a Stock Company, it shall prescribe the following matters in the Share Exchange agreement:

(i) the trade names and domiciles of the Stock Company effecting the Share Exchange (hereinafter referred to as the "Wholly Owned Subsidiary Company in Share Exchange" in this Part) and the Wholly Owing Parent Company in Share Exchange which is a Stock Company (hereinafter referred to as the "Wholly Owing Parent Stock Company in Share Exchange" in this

- Part);
- (ii) if the Wholly Owing Parent Stock Company in Share Exchange is to deliver to shareholders of the Wholly Owned Subsidiary Company in Share Exchange Monies, etc. in lieu of the shares thereof when effecting the Share Exchange, the following matters concerning such Monies, etc.:
    - (a) if such Monies, etc. are shares of the Wholly Owing Parent Stock Company in Share Exchange, the description of the number of such shares (or, for a Company with Class Shares, the classes of the shares and the number of the shares for each class) or the method for calculating such numbers, and matters concerning the amount of the stated capital and capital reserves of the Wholly Owing Parent Stock Company in Share Exchange;
    - (b) if such Monies, etc. are Bonds of the Wholly Owing Parent Stock Company in Share Exchange (excluding those pertaining to Bonds with Share Options), the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
    - (c) if such Monies, etc. are Stock Options of the Wholly Owing Parent Stock Company in Share Exchange (excluding those attached to Bonds with Share Options), the description of the features and number of such Share Options, or the method for calculating such number;
    - (d) if such Monies, etc. are Bonds with Share Options of the Wholly Owing Parent Stock Company in Share Exchange, the matters prescribed in (b) concerning such Bonds with Share Options and the matters prescribed in (c) concerning the Share Options attached to such Bonds with Share Options; or
    - (e) if such Monies, etc. are property other than shares, etc. of the Wholly Owing Parent Stock Company in Share Exchange, the description of the features and number or amount of such property, or the method for calculating such number or amount;
  - (iii) in the case prescribed in the preceding item, matters concerning the allotment of Monies, etc. set forth in that item to shareholders of the Wholly Owned Subsidiary Company in Share Exchange (excluding the Wholly Owing Parent Stock Company in Share Exchange);
  - (iv) if the Wholly Owing Parent Stock Company in Share Exchange is to deliver to holders of Share Options of the Wholly Owned Subsidiary Company in Share Exchange Share Options of the Wholly Owing Parent Stock Company in Share Exchange in lieu of such Share Options at the time of the Share Exchange, the following matters concerning such Share Options:
    - (a) the description of the features of the Share Options (hereinafter referred to as "Share Options under Share Exchange Agreement" in this Part) held

- by holders of Share Options of the Wholly Owned Subsidiary Company in Share Exchange who will receive delivery of Share Options of the Wholly Owing Parent Stock Company in Share Exchange;
- (b) the description of the features and number of Share Options of the Wholly Owing Parent Stock Company in Share Exchange to be delivered to holders of Share Options under Share Exchange Agreement, or the method for calculating such number; and
  - (c) if Share Options under Share Exchange Agreement are Share Options attached to Bonds with Share Options, a statement to the effect that the Wholly Owing Parent Stock Company in Share Exchange will succeed to the obligations relating to the Bonds pertaining to such Bonds with Share Options and the description of the classes of the Bonds subject to such succession and the total amount for each class of Bonds, or the method for calculating that total amount;
  - (v) in the case prescribed in the preceding item, matters concerning the allotment of the Share Options of the Wholly Owing Parent Stock Company in Share Exchange set forth in that item to holders of Share Options under Share Exchange Agreement; and
  - (vi) the day on which the Share Exchange becomes effective (hereinafter referred to as the "Effective Day" in this Section).
- (2) In the case prescribed in the preceding paragraph, if the Wholly Owned Subsidiary Company in Share Exchange is a Company with Class Shares, the Wholly Owned Subsidiary Company in Share Exchange and the Wholly Owing Parent Stock Company in Share Exchange may provide for the following matters in prescribing the matters set forth in item (iii) of that paragraph in accordance with the features of the classes of shares issued by the Wholly Owned Subsidiary Company in Share Exchange:
- (i) if there is any arrangement that no Monies, etc. are allotted to shareholders of a certain class of shares, a statement to such effect and such class of shares; and
  - (ii) in addition to the matters listed in the preceding item, if there is any arrangement that each class of shares shall be treated differently with respect to allotment of Monies, etc., a statement to such effect and the details of such different treatment.
- (3) In the case prescribed in paragraph (1), the provisions on the matters listed in item (iii) of that paragraph shall be such that the Monies, etc. are delivered in proportion to the number of the shares (or, in cases where there are provisions on the matters listed in item (ii) of the preceding paragraph, the number of the shares of each class) held by shareholders of the Wholly Owned Subsidiary Company in Share Exchange (excluding the Wholly Owing Parent Stock Company in Share Exchange and shareholders of the class of shares

referred to in item (i) of the preceding paragraph).

(Effectuation, etc. of a Share Exchange Which Causes a Stock Company to Acquire the Issued Shares)

Article 769 (1) The Wholly Owing Parent Stock Company in Share Exchange shall acquire all of the Issued Shares of the Wholly Owned Subsidiary Company in Share Exchange (excluding shares of the Wholly Owned Subsidiary Company in Share Exchange already held by the Wholly Owing Parent Stock Company in Share Exchange) on the Effective Day.

(2) In the case set forth in the preceding paragraph, the Wholly Owned Subsidiary Company in Share Exchange shall be deemed to have given the approval set forth in Article 137 (1) with regard to the acquisition of shares of the Wholly Owned Subsidiary Company in Share Exchange (limited to Shares with a Restriction on Transfer, and excluding those already held by the Wholly Owing Parent Stock Company in Share Exchange prior to the Effective Day) by the Wholly Owing Parent Stock Company in Share Exchange.

(3) In the cases listed in the following items, shareholders of the Wholly Owned Subsidiary Company in Share Exchange shall become the persons specified respectively in those items, in accordance with the provisions on the matters set forth in paragraph (1)(iii) of the preceding Article, on the Effective Day:

(i) in cases where there is a provision on the matters set forth in (a) of item (ii) of paragraph (1) of the preceding Article: shareholders of shares set forth in (a) of that item;

(ii) in cases where there is a provision on the matters set forth in (b) of item (ii) of paragraph (1) of the preceding Article: bondholders of Bonds set forth in (b) of that item;

(iii) in cases where there is a provision on the matters set forth in (c) of item (ii) of paragraph (1) of the preceding Article: holders of Share Options set forth in (c) of that item; or

(iv) in cases where there is a provision on the matters set forth in (d) of item (ii) of paragraph (1) of the preceding Article: bondholders of the Bonds pertaining to Bonds with Share Options set forth in (d) of that item, and holders of the Share Options attached to such Bonds with Share Options.

(4) In the case prescribed in paragraph (1)(iv) of the preceding Article, the Share Options under Share Exchange Agreement shall be extinguished and holders of the Share Options under Share Exchange Agreement shall become holders of the Share Options of the Wholly Owing Parent Stock Company in Share Exchange set forth in item (iv)(b) of that Article, in accordance with the provisions on the matters set forth in item (v) of that Article, on the Effective Day.

(5) In the case prescribed in (c) of item (iv) of paragraph (1) of the preceding

Article, the Wholly Owing Parent Stock Company in Share Exchange shall succeed to the obligations relating to the Bonds pertaining to Bonds with Share Options set forth in (c) of that item on the Effective Day.

- (6) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 789 or Article 799 are not completed yet or where the Share Exchange is cancelled.

### **Subsection 3 Share Exchange Which Causes a Limited Liability Company to Acquire the Issued Shares**

(Share Exchange Which Causes a Limited Liability Company to Acquire the Issued Shares)

Article 770 (1) In the case where a Stock Company effects a Share Exchange, if the Wholly Owing Parent Company in Share Exchange is a Limited Liability Company, it shall prescribe the following matters in the Share Exchange agreement:

- (i) the trade names and domiciles of the Wholly Owned Subsidiary Company in Share Exchange and the Wholly Owing Parent Company in Share Exchange which is a Limited Liability Company (hereinafter referred to as the "Wholly Owing Parent Limited Liability Company in Share Exchange" in this Part);
- (ii) if shareholders of the Wholly Owned Subsidiary Company in Share Exchange are to become partners of the Wholly Owing Parent Limited Liability Company in Share Exchange when effecting the Share Exchange, the names and domiciles of the partners and the value of contributions by the partners;
- (iii) if the Wholly Owing Parent Limited Liability Company in Share Exchange is to deliver to shareholders of the Wholly Owned Subsidiary Company in Share Exchange Monies, etc. (excluding the equity interests of the Wholly Owing Parent Limited Liability Company in Share Exchange) in lieu of the shares thereof when effecting the Share Exchange, the following matters concerning such Monies, etc.:
  - (a) if such Monies, etc. are Bonds of the Wholly Owing Parent Limited Liability Company in Share Exchange, the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount; or
  - (b) if such Monies, etc. are property other than Bonds of the Wholly Owing Parent Limited Liability Company in Share Exchange, the description of the features and number or amount of such property, or the method for calculating such number or amount;
- (iv) in the case prescribed in the preceding item, matters concerning the allotment of Monies, etc. set forth in that item to shareholders of the Wholly

Owned Subsidiary Company in Share Exchange (excluding the Wholly Owing Parent Limited Liability Company in Share Exchange); and  
(v) the Effective Day.

- (2) In the case prescribed in the preceding paragraph, if the Wholly Owned Subsidiary Company in Share Exchange is a Company with Class Shares, the Wholly Owned Subsidiary Company in Share Exchange and the Wholly Owing Parent Limited Liability Company in Share Exchange may provide for the following matters in prescribing the matters set forth in item (iv) of that paragraph in accordance with the features of the classes of shares issued by the Wholly Owned Subsidiary Company in Share Exchange:
- (i) if there is any arrangement that no Monies, etc. are allotted to shareholders of a certain class of shares, a statement to such effect and such class of shares; and
  - (ii) in addition to the matters listed in the preceding item, if there is any arrangement that each class of shares shall be treated differently with respect to allotment of Monies, etc., a statement to such effect and the details of such different treatment.
- (3) In the case prescribed in paragraph (1), the provisions on the matters listed in item (iv) of that paragraph shall be such that the Monies, etc. are delivered in proportion to the number of the shares (or, in cases where there are provisions on the matters listed in item (ii) of the preceding paragraph, the number of the shares of each class) held by shareholders of the Wholly Owned Subsidiary Company in Share Exchange (excluding the Wholly Owing Parent Limited Liability Company in Share Exchange and shareholders of the class of shares referred to in item (i) of the preceding paragraph).

(Effectuation, etc. of a Share Exchange Which Causes a Limited Liability Company to Acquire the Issued Shares)

Article 771 (1) The Wholly Owing Parent Limited Liability Company in Share Exchange shall acquire all of the Issued Shares of the Wholly Owned Subsidiary Company in Share Exchange (excluding shares of the Wholly Owned Subsidiary Company in Share Exchange already held by the Wholly Owing Parent Limited Liability Company in Share Exchange) on the Effective Day.

- (2) In the case set forth in the preceding paragraph, the Wholly Owned Subsidiary Company in Share Exchange shall be deemed to have given the approval set forth in Article 137 (1) with regard to the acquisition of shares of the Wholly Owned Subsidiary Company in Share Exchange (limited to Shares with a Restriction on Transfer, and excluding those already held by the Wholly Owing Parent Limited Liability Company in Share Exchange prior to the Effective Day) by the Wholly Owing Parent Limited Liability Company in

Share Exchange.

- (3) In the case prescribed in item (ii) of paragraph (1) of the preceding Article, the shareholders of the Wholly Owned Subsidiary Company in Share Exchange shall, in accordance with the provisions on the matters set forth in that item, become partners of the Wholly Owing Parent Limited Liability Company in Share Exchange on the Effective Day. In such cases, the Wholly Owing Parent Limited Liability Company in Share Exchange shall be deemed to have effected changes to the articles of incorporation relating to the partners set forth in that item on the Effective Day.
- (4) In cases where there are provisions on the matter set forth in item (iii)(a) of paragraph (1) of the preceding Article, the shareholders of the Wholly Owned Subsidiary Company in Share Exchange shall, in accordance with the provisions on the matter set forth in item (iv) of that paragraph, become bondholders of Bonds set forth in item (iii)(a) of that paragraph on the Effective Day.
- (5) The provisions of the preceding paragraphs shall not apply in cases where procedures under the provisions of Article 799 (excluding paragraph (2)(iii)) as applied mutatis mutandis pursuant to Article 802 (2) are not completed yet or where the Share Exchange is cancelled.

## **Section 2 Share Transfer**

(Preparation of a Share Transfer Plan)

Article 772 (1) A Stock Company(ies) may effect a Share Transfer. In such cases, such company(ies) shall prepare a Share Transfer plan.

- (2) In the case where two or more Stock Companies jointly effect a Share Transfer, said two or more Stock Companies shall prepare the Share Transfer plan jointly.

(Share Transfer Plan)

Article 773 (1) In the case where a Stock Company(ies) effects a Share Transfer, said company(ies) shall prescribe the following matters in the Share Transfer plan:

- (i) the purpose, trade name, location of the head office, and the Total Number of Authorized Shares of the Stock Company Incorporated through Share Transfer (hereinafter referred to as the "Wholly Owing Parent Company Incorporated through Share Transfer" in this Part);
- (ii) in addition to what is provided for in the preceding item, the matters provided for in the articles of incorporation of the Wholly Owing Parent Company Incorporated through Share Transfer;
- (iii) the names of the Directors at Incorporation of the Wholly Owing Parent



- Company Incorporated through Share Transfer;
- (iv) the matters provided for in (a) to (c) below for the categories of cases listed respectively therein:
    - (a) in cases where the Wholly Owing Parent Company Incorporated through Share Transfer is a Company with Accounting Advisors: the name(s) of the Accounting Advisor(s) at Incorporation of the Wholly Owing Parent Company Incorporated through Share Transfer;
    - (b) in cases where the Wholly Owing Parent Company Incorporated through Share Transfer is a Company with Company Auditors (including a Stock Company the articles of incorporation of which provide that the scope of the audit by its company auditor(s) is limited to an audit related to accounting): the name(s) of the Company Auditor(s) at Incorporation of the Wholly Owing Parent Company Incorporated through Share Transfer; or
    - (c) in cases where the Wholly Owing Parent Company Incorporated through Share Transfer is a Company with Accounting Auditors: the name(s) of the Accounting Auditor(s) at Incorporation of the Wholly Owing Parent Company Incorporated through Share Transfer;
  - (v) the number of shares (or, for a Company with Class Shares, the classes of the shares and the number of the shares for each class) of the Wholly Owing Parent Company Incorporated through Share Transfer to be delivered by the Wholly Owing Parent Company Incorporated through Share Transfer to shareholders of the Stock Company effecting the Share Transfer (hereinafter referred to as the "Wholly Owned Subsidiary Company in Share Transfer" in this Part) in lieu of the shares thereof, when effecting the Share Transfer, or the method for calculating such numbers, and matters concerning the amount of the stated capital and capital reserves of the Wholly Owing Parent Company Incorporated through Share Transfer;
  - (vi) matters concerning allotment of the shares set forth in the preceding item to shareholders of the Wholly Owned Subsidiary Company in Share Transfer;
  - (vii) if the Wholly Owing Parent Company Incorporated through Share Transfer is to deliver to shareholders of the Wholly Owned Subsidiary Company in Share Transfer Bonds, etc. of the Wholly Owing Parent Company Incorporated through Share Transfer in lieu of the shares thereof when effecting the Share Transfer, the following matters concerning such Bonds, etc.:
    - (a) if such Bonds, etc. are Bonds of the Wholly Owing Parent Company Incorporated through Share Transfer (excluding those pertaining to Bonds with Share Options), the description of the classes of such Bonds and the total amount for each class of Bonds, or the method for calculating that total amount;
    - (b) if such Bonds, etc. are Share Options of the Wholly Owing Parent

- Company Incorporated through Share Transfer (excluding those attached to Bonds with Share Options), the description of the features and number of such Share Options, or the method for calculating such number; or
- (c) if such Bonds, etc. are Bonds with Share Options of the Wholly Owing Parent Company Incorporated through Share Transfer, the matters prescribed in (a) concerning such Bonds with Share Options and the matters prescribed in (b) concerning the Share Options attached to such Bonds with Share Options;
- (viii) in the case prescribed in the preceding item, matters concerning allotment of Bonds, etc. set forth in that item to shareholders of the Wholly Owned Subsidiary Company in Share Transfer;
- (ix) if the Wholly Owing Parent Company Incorporated through Share Transfer is to deliver to holders of Share Options of the Wholly Owned Subsidiary Company in Share Transfer Share Options of the Wholly Owing Parent Company Incorporated through Share Transfer in lieu of such Share Options at the time of the Share Transfer, the following matters concerning such Share Options:
- (a) the description of the features of the Share Options (hereinafter referred to as "Share Options under Share Transfer Plan" in this Part) held by holders of Share Options of the Wholly Owned Subsidiary Company in Share Transfer who will receive delivery of Share Options of the Wholly Owing Parent Company Incorporated through Share Transfer;
- (b) the description of the features and number of Share Options of the Wholly Owing Parent Company Incorporated through Share Transfer to be delivered to holders of Share Options under Share Transfer Plan, or the method for calculating such number; and
- (c) if Share Options under Share Transfer Plan are Share Options attached to Bonds with Share Options, a statement to the effect that the Wholly Owing Parent Company Incorporated through Share Transfer will succeed to the obligations relating to the Bonds pertaining to such Bonds with Share Options and the description of the classes of the Bonds subject to such succession and the total amount for each class of Bonds, or the method for calculating that total amount; and
- (x) in the case prescribed in the preceding item, matters concerning allotment of the Share Options of the Wholly Owing Parent Company Incorporated through Share Transfer set forth in that item to holders of Share Options under Share Transfer Plan.
- (2) In the case prescribed in the preceding paragraph, if the Wholly Owned Subsidiary Company in Share Transfer is a Company with Class Shares, the Wholly Owned Subsidiary Company in Share Transfer may provide for the following matters in prescribing the matters set forth in item (vi) of that

paragraph in accordance with the features of the classes of shares issued by the Stock Company Absorbed in Absorption-type Merger:

- (i) if there is any arrangement that no shares of the Wholly Owing Parent Company Incorporated through Share Transfer are allotted to shareholders of a certain class of shares, a statement to such effect and such class of shares; and
  - (ii) in addition to the matters listed in the preceding item, if there is any arrangement that each class of shares shall be treated differently with respect to allotment of shares of the Wholly Owing Parent Company Incorporated through Share Transfer, a statement to such effect and the details of such different treatment.
- (3) In the case prescribed in paragraph (1), the provisions on the matters listed in item (vi) of that paragraph shall be such that shares of the Wholly Owing Parent Company Incorporated through Share Transfer are delivered in proportion to the number of the shares (or, in cases where there are provisions on the matters listed in item (ii) of the preceding paragraph, the number of the shares of each class) held by the shareholders of the Wholly Owned Subsidiary Company in Share Transfer (excluding the shareholders of the class of shares referred to in item (i) of the preceding paragraph).
- (4) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the matters mentioned in paragraph (1)(viii). In such cases, the term "shares of the Wholly Owing Parent Company Incorporated through Share Transfer" in the preceding two paragraphs shall be deemed to be replaced with "Bonds, etc. of the Wholly Owing Parent Company Incorporated through Share Transfer."

(Effectuation, etc. of a Share Transfer)

Article 774 (1) The Wholly Owing Parent Company Incorporated through Share Transfer shall acquire all of the Issued Shares of the Wholly Owned Subsidiary Company in Share Transfer on the day of its formation.

(2) The shareholders of the Wholly Owned Subsidiary Company in Share Transfer shall, in accordance with the provisions on the matters set forth in item (vi) of the preceding Article, become shareholders of the shares set forth in item (v) of that paragraph on the day of formation of the Wholly Owing Parent Company Incorporated through Share Transfer.

(3) In the cases listed in the following items, the shareholders of the Wholly Owned Subsidiary Company in Share Transfer shall become the persons specified respectively in those items, in accordance with the provisions on the matters set forth in paragraph (1)(viii) of the preceding Article, on the day of formation of the Wholly Owing Parent Company Incorporated through Share Transfer:

- (i) in cases where there is a provision on the matters set forth in (a) of item (vii) of paragraph (1) of the preceding Article: bondholders of Bonds set forth in (a) of that item;
  - (ii) in cases where there is a provision on the matters set forth in (b) of item (vii) of paragraph (1) of the preceding Article: holders of Share Options set forth in (b) of that item; or
  - (iii) in cases where there is a provision on the matters set forth in (c) of item (vii) of paragraph (1) of the preceding Article: bondholders of the Bonds pertaining to Bonds with Share Options set forth in (c) of that item, and holders of the Share Options attached to such Bonds with Share Options.
- (4) In the case prescribed in item (ix) of paragraph (1) of the preceding Article, the Share Options under Share Transfer Plan shall be extinguished and the holders of the Share Options under Share Transfer Plan shall become holders of the Share Options of the Wholly Owing Parent Company Incorporated through Share Transfer set forth in item (ix)(b) of that paragraph, in accordance with the provisions on the matters set forth in item (x) of that paragraph, on the day of formation of the Wholly Owing Parent Company Incorporated through Share Transfer.
- (5) In the case prescribed in (c) of item (ix) of paragraph (1) of the preceding Article, the Wholly Owing Parent Company Incorporated through Share Transfer shall succeed to the obligations relating to the Bonds pertaining to Bonds with Share Options set forth in (c) of that item on the day of its formation.

**Chapter V Procedures of Entity Conversion, Merger, Company Split, Share Exchange, and Share Transfer**

**Section 1 Procedures of Entity Conversion**

**Subsection 1 Procedures for a Stock Company**

(Keeping and Inspection, etc. of Documents, etc. Concerning an Entity Conversion Plan)

Article 775 (1) A Stock Company effecting Entity Conversion shall, from the day on which the Entity Conversion plan began to be kept until the day on which the Entity Conversion becomes effective (hereinafter referred to as the "Effective Day" in this Section), keep documents or Electromagnetic Records that state or record the contents of the Entity Conversion plan and other matters prescribed by the applicable Ordinance of the Ministry of Justice at its head office.

- (2) The "day on which the Entity Conversion plan began to be kept" prescribed in the preceding paragraph means the earliest of the following days:
  - (i) the day on which the consent of all shareholders of the Stock Company

effecting the Entity Conversion has been gained with regard to the Entity Conversion plan;

- (ii) if the Stock Company effecting the Entity Conversion has issued Share Options, the day of the notice under the provisions of paragraph (3) of Article 777 or the day of the public notice set forth in paragraph (4) of that Article, whichever is earlier; or
- (iii) the day of the public notice under the provisions of paragraph (2) of Article 779 or the day of the demand under the provisions of that paragraph, whichever is earlier.

(3) Shareholders and creditors of a Stock Company effecting Entity Conversion may make the following requests to said Stock Company at any time during its business hours; provided, however, that the fees designated by said Stock Company are required to be paid in order to make the requests set forth in item (ii) or item (iv):

- (i) requests for inspection of the documents set forth in paragraph (1);
- (ii) requests for delivery of a transcript or extract of the documents set forth in paragraph (1);
- (iii) requests for inspection of anything that indicates the matters recorded in the Electromagnetic Records set forth in paragraph (1) in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and
- (iv) requests that the matters recorded in the Electromagnetic Records set forth in paragraph (1) be provided by the Electromagnetic Method designated by the Stock Company, or requests for the delivery of any document that states such matters.

(Approval, etc. of the Entity Conversion Plan of a Stock Company)

Article 776 (1) A Stock Company effecting Entity Conversion shall obtain the consent of all shareholders of said Stock Company with regard to the Entity Conversion plan by the day immediately preceding the Effective Day.

(2) A Stock Company effecting Entity Conversion shall notify its Registered Pledgees of Shares and Registered Pledgees of Share Options thereof that it will effect Entity Conversion, by twenty days prior to the Effective Day.

(3) A public notice may be substituted for the notice under the provisions of the preceding paragraph.

(Demand for Purchase of Share Options)

Article 777 (1) In cases where a Stock Company effects Entity Conversion, holders of Share Options of the Stock Company effecting Entity Conversion may demand that the Stock Company purchase, at a fair price, the Share Options held by the same.

(2) If holders of the Share Options attached to Bonds with Share Options intend

to make the demand under the preceding paragraph (hereinafter referred to as a "Share Option Purchase Demand" in this Section), they shall also make the demand for the purchase of the Bonds pertaining to Bonds with Share Options; provided, however, that this shall not apply in cases where it is otherwise provided for with respect to the Share Options attached to such Bonds with Share Options.

- (3) A Stock Company which intends to effect Entity Conversion shall notify the holders of Share Options thereof that it will effect Entity Conversion, by twenty days prior to the Effective Day.
- (4) A public notice may be substituted for the notice under the provisions of the preceding paragraph.
- (5) A Share Option Purchase Demand shall be made, within the period from the day twenty days prior to the Effective Day to the day immediately preceding the Effective Day, by disclosing the features and number of Share Options relating to such Share Option Purchase Demand.
- (6) Holders of Share Options who have made a Share Option Purchase Demand may withdraw their Share Option Purchase Demands only in cases where they obtain the approval of the Stock Company effecting Entity Conversion.
- (7) If the Entity Conversion is cancelled, the Share Option Purchase Demands shall become ineffective.

(Determination, etc. of Price of Share Options)

- Article 778 (1) In cases where a Share Option Purchase Demand is made, if an agreement on the determination of the price of the Share Options (in cases where such Share Options are those attached to Bonds with Share Options, if there is a demand for the purchase of Bonds pertaining to such Bonds with Share Options, they shall include such Bonds; hereinafter the same shall apply in this Article) is reached between the holder of Share Options and the Stock Company effecting Entity Conversion (after the Effective Day, the Membership Company after Entity Conversion; hereinafter the same shall apply in this Article), the Stock Company shall make payment within sixty days from the Effective Day.
- (2) If no agreement on the determination of the price of the Share Options is reached within thirty days from the Effective Day, holders of Share Options or the Membership Company after Entity Conversion may file a petition to the court for a determination of the price within thirty days after the expiration of that period.
  - (3) Notwithstanding the provisions of paragraph (6) of the preceding Article, in the cases prescribed in the preceding paragraph, if the petition under that paragraph is not filed within sixty days from the Effective Day, holders of Share Options may withdraw their Share Option Purchase Demands at any

time after the expiration of such period.

- (4) The Membership Company after Entity Conversion shall also pay interest on the price determined by the court which shall be calculated at the rate of six percent per annum from and including the day of the expiration of the period referred to in paragraph (1).
- (5) The purchase of Share Options relating to a Share Option Purchase Demand shall become effective on the Effective Day.
- (6) If a Stock Company effecting Entity Conversion receives a Share Option Purchase Demand with respect to a Share Option for which a Share Option certificate is issued, it shall pay the price of the Share Option relating to such Share Option Purchase Demand in exchange for the Share Option certificate.
- (7) If a Stock Company effecting Entity Conversion receives a Share Option Purchase Demand with respect to a Share Option attached to a Bond with a Share Option for which a certificate for a Bond with a Share Option is issued, it shall pay the price of the Share Option relating to such Share Option Purchase Demand in exchange for such certificate for a Bond with a Share Option.

(Objections of Creditors)

- Article 779 (1) Creditors of a Stock Company effecting Entity Conversion may state their objections to the Entity Conversion to such Stock Company.
- (2) A Stock Company effecting Entity Conversion shall give public notice of the matters listed below in the official gazette and shall give notices separately to each known creditor, if any; provided, however, that the period under item (iii) may not be less than one month:
    - (i) a statement that Entity Conversion will be effected;
    - (ii) the matters prescribed by the applicable Ordinance of the Ministry of Justice as the matters regarding the Financial Statements (meaning the Financial Statements prescribed in Article 435 (2); hereinafter the same shall apply in this Chapter) of the Stock Company effecting Entity Conversion; and
    - (iii) a statement to the effect that creditors may state their objections within a certain period of time.
  - (3) Notwithstanding the provisions of the preceding paragraph, if a Stock Company effecting Entity Conversion gives public notice under that paragraph by the Method of Public Notice listed in item (ii) or item (iii) of paragraph (1) of Article 939 in accordance with the provisions of the articles of incorporation under the provisions of that paragraph in addition to the official gazette, the Stock Company is not required to give separate notices under the provisions of the preceding paragraph.
  - (4) In cases where creditors do not raise any objections within the period under

paragraph (2)(iii), such creditors shall be deemed to have approved the Entity Conversion.

- (5) In cases where creditors raise objections within the period under paragraph (2)(iii), the Stock Company effecting Entity Conversion shall make payment or provide reasonable security to such creditors, or entrust equivalent property to a Trust Company, etc. for the purpose of having such creditors receive the payment; provided, however, that this shall not apply if there is no risk of harm to such creditors by such Entity Conversion.

(Change of the Effective Day of Entity Conversion)

Article 780 (1) A Stock Company effecting Entity Conversion may change the Effective Day.

- (2) In the cases prescribed in the preceding paragraph, the Stock Company effecting Entity Conversion shall give public notice of the changed Effective Day by the day immediately preceding the original Effective Day (or, immediately preceding the changed Effective Day, in the case where the changed Effective Day comes before the original Effective Day).
- (3) When the Effective Day is changed pursuant to the provisions of paragraph (1), the provisions of this Subsection and Article 745 shall apply by deeming the changed Effective Day to be the Effective Day.

### **Subsection 2 Procedures for a Membership Company**

Article 781 (1) A Membership Company effecting Entity Conversion shall obtain the consent of all partners of the Membership Company with regard to the Entity Conversion plan by the day immediately preceding the Effective Day; provided, however, that this shall not apply in cases where it is otherwise provided for in the articles of incorporation.

- (2) The provisions of Article 779 (excluding paragraph (2)(ii)) and the preceding Article shall apply mutatis mutandis to a Membership Company effecting Entity Conversion. In such cases, the term "Stock Company effecting Entity Conversion" in Article 779 (3) shall be deemed to be replaced with "Membership Company (limited to a Limited Liability Company) effecting Entity Conversion," and the term "and Article 745" in paragraph (3) of the preceding Article shall be deemed to be replaced with "and Article 747 and paragraph (1) of the following Article."

### **Section 2 Procedures of an Absorption-type Merger, etc.**

#### **Subsection 1 Procedures for a Company Absorbed in Absorption-type Merger, a Splitting Company in Absorption-type Company Split, and a Wholly Owned Subsidiary Company in Share Exchange**



## Division 1 Procedures for a Stock Company

(Keeping and Inspection, etc. of Documents, etc. Concerning an Absorption-type Merger Agreement, etc.)

Article 782 (1) Each of the Stock Companies listed in the following items (hereinafter referred to as an "Absorbed Stock Company, etc." in this Division) shall, from the day on which the Absorption-type Merger Agreement, etc. began to be kept until the day on which six months have elapsed from the day on which the Absorption-type Merger, Absorption-type Company Split or Share Exchange (hereinafter referred to as an "Absorption-type Merger, etc." in this Section) becomes effective (hereinafter referred to as the "Effective Day" in this Section) (or, in the case of a Stock Company Absorbed in Absorption-type Merger, until the Effective Day), keep documents or Electromagnetic Records that state or record the contents of the matters specified respectively in those items (hereinafter referred to as the "Absorption-type Merger Agreement, etc." in this Section) and other matters prescribed by the applicable Ordinance of the Ministry of Justice at its head office:

- (i) Stock Company Absorbed in Absorption-type Merger: the Absorption-type Merger agreement;
- (ii) Splitting Stock Company in Absorption-type Company Split: the Absorption-type Company Split agreement; and
- (iii) Wholly Owned Subsidiary Company in Share Exchange: the Share Exchange agreement.

(2) The "day on which the Absorption-type Merger Agreement, etc. began to be kept" prescribed in the preceding paragraph means the earliest of the following days:

- (i) if the Absorption-type Merger Agreement, etc. is required to be approved by a resolution of a shareholders meeting (including a Class Meeting), the day two weeks prior to the day of the shareholders meeting (or, in the cases prescribed in paragraph (1) of Article 319, the day when the proposal under that paragraph is submitted);
- (ii) if there are shareholders who are to receive the notice under the provisions of paragraph (3) of Article 785, the day of the notice under the provisions of that paragraph or the day of the public notice under paragraph (4) of that Article, whichever is earlier;
- (iii) if there are holders of Share Options who are to receive the notice under the provisions of paragraph (3) of Article 787, the day of the notice under the provisions of that paragraph or the day of the public notice under paragraph (4) of that Article, whichever is earlier
- (iv) if the procedures under the provisions of Article 789 are required to be carried out, the day of the public notice under the provisions of paragraph (2)

of that Article or the day of the notice under the provisions of that paragraph, whichever is earlier; or

(v) in cases other than those prescribed in the preceding items, the day on which two weeks have elapsed from the day of conclusion of the Absorption-type Company Split agreement or the Share Exchange agreement.

(3) Shareholders and creditors of an Absorbed Stock Company, etc. (or, in the case of a Wholly Owned Subsidiary Company in Share Exchange, shareholders and holders of Share Options) may make the following requests to said Absorbed Stock Company, etc. at any time during its business hours; provided, however, that the fees designated by said Absorbed Stock Company, etc. are required to be paid in order to make the requests set forth in item (ii) or item (iv):

(i) requests for inspection of the documents set forth in paragraph (1);

(ii) requests for delivery of a transcript or extract of the documents set forth in paragraph (1);

(iii) requests for inspection of anything that indicates the matters recorded in the Electromagnetic Records set forth in paragraph (1) in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and

(iv) requests that the matters recorded in the Electromagnetic Records set forth in paragraph (1) be provided by the Electromagnetic Method designated by the Absorbed Stock Company, etc., or requests for the delivery of any document that states such matters.

(Approval, etc. of the Absorption-type Merger Agreement, etc.)

Article 783 (1) An Absorbed Stock Company, etc. shall obtain the approval of the Absorption-type Merger Agreement, etc. by a resolution of a shareholders meeting by the day immediately preceding the Effective Day.

(2) Notwithstanding the provisions of the preceding paragraph, in the cases where the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange is not a Company with Classes of Shares, if all or part of the Monies, etc. to be delivered to shareholders of the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange (hereinafter referred to as the "Consideration for the Merger, etc." in this Article) are Equity Interests, etc. (meaning equity interests of a Membership Company or those prescribed by the applicable Ordinance of the Ministry of Justice as being equivalent thereto; hereinafter the same shall apply in this Article), the consent of all shareholders of the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange shall be obtained with regard to the Absorption-type Merger agreement or the Share Exchange agreement.

- (3) In the cases where the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange is a Company with Classes of Shares, if all or part of the Consideration for the Merger, etc. are Shares with a Restriction on Transfer, etc. (meaning Shares with a Restriction on Transfer and those prescribed by the applicable Ordinance of the Ministry of Justice as being equivalent thereto; hereinafter the same shall apply in this Chapter), the Absorption-type Merger or the Share Exchange shall not become effective without a resolution of a Class Meeting constituted by the Class Shareholders of the class of shares subject to the allotment of the Shares with a Restriction on Transfer, etc. (excluding Shares with a Restriction on Transfer) (in cases where there are two or more classes of shares relating to such Class Shareholders, the respective Class Meetings constituted by Class Shareholders categorized by the class of such two or more classes of shares); provided, however, that this shall not apply to cases where there is no Class Shareholder who is able to exercise a voting right at such Class Meeting.
- (4) In the cases where the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange is a Company with Classes of Shares, if all or part of the Consideration for the Merger, etc. are Equity Interests, etc., the Absorption-type Merger or the Share Exchange shall not become effective without the consent of all shareholders of the class subject to the allotment of the Equity Interests, etc.
- (5) An Absorbed Stock Company, etc. shall notify its Registered Pledges of Shares (excluding the Registered Pledges of Shares in the cases prescribed in paragraph (3) of the following Article) and Registered Pledges of Share Options concerning the Share Options specified in the items of Article 787 (3) that it will effect the Absorption-type Merger, etc. by twenty days prior to the Effective Day.
- (6) A public notice may be substituted for the notice under the provisions of the preceding paragraph.

(Cases Where Approval of the Absorption-type Merger Agreement, etc. Is Not Required)

Article 784 (1) The provisions of paragraph (1) of the preceding Article shall not apply in the cases where the Company Surviving Absorption-type Merger, the Succeeding Company in Absorption-type Company Split or the Wholly Owing Parent Company in Share Exchange (hereinafter referred to as the "Surviving Company, etc." in this Division) is the Special Controlling Company of the Absorbed Stock Company, etc.; provided, however, that this shall not apply in the cases where all or part of the value of the merger, etc. in the Absorption-type Merger or Share Exchange is Shares with a Restriction on Transfer, etc., and the Absorbed Stock Company, etc. is a Public Company and not a Company

with Class Shares.

- (2) In the cases prescribed in the main clause of the preceding paragraph, in any one of the following cases where shareholders of the Absorbed Stock Company, etc. are likely to suffer disadvantage, shareholders of the Absorbed Stock Company, etc. may demand that the Absorbed Stock Company, etc. refrain from effecting the Absorption-type Merger, etc.:
- (i) in cases where the Absorption-type Merger, etc. violates the applicable laws and regulations or articles of incorporation; or
  - (ii) in cases where the matters set forth in Article 749 (1)(ii) or (iii), Article 751 (1)(iii) or (iv), Article 758 (iv), Article 760 (iv) or (v), Article 768 (1)(ii) or (iii), or Article 770 (1)(iii) or (iv) are grossly improper in light of the financial status of the Absorbed Stock Company, etc. or the Surviving Company, etc.
- (3) The provisions of the preceding Article and the preceding paragraph shall not apply in cases where the sum of the book value of the assets that the Succeeding Company in Absorption-type Company Split succeeds to through the Absorption-type Company Split does not exceed one-fifth (or, in cases where a lesser proportion is prescribed in the articles of incorporation of the Splitting Stock Company in Absorption-type Company Split, such proportion) of the amount calculated by the method specified by the applicable Ordinance of the Ministry of Justice as the total assets of the Splitting Stock Company in Absorption-type Company Split.

(Dissenting Shareholders' Share Purchase Demand)

- Article 785 (1) In cases of effecting an Absorption-type Merger, etc. (excluding the following cases), dissenting shareholders may demand that the Absorbed Stock Company, etc. purchase, at a fair price, the shares held by such shareholders:
- (i) in cases prescribed in Article 783 (2); or
  - (ii) in cases prescribed in paragraph (3) of the preceding Article.
- (2) The "dissenting shareholders" provided for in the preceding paragraph shall mean the shareholders provided for in the following items in the cases listed in the same items (excluding shareholders entitled to allotment of Equity Interests, etc. prescribed in Article 783 (4) in the cases prescribed in that paragraph):
- (i) in cases where a resolution of a shareholders meeting (including a Class Meeting) is required to effect the Absorption-type Merger, etc.: the following shareholders:
    - (a) shareholders who gave notice to such Absorbed Stock Company, etc. to the effect that they dissented from such Absorption-type Merger, etc. prior to such shareholders meeting and who dissented from such Absorption-type Merger, etc. at such shareholders meeting (limited to those who can

- exercise voting rights at such shareholders meeting);
- (b) shareholders who are unable to exercise voting rights at such shareholders meeting; and
- (ii) in cases other than those prescribed in the preceding item: all shareholders.
- (3) An Absorbed Stock Company, etc. shall notify its shareholders (excluding shareholders entitled to allotment of Equity Interests, etc. prescribed in Article 783 (4) in the cases prescribed in that paragraph) that it will effect an Absorption-type Merger, etc. and the trade name and domicile of the Surviving Company, etc., by twenty days prior to the Effective Day; provided, however, that this shall not apply in the cases listed in the items of paragraph (1).
- (4) In the following cases, a public notice may be substituted for the notice under the provisions of the preceding paragraph:
- (i) in cases where the Absorbed Stock Company, etc. is a Public Company; or
- (ii) in cases where the Absorbed Stock Company, etc. obtains the approval of the Absorption-type Merger Agreement, etc. by the resolution of a shareholders meeting set forth in Article 783 (1).
- (5) Demands under the provisions of paragraph (1) (hereinafter referred to as a "Share Purchase Demand" in this Division) shall be made, within the period from the day twenty days prior to the Effective Day to the day immediately preceding the Effective Day, by disclosing the number of shares relating to such Share Purchase Demand (or, for a Company with Classes of Shares, the classes of the shares and the number of shares for each class).
- (6) Shareholders who made Share Purchase Demands may withdraw their Share Purchase Demands only in cases where such shareholders obtain the approval of the Absorbed Stock Company, etc.
- (7) If the Absorption-type Merger, etc. is cancelled, the Share Purchase Demands shall become ineffective.

(Determination, etc. of Price of Shares)

- Article 786 (1) In cases where a Share Purchase Demand is made, if an agreement on the determination of the price of the shares is reached between the shareholder and the Absorbed Stock Company, etc. (or, after the Effective Day in cases of effecting an Absorption-type Merger, the Company Surviving Absorption-type Merger; hereinafter the same shall apply in this Article), the Absorbed Stock Company, etc. shall make payment within sixty days from the Effective Day.
- (2) If no agreement on the determination of the price of the shares is reached within thirty days from the Effective Day, shareholders or the Absorbed Stock Company, etc. may file a petition to the court for a determination of the price within thirty days after the expiration of that period.
- (3) Notwithstanding the provisions of paragraph (6) of the preceding Article, in

the cases prescribed in the preceding paragraph, if the petition under that paragraph is not filed within sixty days from the Effective Day, shareholders may withdraw their Share Purchase Demands at any time after the expiration of such period.

- (4) The Absorbed Stock Company, etc. shall also pay interest on the price determined by the court which shall be calculated at the rate of six percent per annum from and including the day of the expiration of the period referred to in paragraph (1).
- (5) The purchase of shares relating to a Share Purchase Demand shall become effective on the Effective Day (or, in the case of effecting an Absorption-type Company Split, at the time of payment of the price of such shares).
- (6) If a Company Issuing Share Certificates receives a Share Purchase Demand with respect to shares for which share certificates are issued, the Company must pay the price of the shares relating to such Share Purchase Demand in exchange for the share certificates.

(Demand for Purchase of Share Options)

Article 787 (1) In cases of carrying out any one of the acts listed in the following items, holders of Share Options of the Absorbed Stock Company, etc. provided for in those items may demand that the Absorbed Stock Company, etc. purchase, at a fair price, the Share Options held by the same:

- (i) Absorption-type Merger: Share Options other than those for which provisions on the matters set forth in Article 749 (1)(iv) or (v) meet the conditions set forth in item (iii) of Article 236 (1) (limited to those related to (a) of that item);
- (ii) Absorption-type Company Split (limited to cases where the Succeeding Company in Absorption-type Company Split is a Stock Company): among the following Share Options, Share Options other than those for which provisions on the matters set forth in Article 758 (v) or (vi) meet the conditions set forth in item (viii) of Article 236 (1) (limited to those related to (b) of that item):
  - (a) Share Options under Absorption-type Company Split Agreement; and
  - (b) Share Options other than Share Options under Absorption-type Company Split Agreement and for which there are provisions to the effect that, in the case of effecting an Absorption-type Company Split, Share Options of the Succeeding Stock Company in Absorption-type Company Split shall be delivered to holders of such Share Options; or
- (iii) Share Exchange (limited to cases where the Wholly Owning Parent Company in Share Exchange is a Stock Company): Among the following Share Options, Share Options other than those for which provisions on the matters set forth in item (iv) or item (v) of Article 768 (1) meet the conditions set forth in item (viii) of Article 236 (1) (limited to those related to (d) of that

- item):
- (a) Share Options under Share Exchange Agreement; and
  - (b) Share Options other than Share Options under Share Exchange Agreement and for which there are provisions to the effect that, in the case of effecting a Share Exchange, Share Options of the Wholly Owing Parent Stock Company in Share Exchange shall be delivered to holders of such Share Options.
- (2) If holders of the Share Options attached to Bonds with Share Options intend to make the demand under the preceding paragraph (hereinafter referred to as a "Share Option Purchase Demand" in this Division), they shall also make a demand for the purchase of the Bonds pertaining to Bonds with Share Options; provided, however, that this shall not apply in cases where it is otherwise provided for with respect to the Share Options attached to such Bonds with Share Options.
- (3) The Absorbed Stock Companies, etc. listed in the following items shall notify holders of Share Options provided for in those items that they will effect an Absorption-type Merger, etc. and the trade name and domicile of the Surviving Company, etc., by twenty days prior to the Effective Day:
- (i) Stock Company Absorbed in Absorption-type Merger: all Share Options;
  - (ii) Splitting Stock Company in Absorption-type Company Split in cases where the Succeeding Company in Absorption-type Company Split is a Stock Company: the following Share Options:
    - (a) Share Options under Absorption-type Company Split Agreement; and
    - (b) Share Options other than Share Options under Absorption-type Company Split Agreement and for which there are provisions to the effect that, in the case of effecting an Absorption-type Company Split, Share Options of the Succeeding Stock Company in Absorption-type Company Split shall be delivered to holders of such Share Options;
  - (iii) Wholly Owned Subsidiary Company in Share Exchange in cases where the Wholly Owing Parent Company in Share Exchange is a Stock Company: the following Share Options:
    - (a) Share Options under Share Exchange Agreement; and
    - (b) Share Options other than Share Options under Share Exchange Agreement and for which there are provisions to the effect that, in the case of effecting a Share Exchange, Share Options of the Wholly Owing Parent Stock Company in Share Exchange shall be delivered to holders of such Share Options.
- (4) A public notice may be substituted for the notice under the provisions of the preceding paragraph.
- (5) A Share Option Purchase Demand shall be made, within the period from the day twenty days prior to the Effective Day to the day immediately preceding

the Effective Day, by disclosing the features and number of Share Options relating to such Share Option Purchase Demand.

- (6) Holders of Share Options who have made Share Option Purchase Demands may withdraw their Share Option Purchase Demands only in cases where they obtain the approval of the Absorbed Stock Company, etc.
- (7) If the Absorption-type Merger, etc. is cancelled, the Share Option Purchase Demands shall become ineffective.

(Determination, etc. of Price of Share Options)

- Article 788 (1) In cases where a Share Option Purchase Demand is made, if an agreement on the determination of the price of the Share Options (in cases where such Share Options are those attached to Bonds with Share Options, if there is a demand for the purchase of Bonds pertaining to such Bonds with Share Options, they shall include such Bonds; hereinafter the same shall apply in this Article) is reached between the holder of Share Options and the Absorbed Stock Company, etc. (or, after the Effective Day in cases of effecting an Absorption-type Merger, the Company Surviving Absorption-type Merger; hereinafter the same shall apply in this Article), the Absorbed Stock Company, etc. shall make payment within sixty days from the Effective Day.
- (2) If no agreement on the determination of the price of the Share Options is reached within thirty days from the Effective Day, holders of Share Options or the Absorbed Stock Company, etc. may file a petition to the court for a determination of the price within thirty days after the expiration of that period.
  - (3) Notwithstanding the provisions of paragraph (6) of the preceding Article, in the cases prescribed in the preceding paragraph, if the petition under that paragraph is not filed within sixty days from the Effective Day, holders of Share Options may withdraw their Share Option Purchase Demands at any time after the expiration of such period.
  - (4) The Absorbed Stock Company, etc. shall also pay interest on the price determined by the court which shall be calculated at the rate of six percent per annum from and including the day of the expiration of the period referred to in paragraph (1).
  - (5) The purchase of Share Options relating to a Share Option Purchase Demand shall become effective at the times provided for in the following items for the categories of Share Options set forth respectively in those items:
    - (i) Share Options provided for in paragraph (1)(i) of the preceding Article: the Effective Day;
    - (ii) Share Options set forth in paragraph (1)(ii)(a) of the preceding Article: the Effective Day;
    - (iii) Share Options set forth in paragraph (1)(ii)(b) of the preceding Article: the time of payment of the price of such Share Options;



- (iv) Share Options set forth in paragraph (1)(iii)(a) of the preceding Article: the Effective Day; and
  - (v) Share Options set forth in paragraph (1)(iii)(b) of the preceding Article: the time of payment of the price of such Share Options.
- (6) If an Absorbed Stock Company, etc. receives a Share Option Purchase Demand with respect to a Share Option for which a Share Option certificate is issued, it shall pay the price of the Share Option relating to such Share Option Purchase Demand in exchange for the Share Option certificate.
- (7) If an Absorbed Stock Company, etc. receives a Share Option Purchase Demand with respect to a Share Option attached to a Bond with a Share Option for which a certificate for a Bond with a Share Option is issued, it shall pay the price of the Share Option relating to such Share Option Purchase Demand in exchange for such certificate for a Bond with a Share Option.

(Objections of Creditors)

Article 789 (1) In the cases listed in the following items, the creditors provided for in those items may state their objections to the Absorption-type Merger, etc. to the Absorbed Stock Company, etc.:

- (i) in cases of effecting an Absorption-type Merger: creditors of the Stock Company Absorbed in Absorption-type Merger;
  - (ii) in cases of effecting an Absorption-type Company Split: creditors of the Splitting Stock Company in Absorption-type Company Split who are unable to request the Splitting Stock Company in Absorption-type Company Split to perform the obligations (including performance of the guarantee obligations that the Splitting Stock Company in Absorption-type Company Split jointly and severally assumes with the Succeeding Company in Absorption-type Company Split as a guarantor) (or, in the case where there are provisions on the matter set forth in Article 758 (viii) or Article 760 (vii), creditors of the Splitting Stock Company in Absorption-type Company Split); and
  - (iii) in cases where the Share Options under Share Exchange Agreement are Share Options attached to Bonds with Share Options: bondholders pertaining to such Bonds with Share Options.
- (2) In cases where all or part of the creditors of the Absorbed Stock Company, etc. are able to state their objection pursuant to the provisions of the preceding paragraph, the Absorbed Stock Company, etc. shall give public notice of the matters listed below in the official gazette and shall give notices separately to each known creditor (limited to one who is able to state an objection pursuant to the provisions of such paragraph), if any; provided, however, that the period under item (iv) may not be less than one month:
- (i) a statement that an Absorption-type Merger, etc. will be effected;
  - (ii) the trade name and domicile of the Surviving Company, etc.;

- (iii) the matters prescribed by the applicable Ordinance of the Ministry of Justice as the matters regarding the Financial Statements of the Absorbed Stock Company, etc. and the Surviving Company, etc. (limited to a Stock Company); and
  - (iv) a statement to the effect that creditors may state their objections within a certain period of time.
- (3) Notwithstanding the provisions of the preceding paragraph, if the Absorbed Stock Company, etc. gives public notice under that paragraph by the Method of Public Notice listed in item (ii) or item (iii) of paragraph (1) of Article 939 in accordance with the provisions of the articles of incorporation under the provisions of that paragraph in addition to the official gazette, the Absorbed Stock Company, etc. is not required to give separate notices under the provisions of the preceding paragraph (excluding such notices to creditors of the obligations of the Splitting Stock Company in Absorption-type Company Split that have arisen due to a tort in the case of effecting an Absorption-type Company Split).
- (4) In cases where creditors do not raise any objections within the period under paragraph (2)(iv), such creditors shall be deemed to have approved the Absorption-type Merger, etc.
- (5) In cases where creditors raise objections within the period under paragraph (2)(iv), the Absorbed Stock Company, etc. shall make payment or provide reasonable security to such creditors, or entrust equivalent property to a Trust Company, etc. for the purpose of having such creditors receive the payment; provided, however, that this shall not apply if there is no risk of harm to such creditors by such Absorption-type Merger, etc.

(Change in the Effective Day of an Absorption-type Merger, etc.)

Article 790 (1) An Absorbed Stock Company, etc. may change the Effective Day by agreement with the Surviving Company, etc.

- (2) In the cases prescribed in the preceding paragraph, the Absorbed Stock Company, etc. shall give public notice of the changed Effective Day by the day immediately preceding the original Effective Day (or, immediately preceding the changed Effective Day, in the case where the changed Effective Day comes before the original Effective Day).
- (3) When the Effective Day is changed pursuant to the provisions of paragraph (1), the provisions of this Section and Article 750, Article 752, Article 759, Article 761, Article 769, and Article 771 shall apply by deeming the changed Effective Day to be the Effective Day.

(Keeping and Inspection, etc. of Documents, etc. Concerning an Absorption-type Company Split or Share Exchange)

Article 791 (1) The Splitting Stock Company in Absorption-type Company Split or the Wholly Owned Subsidiary Company in Share Exchange shall, without delay after the Effective Day, prepare what are provided for in the following items for the categories set forth respectively in those items, jointly with the Succeeding Company in Absorption-type Company Split or the Wholly Owning Parent Company in Share Exchange:

- (i) Splitting Stock Company in Absorption-type Company Split: documents or Electromagnetic Records that state or record the rights and obligations that the Succeeding Company in Absorption-type Company Split succeeded to by transfer from the Splitting Stock Company in Absorption-type Company Split through the Absorption-type Company Split and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning an Absorption-type Company Split; and
  - (ii) Wholly Owned Subsidiary Company in Share Exchange: documents or Electromagnetic Records that state or record the number of shares of the Wholly Owned Subsidiary Company in Share Exchange acquired by the Wholly Owning Parent Company through the Share Exchange and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning a Share Exchange.
- (2) A Splitting Stock Company in Absorption-type Company Split or a Wholly Owned Subsidiary Company in Share Exchange shall, for a period of six months from the Effective Day, keep the documents or Electromagnetic Records set forth in the items of the preceding paragraph at its head office.
- (3) Shareholders, creditors and any other interested parties of a Splitting Stock Company in Absorption-type Company Split may make the following requests to the Splitting Stock Company in Absorption-type Company Split at any time during its business hours; provided, however, that the fees designated by said Splitting Stock Company in Absorption-type Company Split are required to be paid in order to make the requests set forth in item (ii) or item (iv):
- (i) requests for inspection of the documents set forth in the preceding paragraph;
  - (ii) requests for delivery of a transcript or extract of the documents set forth in the preceding paragraph;
  - (iii) requests for inspection of anything that indicates the matters recorded in the Electromagnetic Records set forth in the preceding paragraph in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and
  - (iv) requests that the matters recorded in the Electromagnetic Records set forth in the preceding paragraph be provided by the Electromagnetic Method designated by the Splitting Stock Company in Absorption-type Company Split, or requests for the delivery of any document that states such matters.

(4) The provisions of the preceding paragraph shall apply mutatis mutandis to a Wholly Owned Subsidiary Company in Share Exchange. In such cases, the phrase "shareholders, creditors and any other interested parties of a Splitting Stock Company in Absorption-type Company Split" shall be deemed to be replaced with "persons who were shareholders or holders of Share Options of the Wholly Owned Subsidiary Company in Share Exchange as of the Effective Day."

(Special Provisions on Dividends of Surplus, etc.)

Article 792 The provisions of Article 458 and Part II, Chapter V, Section 6 shall not apply to the acts listed below:

- (i) acquisition of shares set forth in Article 758 (viii)(a) or Article 760 (vii)(a); and
- (ii) distribution of dividends of surplus set forth in Article 758 (viii)(b) or Article 760 (vii)(b).

#### **Division 2 Procedures for a Membership Company**

Article 793 (1) A Membership Company conducting any one of the acts below shall obtain the consent of all partners of the Membership Company with regard to the Absorption-type Merger Agreement, etc. by the day immediately preceding the Effective Day; provided, however, that this shall not apply in cases where it is otherwise provided for in the articles of incorporation:

- (i) Absorption-type Merger (limited to cases where the Membership Company shall be extinguished through the Absorption-type Merger); or
  - (ii) Absorption-type Company Split (limited to cases where another Company succeeds to all of the rights and obligations held by such Membership Company (limited to a Limited Liability Company) in connection with its business).
- (2) The provisions of Article 789 (excluding paragraph (1)(iii) and paragraph (2)(iii)) and Article 790 shall apply mutatis mutandis to a Membership Company Absorbed in Absorption-type Merger or a Splitting Company in Absorption-type Company Split, which is a Limited Liability Company (hereinafter referred to as the "Splitting Limited Liability Company in Absorption-type Company Split" in this Section). In such cases, the phrase "Creditors of the Splitting Stock Company in Absorption-type Company Split who are unable to request the Splitting Stock Company in Absorption-type Company Split to perform the obligations (including performance of the guarantee obligations that the Splitting Stock Company in Absorption-type Company Split jointly and severally assumes with the Succeeding Company in Absorption-type Company Split as a guarantor) (or, in the case where there are

provisions on the matter set forth in Article 758 (viii) or Article 760 (vii), creditors of the Splitting Stock Company in Absorption-type Company Split)" in Article 789 (1)(ii) shall be deemed to be replaced with "Creditors of the Splitting Stock Company in Absorption-type Company Split who are unable to request the Splitting Stock Company in Absorption-type Company Split to perform the obligations (including performance of the guarantee obligations that the Splitting Stock Company in Absorption-type Company Split jointly and severally assumes with the Succeeding Company in Absorption-type Company Split as a guarantor)" and the term "Absorbed Stock Company, etc." in paragraph (3) of that Article shall be deemed to be replaced with "Membership Company Absorbed in Absorption-type Merger (limited to a Limited Liability Company in the case where the Company Surviving Absorption-type Merger is a Stock Company or a Limited Liability Company) or the Splitting Limited Liability Company in Absorption-type Company Split."

**Subsection 2 Procedures for the Company Surviving Absorption-type Merger, the Succeeding Company in Absorption-type Company Split and the Wholly Owning Parent Company in Share Exchange**  
**Division 1 Procedures for a Stock Company**

(Keeping and Inspection, etc. of Documents, etc. Concerning an Absorption-type Merger Agreement, etc.)

Article 794 (1) The Stock Company Surviving Absorption-type Merger, the Succeeding Stock Company in Absorption-type Company Split or the Wholly Owning Parent Stock Company in Share Exchange (hereinafter referred to as the "Surviving Stock Company, etc." in this Division) shall, from the day on which the Absorption-type Merger Agreement, etc. began to be kept until the day on which six months have elapsed from the Effective Day, keep documents or Electromagnetic Records that state or record the contents of the Absorption-type Merger Agreement, etc. and other matters prescribed by the applicable Ordinance of the Ministry of Justice at its head office.

(2) The "day on which the Absorption-type Merger Agreement, etc. began to be kept" prescribed in the preceding paragraph means the earliest of the following days:

(i) if the Absorption-type Merger Agreement, etc. is required to be approved by a resolution of a shareholders meeting (including a Class Meeting), the day two weeks prior to the day of the shareholders meeting (or, in the cases prescribed in paragraph (1) of Article 319, the day when the proposal under that paragraph is submitted);

(ii) the day of the notice under the provisions of paragraph 3 of Article 797 or the day of the public notice under paragraph (4) of that Article, whichever is

earlier; or

- (iii) if the procedures under the provisions of Article 799 are required to be carried out, the day of the public notice under the provisions of paragraph (2) of that Article or the day of the notice under the provisions of that paragraph, whichever is earlier.
- (3) Shareholders and creditors of a Surviving Stock Company, etc. (or, in the case where the Monies, etc. to be delivered to shareholders of the Wholly Owned Subsidiary Company in Share Exchange are limited to shares of the Wholly Owing Parent Stock Company in Share Exchange or those prescribed by the applicable Ordinance of the Ministry of Justice as being equivalent thereto (excluding the case prescribed in Article 768 (1)(iv)(c)), shareholders) may make the following requests to said Surviving Stock Company, etc. at any time during its business hours; provided, however, that the fees designated by said Surviving Stock Company, etc. are required to be paid in order to make the requests set forth in item (ii) or item (iv):
- (i) requests for inspection of the documents set forth in paragraph (1);
  - (ii) requests for delivery of a transcript or extract of the documents set forth in paragraph (1);
  - (iii) requests for inspection of anything that indicates the matters recorded in the Electromagnetic Records set forth in paragraph (1) in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and
  - (iv) requests that the matters recorded in the Electromagnetic Records set forth in paragraph (1) be provided by the Electromagnetic Method designated by the Surviving Stock Company, etc., or requests for the delivery of any document that states such matters.

(Approval, etc. of the Absorption-type Merger Agreement, etc.)

Article 795 (1) A Surviving Stock Company, etc. shall obtain the approval of the Absorption-type Merger Agreement, etc. by a resolution of a shareholders meeting by the day immediately preceding the Effective Day.

- (2) In the cases listed below, a director shall explain to that effect at the shareholders meeting set forth in the preceding paragraph:
- (i) in cases where the amount prescribed by the applicable Ordinance of the Ministry of Justice as the amount of obligations that the Stock Company Surviving Absorption-type Merger or the Succeeding Stock Company in Absorption-type Company Split succeeds to by transfer from the Company Absorbed in Absorption-type Merger or the Splitting Company in Absorption-type Company Split (referred to as the "Amount of Succeeded Obligations" in the following item) exceeds the amount prescribed by the applicable Ordinance of the Ministry of Justice as the amount of assets that the Stock Company Surviving Absorption-type Merger or the Succeeding Stock

- Company in Absorption-type Company Split succeeds to by transfer from the Company Absorbed in Absorption-type Merger or the Splitting Company in Absorption-type Company Split (referred to as the "Amount of Succeeded Assets" in the following item);
- (ii) in cases where the book value of the Monies, etc. (excluding shares, etc. of the Stock Company Surviving Absorption-type Merger or the Succeeding Stock Company in Absorption-type Company Split) delivered by the Stock Company Surviving Absorption-type Merger or the Succeeding Stock Company in Absorption-type Company Split to shareholders of the Stock Company Absorbed in Absorption-type Merger, to partners of the Membership Company Absorbed in Absorption-type Merger or to the Splitting Company in Absorption-type Company Split exceeds the amount obtained by deducting the Amount of Succeeded Obligations from the Amount of Succeeded Assets; or
- (iii) in cases where the book value of the Monies, etc. (excluding shares, etc. of the Wholly Owing Parent Stock Company in Share Exchange) delivered by the Wholly Owing Parent Stock Company in Share Exchange to shareholders of the Wholly Owned Subsidiary Company in Share Exchange exceeds the amount prescribed by the applicable Ordinance of the Ministry of Justice as the amount of shares of the Wholly Owned Subsidiary Company in Share Exchange to be acquired by the Wholly Owing Parent Stock Company in Share Exchange.
- (3) In cases where the assets of the Company Absorbed in Absorption-type Merger or the Splitting Company in Absorption-type Company Split include shares of the Stock Company Surviving Absorption-type Merger or the Succeeding Stock Company in Absorption-type Company Split, a director shall explain the matters concerning such shares at the shareholders meeting set forth in paragraph (1).
- (4) Where the Surviving Stock Company, etc. is a Company with Class Shares, in the cases listed in the following items, an Absorption-type Merger, etc. shall not become effective without a resolution of a Class Meeting constituted by Class Shareholders of the class of shares provided for respectively in those items (limited to Shares with a Restriction on Transfer and for which the provisions of the articles of incorporation set forth in Article 199 (4) do not exist) (in cases where there are two or more classes of shares relating to such Class Shareholders, the respective Class Meetings constituted by Class Shareholders categorized by the class of such two or more classes of shares); provided, however, that this shall not apply to cases where there is no Class Shareholder who is able to exercise a voting right at such Class Meeting:
- (i) in cases where the Monies, etc. delivered to shareholders of the Stock Company Absorbed in Absorption-type Merger or to partners of the

- Membership Company Absorbed in Absorption-type Merger are shares of the Stock Company Surviving Absorption-type Merger: the class of shares set forth in Article 749 (1)(ii)(a);
- (ii) in cases where the Monies, etc. delivered to the Splitting Company in Absorption-type Company Split are shares of the Succeeding Stock Company in Absorption-type Company Split: the class of shares set forth in Article 758 (iv)(a); or
- (iii) in cases where the Monies, etc. delivered to shareholders of the Wholly Owned Subsidiary Company in Share Exchange are shares of the Wholly Owing Parent Stock Company in Share Exchange: the class of shares set forth in Article 768 (1)(ii)(a).

(Cases Where Approval of the Absorption-type Merger Agreement, etc. Is Not Required, etc.)

- Article 796 (1) The provisions of paragraphs (1) to (3) of the preceding Article shall not apply in the cases where the Company Absorbed in Absorption-type Merger, the Splitting Company in Absorption-type Company Split or the Wholly Owned Subsidiary Company in Share Exchange (hereinafter referred to as the "Absorbed Company, etc." in this Division) is the Special Controlling Company of the Surviving Stock Company, etc.; provided, however, that this shall not apply in the cases where all or part of the Monies, etc. to be delivered to shareholders of the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange, to partners of the Membership Company Absorbed in Absorption-type Merger or to the Splitting Company in Absorption-type Company Split are Shares with a Restriction on Transfer, etc. of the Surviving Stock Company, etc., and the Surviving Stock Company, etc. is not a Public Company.
- (2) In the cases prescribed in the main clause of the preceding paragraph, in any one of the following cases where shareholders of the Surviving Stock Company, etc. are likely to suffer disadvantage, shareholders of the Surviving Stock Company, etc. may demand that the Surviving Stock Company, etc. refrain from effecting the Absorption-type Merger, etc.:
- (i) in cases where the Absorption-type Merger, etc. violates the applicable laws and regulations or articles of incorporation; or
- (ii) in cases where the matters set forth in Article 749 (1)(ii) or (iii), Article 758 (iv) or Article 768 (1)(ii) or (iii) are grossly improper in light of the financial status of the Surviving Stock Company, etc. or the Absorbed Company, etc.
- (3) The provisions of paragraphs (1) to (3) of the preceding Article shall not apply in cases where the amount set forth in item (i) does not exceed one-fifth (or, in cases where a lesser proportion is prescribed in the articles of incorporation of the Surviving Stock Company, etc., such proportion) of the amount set forth in



item (ii); provided, however, that this shall not apply in the cases listed in the items of paragraph (2) of the preceding Article or the cases prescribed in the proviso to paragraph (1):

(i) the total amount of the amounts listed below:

(a) the amount obtained by multiplying the number of shares of the Surviving Stock Company, etc. to be delivered to shareholders of the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange, to partners of the Membership Company Absorbed in Absorption-type Merger or to the Splitting Company in Absorption-type Company Split (hereinafter referred to as "Shareholders, etc. of the Absorbed Company, etc." in this item) by the amount of net assets per share;

(b) the total amount of the book value of Bonds, Share Options or Bonds with Share Options of the Surviving Stock Company, etc. to be delivered to Shareholders, etc. of the Absorbed Company, etc.; and

(c) the total amount of the book value of property other than shares, etc. of the Surviving Stock Company, etc. to be delivered to Shareholders, etc. of the Absorbed Company, etc.; and

(ii) the amount calculated by the method specified by the applicable Ordinance of the Ministry of Justice as the total assets of the Surviving Stock Company, etc.

(4) In the cases prescribed in the main clause of the preceding paragraph, if shareholders that hold the shares (limited to those that entitle the shareholders to exercise voting rights at a shareholders meeting under paragraph (1) of the preceding article) in the number prescribed by the applicable Ordinance of the Ministry of Justice notify the Surviving Stock Company, etc. to the effect that such shareholders dissent from the Absorption-type Merger, etc., within two weeks from the day of the notice under the provisions of paragraph (3) of the following Article or the public notice under paragraph (4) of that Article, such Surviving Stock Company, etc. must obtain the approval of the Absorption-type Merger Agreement, etc. by a resolution of a shareholders meeting no later than the day immediately preceding the Effective Day.

(Dissenting Shareholders' Share Purchase Demand)

Article 797 (1) In cases of effecting an Absorption-type Merger, etc., dissenting shareholders may demand that the Surviving Stock Company, etc. purchase, at a fair price, the shares held by such shareholders.

(2) The "dissenting shareholders" provided for in the preceding paragraph shall mean the shareholders provided for in the following items in the cases listed in the same items:

- (i) in cases where a resolution of a shareholders meeting (including a Class Meeting) is required to effect the Absorption-type Merger, etc.: the following shareholders:
  - (a) shareholders who gave notice to such Surviving Stock Company, etc. to the effect that they dissented from such Absorption-type Merger, etc. prior to such shareholders meeting and who dissented from such Absorption-type Merger, etc. at such shareholders meeting (limited to those who can exercise voting rights at such shareholders meeting);
  - (b) shareholders who are unable to exercise voting rights at such shareholders meeting; and
  - (ii) in cases other than those prescribed in the preceding item: all shareholders;
- (3) A Surviving Stock Company, etc. shall notify its shareholders that it will effect an Absorption-type Merger, etc. and the trade name and domicile of the Absorbed Company, etc. (or, in the cases prescribed in Article 795 (3), the fact that it will effect an Absorption-type Merger, etc., the trade name and domicile of the Absorbed Company, etc. and the matters concerning shares set forth in that paragraph), by twenty days prior to the Effective Day.
- (4) In the following cases, a public notice may be substituted for the notice under the provisions of the preceding paragraph:
  - (i) in cases where the Surviving Stock Company, etc. is a Public Company; or
  - (ii) in cases where the Surviving Stock Company, etc. obtains the approval of the Absorption-type Merger Agreement, etc. by the resolution of a shareholders meeting set forth in Article 795 (1).
- (5) Demands under the provisions of paragraph (1) (hereinafter referred to as the "Share Purchase Demand" in this Division) shall be made, within the period from the day twenty days prior to the Effective Day to the day immediately preceding the Effective Day, by disclosing the number of shares relating to such Share Purchase Demand (or, for a Company with Classes of Shares, the classes of the shares and the number of shares for each class).
- (6) Shareholders who made Share Purchase Demands may withdraw their Share Purchase Demands only in cases where such shareholders obtain the approval of the Surviving Stock Company, etc.
- (7) If the Absorption-type Merger, etc. is cancelled, the Share Purchase Demands shall become ineffective.

(Determination, etc. of Price of Shares)

- Article 798 (1) In cases where a Share Purchase Demand is made, if an agreement on the determination of the price of the shares is reached between the shareholder and the Surviving Stock Company, etc., the Surviving Stock Company, etc. shall make payment within sixty days from the Effective Day.
- (2) If no agreement on the determination of the price of the shares is reached

within thirty days from the Effective Day, shareholders or the Surviving Stock Company, etc. may file a petition to the court for a determination of the price within thirty days after the expiration of that period.

- (3) Notwithstanding the provisions of paragraph (6) of the preceding Article, in the cases prescribed in the preceding paragraph, if the petition under that paragraph is not filed within sixty days from the Effective Day, shareholders may withdraw their Share Purchase Demands at any time after the expiration of such period.
- (4) The Surviving Stock Company, etc. shall also pay interest on the price determined by the court which shall be calculated at the rate of six percent per annum from and including the day of the expiration of the period referred to in paragraph (1).
- (5) The purchase of shares relating to a Share Purchase Demand shall become effective at the time of payment of the price of such shares.
- (6) If a Company Issuing Share Certificates receives a Share Purchase Demand with respect to shares for which share certificates are issued, the Company must pay the price of the shares relating to such Share Purchase Demand in exchange for the share certificates.

(Objections of Creditors)

Article 799 (1) In the cases listed in the following items, the creditors provided for in those items may state their objections to the Absorption-type Merger, etc. to the Surviving Stock Company, etc.:

- (i) in cases of effecting an Absorption-type Merger: creditors of the Stock Company Surviving Absorption-type Merger;
  - (ii) in cases of effecting an Absorption-type Company Split: creditors of the Succeeding Stock Company in Absorption-type Company Split; or
  - (iii) in cases of effecting a Share Exchange other than where the Monies, etc. to be delivered to shareholders of the Wholly Owned Subsidiary Company in Share Exchange are only shares of the Wholly Owing Parent Stock Company in Share Exchange or those prescribed by the applicable Ordinance of the Ministry of Justice as being equivalent thereto, or in the cases prescribed in Article 768 (1)(iv): creditors of the Wholly Owing Parent Stock Company in Share Exchange.
- (2) In cases where the creditors of the Surviving Stock Company, etc. are able to state their objection pursuant to the provisions of the preceding paragraph, the Surviving Stock Company, etc. shall give public notice of the matters listed below in the official gazette and shall give notices separately to each known creditor, if any; provided, however, that the period under item (iv) may not be less than one month:
- (i) a statement that an Absorption-type Merger, etc. will be effected;

- (ii) the trade name and domicile of the Absorbed Company, etc.;
  - (iii) the matters prescribed by the applicable Ordinance of the Ministry of Justice as the matters regarding the Financial Statements of the Surviving Stock Company, etc. and the Absorbed Company, etc. (limited to a Stock Company); and
  - (iv) a statement to the effect that creditors may state their objections within a certain period of time.
- (3) Notwithstanding the provisions of the preceding paragraph, if the Surviving Stock Company, etc. gives public notice under that paragraph by Method of Public Notice listed in item (ii) or item (iii) of paragraph (1) of Article 939 in accordance with the provisions of the articles of incorporation under the provisions of that paragraph in addition to the official gazette, the Surviving Stock Company, etc. is not required to give separate notices under the provisions of the preceding paragraph.
- (4) In cases where creditors do not raise any objections within the period under paragraph (2)(iv), such creditors shall be deemed to have approved the Absorption-type Merger, etc.
- (5) In cases where creditors raise objections within the period under paragraph (2)(iv), the Surviving Stock Company, etc. shall make payment or provide reasonable security to such creditors, or entrust equivalent property to a Trust Company, etc. for the purpose of having such creditors receive the payment; provided, however, that this shall not apply if there is no risk of harm to such creditors by such Absorption-type Merger, etc.

(Special Provisions on Cases Where the Monies, etc. to Be Delivered to Shareholders, etc. of the Absorbed Company, etc. Are the Parent Company's Shares of the Surviving Stock Company, etc.)

Article 800 (1) Notwithstanding the provisions of Article 135 (1), in cases where all or part of the Monies, etc. to be delivered to shareholders of the Stock Company Absorbed in Absorption-type Merger or the Wholly Owned Subsidiary Company in Share Exchange, to partners of the Membership Company Absorbed in Absorption-type Merger or to the Splitting Company in Absorption-type Company Split (hereinafter referred to as "Shareholders, etc. of the Absorbed Company, etc." in this paragraph) are the Parent Company's Shares (meaning the Parent Company's Shares prescribed in paragraph (1) of that Article; hereinafter the same shall apply in this Article) of the Surviving Stock Company, etc., the Surviving Stock Company, etc. may acquire such Parent Company's Shares in a number not exceeding the total number of such Parent Company's Shares to be delivered to the Shareholders, etc. of the Absorbed Company, etc. at the time of the Absorption-type Merger, etc.

- (2) Notwithstanding the provisions of Article 135 (3), the Surviving Stock

Company, etc. set forth in the preceding paragraph may hold the Parent Company's Shares of the Surviving Stock Company, etc. until the Effective Day; provided, however, that this shall not apply when the Absorption-type Merger, etc. is cancelled.

(Keeping and Inspection, etc. of Documents, etc. Concerning an Absorption-type Merger, etc.)

Article 801 (1) The Stock Company Surviving Absorption-type Merger shall, without delay after the Effective Day, prepare documents or Electromagnetic Records that state or record the rights and obligations that the Stock Company Surviving Absorption-type Merger succeeded to by transfer from the Company Absorbed in Absorption-type Merger through the Absorption-type Merger and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning an Absorption-type Merger.

(2) The Succeeding Stock Company in Absorption-type Company Split (limited to the Succeeding Stock Company in Absorption-type Company Split where the Limited Liability Company effects the Absorption-type Company Split) shall, without delay after the Effective Day, prepare, jointly with the Splitting Limited Liability Company in Absorption-type Company Split, documents or Electromagnetic Records that state or record the rights and obligations that the Succeeding Stock Company in Absorption-type Company Split succeeded to by transfer from the Splitting Limited Liability Company in Absorption-type Company Split through the Absorption-type Company Split and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning an Absorption-type Company Split.

(3) Each of the Surviving Stock Companies, etc. listed in the following items shall, for a period of six months from the Effective Day, keep what are specified respectively in those items at its head office:

(i) Stock Company Surviving Absorption-type Merger: documents or Electromagnetic Records set forth in paragraph (1);

(ii) Succeeding Stock Company in Absorption-type Company Split: documents or Electromagnetic Records set forth in the preceding paragraph or Article 791 (1)(i); and

(iii) Wholly Owning Parent Stock Company in Share Exchange: documents or Electromagnetic Records set forth in Article 791 (1)(ii).

(4) Shareholders and creditors of the Stock Company Surviving Absorption-type Merger may make the following requests to said Stock Company Surviving Absorption-type Merger at any time during its business hours; provided, however, that the fees designated by said Stock Company Surviving Absorption-type Merger are required to be paid in order to make the requests set forth in item (ii) or item (iv):

- (i) requests for inspection of the documents set forth in item (i) of the preceding paragraph;
  - (ii) requests for delivery of a transcript or extract of the documents set forth in item (i) of the preceding paragraph;
  - (iii) requests for inspection of anything that indicates the matters recorded in the Electromagnetic Records set forth in item (i) of the preceding paragraph in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and
  - (iv) requests that the matters recorded in the Electromagnetic Records set forth in item (i) of the preceding paragraph be provided by the Electromagnetic Method designated by the Stock Company Surviving Absorption-type Merger, or requests for the delivery of any document that states such matters.
- (5) The provisions of the preceding paragraph shall apply mutatis mutandis to the Succeeding Stock Company in Absorption-type Company Split. In such cases, the phrase "shareholders and creditors" in that paragraph shall be deemed to be replaced with "shareholders, creditors and any other interested parties," and the term "item (i) of the preceding paragraph" in the items of that paragraph shall be deemed to be replaced with "item (ii) of the preceding paragraph."
- (6) The provisions of paragraph (4) shall apply mutatis mutandis to the Wholly Owing Parent Stock Company in Share Exchange. In such cases, the phrase "shareholders and creditors" in that paragraph shall be deemed to be replaced with "shareholders and creditors (or, in cases where Monies, etc. to be delivered to shareholders of the Wholly Owned Subsidiary Company in Share Exchange are limited to shares of the Wholly Owing Parent Stock Company in Share Exchange or those prescribed by the applicable Ordinance of the Ministry of Justice as being equivalent thereto (excluding the case prescribed in Article 768 (1)(iv)(c)), shareholders of the Wholly Owing Parent Stock Company in Share Exchange)," and the term "item (i) of the preceding paragraph" in the items of that paragraph shall be deemed to be replaced with "item (iii) of the preceding paragraph."

## **Division 2 Procedures for a Membership Company**

Article 802 (1) A Membership Company conducting any one of the acts listed in the following items (hereinafter referred to as the "Surviving Membership Company, etc." in this Article) shall, in the cases specified respectively in those items, obtain the consent of all partners of the Surviving Membership Company, etc. with regard to the Absorption-type Merger Agreement, etc. by the day immediately preceding the Effective Day; provided, however, that this

shall not apply in cases where it is otherwise provided for in the articles of incorporation:

- (i) Absorption-type Merger (limited to cases where the Membership Company shall survive in the Absorption-type Merger): the cases prescribed in Article 751 (1)(ii);
  - (ii) succession of all or part of the rights and obligations held by another Company in connection with its business through an Absorption-type Company Split: the cases prescribed in Article 760 (iv); or
  - (iii) acquisition of all of the Issued Shares of a Stock Company through a Share Exchange: the cases prescribed in Article 770 (1)(ii).
- (2) The provisions of Article 799 (excluding paragraph (2)(iii)) and Article 800 shall apply mutatis mutandis to a Surviving Membership Company, etc. In such cases, the term "shares of the Wholly Owing Parent Stock Company in Share Exchange" in Article 799 (1)(iii) shall be deemed to be replaced with "equity interests of the Wholly Owing Parent Limited Liability Company in Share Exchange," and the phrase "thereto, or in the cases prescribed in Article 768 (1)(iv)" in that item shall be deemed to be replaced with "thereto."

### **Section 3 Procedures of a Consolidation-type Merger, etc.**

#### **Subsection 1 Procedures for Companies Consolidated through Consolidation-type Merger, Splitting Company(ies) in Incorporation-type Company Split or the Wholly Owned Subsidiary Company in Share Transfer**

##### **Division 1 Procedures for a Stock Company**

(Keeping and Inspection, etc. of Documents, etc. Concerning a Consolidation-type Merger Agreement, etc.)

Article 803 (1) Each of the Stock Companies listed in the following items (hereinafter referred to as a "Consolidated Stock Company, etc." in this Division) shall, from the day on which the Consolidation-type Merger Agreement, etc. began to be kept until the day on which six months have elapsed from the day of formation of the Company Incorporated through Consolidation-type Merger, the Company Incorporated through Incorporation-type Company Split, or the Wholly Owing Parent Company Incorporated through Share Transfer (hereinafter referred to as an "Incorporated Company" in this Division) (or, for a Stock Company(ies) Consolidated through Consolidation-type Merger, the day of formation of the Company Incorporated through Consolidation-type Merger), keep documents or Electromagnetic Records that state or record the contents of what are specified respectively in those items (hereinafter referred to as the "Consolidation-type Merger Agreement, etc." in this Section) and other matters prescribed by the

applicable Ordinance of the Ministry of Justice at its head office:

- (i) Stock Company(ies) Consolidated through Consolidation-type Merger: the Consolidation-type Merger agreement;
  - (ii) Splitting Stock Company(ies) in Incorporation-type Company Split: the Incorporation-type Company Split plan; and
  - (iii) Wholly Owned Subsidiary Company in Share Transfer: the Share Transfer plan.
- (2) The "day on which the Consolidation-type Merger Agreement, etc. began to be kept" prescribed in the preceding paragraph means the earliest of the following days:
- (i) if the Consolidation-type Merger Agreement, etc. is required to be approved by a resolution of a shareholders meeting (including a Class Meeting), the day two weeks prior to the day of the shareholders meeting (or, in the cases prescribed in paragraph (1) of Article 319, the day when the proposal under that paragraph is submitted);
  - (ii) if there are shareholders who are to receive the notice under the provisions of paragraph (3) of Article 806, the day of the notice under the provisions of that paragraph or the day of the public notice under paragraph (4) of that Article, whichever is earlier;
  - (iii) if there are holders of Share Options who are to receive the notice under the provisions of paragraph (3) of Article 808, the day of the notice under the provisions of that paragraph or the day of the public notice under paragraph (4) of that Article, whichever is earlier;
  - (iv) if the procedures under the provisions of Article 810 are required to be carried out, the day of the public notice under the provisions of paragraph (2) of that Article or the day of the notice under the provisions of that paragraph, whichever is earlier; or
  - (v) in cases other than those prescribed in the preceding items, the day on which two weeks have elapsed from the day of preparation of the Incorporation-type Company Split plan.
- (3) Shareholders and creditors of a Consolidated Stock Company, etc. (or, in the case of a Wholly Owned Subsidiary Company in Share Transfer, shareholders and holders of Share Options) may make the following requests to said Consolidated Stock Company, etc. at any time during its business hours provided, however, that the fees designated by said Consolidated Stock Company, etc. are required to be paid in order to make the requests set forth in item (ii) or item (iv):
- (i) requests for inspection of the documents set forth in paragraph (1);
  - (ii) requests for delivery of a transcript or extract of the documents set forth in paragraph (1);
  - (iii) requests for inspection of anything that indicates the matters recorded in



the Electromagnetic Records set forth in paragraph (1) in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and (iv) requests that the matters recorded in the Electromagnetic Records set forth in paragraph (1) be provided by the Electromagnetic Method designated by the Consolidated Stock Company, etc., or requests for the delivery of any document that states such matters.

(Approval, etc. of the Consolidation-type Merger Agreement, etc.)

Article 804 (1) A Consolidated Stock Company, etc. shall obtain the approval of the Consolidation-type Merger Agreement, etc. by a resolution of a shareholders meeting.

(2) Notwithstanding the provisions of the preceding paragraph, in the cases where the Company Incorporated through Consolidation-type Merger is a Membership Company, consent of all shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger shall be obtained with regard to the Consolidation-type Merger agreement.

(3) In the cases where the Stock Company(ies) Consolidated through Consolidation-type Merger or the Wholly Owned Subsidiary Company in Share Transfer is a Company with Classes of Shares, if all or part of the shares, etc. of the Stock Company Incorporated through Consolidation-type Merger or the Wholly Owning Parent Stock Company Incorporated through Share Transfer to be delivered to shareholders of the Stock Company(ies) Consolidated through Consolidation-type Merger or the Wholly Owned Subsidiary Company in Share Transfer are Shares with a Restriction on Transfer, etc., the Consolidation-type Merger or the Share Transfer shall not become effective without a resolution of a Class Meeting constituted by Class Shareholders of the class of shares subject to the allotment of the Shares with a Restriction on Transfer, etc. (excluding Shares with a Restriction on Transfer) (in cases where there are two or more classes of shares relating to such Class Shareholders, the respective Class Meetings constituted by Class Shareholders categorized by the class of such two or more classes of shares); provided, however, that this shall not apply to cases where there is no Class Shareholder able to exercise a voting right at such Class Meeting.

(4) A Consolidated Stock Company, etc. shall notify its Registered Pledges of Shares (excluding the Registered Pledges of Shares in the cases prescribed in the following Article) and Registered Pledges of Share Options concerning the Share Options specified in the items of Article 808 (3) that it will effect the Consolidation-type Merger, the Incorporation-type Company Split or the Share Transfer (hereinafter referred to as a "Consolidation-type Merger, etc." in this Section) within two weeks from the day of resolution of the shareholders meeting set forth in paragraph (1) (or, in the cases prescribed in paragraph (2),

the day of obtainment of the consent of all shareholders set forth in that paragraph).

- (5) A public notice may be substituted for the notice under the provisions of the preceding paragraph.

(Cases Where Approval of the Incorporation-type Company Split Plan Is Not Required)

Article 805 The provisions of paragraph (1) of the preceding Article shall not apply in cases where the sum of the book value of the assets that the Company Incorporated through Incorporation-type Company Split succeeds to through the Incorporation-type Company Split does not exceed one-fifth (or, in cases where a lesser proportion is prescribed in the articles of incorporation of the Splitting Stock Company(ies) in Incorporation-type Company Split, such proportion) of the amount calculated by the method specified by the applicable Ordinance of the Ministry of Justice as the total assets of the Splitting Stock Company(ies) in Incorporation-type Company Split.

(Dissenting Shareholders' Share Purchase Demand)

Article 806 (1) In cases of effecting a Consolidation-type Merger, etc. (excluding the following cases), dissenting shareholders may demand that the Consolidated Stock Company, etc. purchase, at a fair price, the shares held by such shareholders:

- (i) in cases prescribed in Article 804 (2); and
- (ii) in cases prescribed in the preceding Article.

(2) The "dissenting shareholders" provided for in the preceding paragraph shall mean the shareholders provided for in the following items:

- (i) shareholders who gave notice to such Consolidated Stock Company, etc. to the effect that they dissented from such Consolidation-type Merger, etc. prior to the shareholders meeting set forth in Article 804 (1) (in cases where a resolution of a Class Meeting is required to effect the Consolidation-type Merger, etc., including such Class Meeting) and who dissented from such Consolidation-type Merger, etc. at such shareholders meeting (limited to those who can exercise voting rights at such shareholders meeting); and
- (ii) shareholders who are unable to exercise voting rights at such shareholders meeting.

(3) A Consolidated Stock Company, etc. shall notify its shareholders that it will effect a Consolidation-type Merger, etc. and the trade names and domiciles of the Companies Consolidated through Consolidation-type Merger, the Splitting Company(ies) in Incorporation-type Company Split or the Wholly Owned Subsidiary Company in Share Transfer (hereinafter referred to as the "Consolidated Company, etc." in this Section) and the Incorporated Company,

within two weeks from the day of resolution of the shareholders meeting set forth in Article 804 (1); provided, however, that this shall not apply in the cases listed in the items of paragraph (1).

- (4) A public notice may be substituted for the notice under the provisions of the preceding paragraph.
- (5) Demands under the provisions of paragraph (1) (hereinafter referred to as a "Share Purchase Demand" in this Division) shall be made, within twenty days from the day of the notice under the provisions of paragraph (3) or the public notice under the preceding paragraph, by disclosing the number of shares relating to such Share Purchase Demand (or, for a Company with Classes of Shares, the classes of the shares and the number of shares for each class).
- (6) Shareholders who made Share Purchase Demands may withdraw their Share Purchase Demands only in cases where such shareholders obtain the approval of the Consolidated Stock Company, etc.
- (7) If the Consolidation-type Merger, etc. is cancelled, the Share Purchase Demand shall become ineffective.

(Determination, etc. of Price of Shares)

- Article 807 (1) In cases where a Share Purchase Demand is made, if an agreement on the determination of the price of the shares is reached between the shareholder and the Consolidated Stock Company, etc. (or, after the day of formation of the Company Incorporated through Consolidation-type Merger in cases of effecting a Consolidation-type Merger, the Company Incorporated through Consolidation-type Merger; hereinafter the same shall apply in this Article), the Consolidated Stock Company, etc. shall make payment within sixty days from the day of formation of the Incorporated Company.
- (2) If no agreement on the determination of the price of the shares is reached within thirty days from the day of formation of the Incorporated Company, shareholders or the Consolidated Stock Company, etc. may file a petition to the court for a determination of the price within thirty days after the expiration of that period.
  - (3) Notwithstanding the provisions of paragraph (6) of the preceding Article, in the cases prescribed in the preceding paragraph, if the petition under that paragraph is not filed within sixty days from the day of formation of the Incorporated Company, shareholders may withdraw their Share Purchase Demands at any time after the expiration of such period.
  - (4) The Consolidated Stock Company, etc. shall also pay interest on the price determined by the court which shall be calculated at the rate of six percent per annum from and including the day of the expiration of the period referred to in paragraph (1).
  - (5) The purchase of shares relating to a Share Purchase Demand shall become

effective on the day of formation of the Incorporated Company (or, in the case of effecting an Incorporation-type Company Split, at the time of payment of the price of such shares).

- (6) If a Company Issuing a Share Certificate receives a Share Purchase Demand with respect to shares for which share certificates are issued, the Company must pay the price of the shares relating to such Share Purchase Demand in exchange for the share certificates.

(Demand for Purchase of Share Options)

Article 808 (1) In cases of carrying out any one of the acts listed in the following items, holders of Share Options of the Consolidated Stock Company, etc. provided for in those items may demand that the Consolidated Stock Company, etc. purchase, at a fair price, the Share Options held by the same:

- (i) Consolidation-type Merger: Share Options other than those for which provisions on the matters set forth in Article 753 (1)(x) or (xi) meet the conditions set forth in item (viii) of Article 236 (1) (limited to those related to (a) of that item);
- (ii) Incorporation-type Company Split (limited to cases where the Company Incorporated through Incorporation-type Company Split is a Stock Company): among the following Share Options, Share Options other than those for which provisions on the matters set forth in Article 763 (x) or (xi) meet the conditions set forth in item (viii) of Article 236 (1) (limited to those related to (c) of that item):
  - (a) Share Options under Incorporation-type Company Split Plan; and
  - (b) Share Options other than Share Options under Incorporation-type Company Split Plan and for which there are provisions to the effect that, in the case of effecting an Incorporation-type Company Split, Share Options of the Stock Company Incorporated through Incorporation-type Company Split shall be delivered to holders of such Share Options; or
- (iii) Share Exchange: among the following Share Options, Share Options other than those for which provisions on the matters set forth in Article 773 (1)(ix) or (x) meet the conditions set forth in item (viii) of Article 236 (1) (limited to those related to (e) of that item):
  - (a) Share Options under Share Transfer Plan; and
  - (b) Share Options other than Share Options under Share Transfer Plan and for which there are provisions to the effect that, in the case of effecting a Share Transfer, Share Options of the Wholly Owning Parent Company Incorporated through Share Transfer shall be delivered to holders of such Share Options.

- (2) If holders of the Share Options attached to Bonds with Share Options intend to make the demand under the preceding paragraph (hereinafter referred to as

a "Share Option Purchase Demand" in this Division), they shall also make the demand for the purchase of the Bonds pertaining to Bonds with Share Options; provided, however, that this shall not apply in cases where it is otherwise provided for with respect to the Share Options attached to such Bonds with Share Options.

- (3) The Consolidated Stock Company, etc. listed in the following items shall notify holders of Share Options provided for in those items that they will effect a Consolidation-type Merger, etc. and the trade names and domiciles of the Consolidated Company, etc. and the Incorporated Company, within two weeks from the day of resolution of the shareholders meeting set forth in Article 804 (1) (or, in the cases prescribed in paragraph (2) of that Article, the day of obtainment of the consent of all shareholders set forth in that paragraph, and in the cases prescribed in Article 805, the day of preparation of the Incorporation-type Company Split plan):
  - (i) Stock Company(ies) Consolidated through Consolidation-type Merger: all Share Options;
  - (ii) Splitting Stock Company(ies) in Incorporation-type Company Split in cases where the Company Incorporated through Incorporation-type Company Split is a Stock Company: the following Share Options:
    - (a) Share Options under Incorporation-type Company Split Plan; and
    - (b) Share Options other than Share Options under Incorporation-type Company Split Plan and for which there are provisions to the effect that, in the case of effecting an Incorporation-type Company Split, Share Options of the Stock Company Incorporated through Incorporation-type Company Split shall be delivered to holders of such Share Options; and
  - (iii) Wholly Owned Subsidiary Company in Share Transfer: the following Share Options:
    - (a) Share Options under Share Transfer Plan; and
    - (b) Share Options other than Share Options under Share Transfer Plan and for which there are provisions to the effect that, in the case of effecting a Share Transfer, Share Options of the Wholly Owning Parent Company Incorporated through Share Transfer shall be delivered to holders of such Share Options.
- (4) A public notice may be substituted for the notice under the provisions of the preceding paragraph.
- (5) A Share Option Purchase Demand shall be made, within twenty days from the day of the notice under the provisions of paragraph (3) or the public notice under the preceding paragraph, by disclosing the number of shares relating to such Share Option Purchase Demand.
- (6) Holders of Share Options who have made Share Option Purchase Demands may withdraw their Share Option Purchase Demands only in cases where they

obtain the approval of the Consolidated Stock Company, etc.

(7) If the Consolidation-type Merger, etc. is cancelled, the Share Option Purchase Demands shall become ineffective.

(Determination, etc. of Price of Share Options)

Article 809 (1) In cases where a Share Option Purchase Demand is made, if an agreement on the determination of the price of the Share Options (in cases where such Share Options are those attached to Bonds with Share Options, if there is a demand for the purchase of Bonds pertaining to such Bonds with Share Options, they shall include such Bonds; hereinafter the same shall apply in this Article) is reached between the holder of Share Options and the Consolidated Stock Company, etc. (after the day of formation of the Company Incorporated through Consolidation-type Merger in cases of effecting a Consolidation-type Merger, the Company Incorporated through Consolidation-type Merger; hereinafter the same shall apply in this Article), the Consolidated Stock Company, etc. shall make payment within sixty days from the day of formation of the Incorporated Company.

(2) If no agreement on the determination of the price of the Share Options is reached within thirty days from the day of formation of the Incorporated Company, holders of Share Options or the Consolidated Stock Company, etc. may file a petition to the court for a determination of the price within thirty days after the expiration of that period.

(3) Notwithstanding the provisions of paragraph (6) of the preceding Article, in the cases prescribed in the preceding paragraph, if the petition under that paragraph is not filed within sixty days from the day of formation of the Incorporated Company, holders of Share Options may withdraw their Share Option Purchase Demands at any time after the expiration of such period.

(4) The Consolidated Stock Company, etc. shall also pay interest on the price determined by the court which shall be calculated at the rate of six percent per annum from and including the day of the expiration of the period referred to in paragraph (1).

(5) The purchase of Share Options relating to the Share Option Purchase Demands shall become effective at the times provided for in the following items for the categories of Share Options set forth respectively in those items:

(i) Share Options provided for in paragraph (1)(i) of the preceding Article: the day of formation of the Company Incorporated through Consolidation-type Merger;

(ii) Share Options set forth in paragraph (1)(ii)(a) of the preceding Article: the day of formation of the Company Incorporated through Incorporation-type Company Split;

(iii) Share Options set forth in paragraph (1)(ii)(b) of the preceding Article: the

- time of payment of the price of such Share Options;
  - (iv) Share Options set forth in paragraph (1)(iii)(a) of the preceding Article: the day of formation of the Wholly Owning Parent Company Incorporated through Share Transfer; and
  - (v) Share Options set forth in paragraph (1)(iii)(b) of the preceding Article: the time of payment of the price of such Share Options.
- (6) If a Consolidated Stock Company, etc. receives a Share Option Purchase Demand with respect to a Share Option for which a Share Option certificate is issued, it shall pay the price of the Share Option relating to such Share Option Purchase Demand in exchange for the Share Option certificate.
- (7) If a Consolidated Stock Company, etc. receives a Share Option Purchase Demand with respect to a Share Option attached to a Bond with a Share Option for which a certificate for a Bond with a Share Option is issued, it shall pay the price of the Share Option relating to such Share Option Purchase Demand in exchange for such certificate for Bond with Share Option.

(Objections of Creditors)

- Article 810 (1) In the cases listed in the following items, the creditors provided for in those items may state their objections to the Consolidation-type Merger, etc. to the Consolidated Stock Company, etc.:
- (i) in cases of effecting a Consolidation-type Merger: creditors of the Stock Company(ies) Consolidated through Consolidation-type Merger;
  - (ii) in cases of effecting an Incorporation-type Company Split: creditors of the Splitting Stock Company(ies) in Incorporation-type Company Split who are unable to request the Splitting Stock Company(ies) in Incorporation-type Company Split to perform the obligations (including performance of the guarantee obligations that the Splitting Stock Company(ies) in Incorporation-type Company Split jointly and severally assumes with the Company Incorporated through Incorporation-type Company Split as a guarantor) (or, in the case where there are provisions on the matter set forth in Article 763 (xii) or Article 765 (1)(viii), creditors of the Splitting Stock Company(ies) in Incorporation-type Company Split); or
  - (iii) in cases where the Share Options under Share Transfer Plan are Share Options attached to Bonds with Share Options: bondholders pertaining to such Bonds with Share Options.
- (2) In cases where all or part of the creditors of the Consolidated Stock Company, etc. are able to state their objection pursuant to the provisions of the preceding paragraph, the Consolidated Stock Company, etc. shall give public notice of the matters listed below in the official gazette and shall give notices separately to each known creditor (limited to one who is able to state an objection pursuant to the provisions of such paragraph), if any; provided, however, that the period

under item (iv) may not be less than one month:

- (i) a statement that a Consolidation-type Merger, etc. will be effected;
- (ii) the trade name and domicile of the other Consolidated Company(ies), etc. and the Incorporated Company;
- (iii) the matters prescribed by the applicable Ordinance of the Ministry of Justice as the matters regarding the Financial Statements of the Consolidated Stock Company, etc.; and
- (iv) a statement to the effect that creditors may state their objections within a certain period of time.

(3) Notwithstanding the provisions of the preceding paragraph, if the Consolidated Stock Company, etc. gives public notice under that paragraph by the Method of Public Notice listed in item (ii) or item (iii) of paragraph (1) of Article 939 in accordance with the provisions of the articles of incorporation under the provisions of that paragraph in addition to the official gazette, the Consolidated Stock Company, etc. is not required to give separate notices under the provisions of the preceding paragraph (excluding such notices to creditors of the obligations of the Splitting Stock Company(ies) in Incorporation-type Company Split that have arisen due to a tort in the case of effecting an Incorporation-type Company Split).

(4) In cases where creditors do not raise any objections within the period under paragraph (2)(iv), such creditors shall be deemed to have approved the Consolidation-type Merger, etc.

(5) In cases where creditors raise objections within the period under paragraph (2)(iv), the Consolidated Stock Company, etc. shall make payment or provide reasonable security to such creditors, or entrust equivalent property to a Trust Company, etc. for the purpose of having such creditors receive the payment; provided, however, that this shall not apply if there is no risk of harm to such creditors by such Consolidation-type Merger, etc.

(Keeping and Inspection, etc. of Documents, etc. Concerning an Incorporation-type Company Split or Share Transfer)

Article 811 (1) The Splitting Stock Company(ies) in Incorporation-type Company Split or the Wholly Owned Subsidiary Company in Share Transfer shall, without delay after the day of formation of the Company Incorporated through Incorporation-type Company Split or the Wholly Owing Parent Company Incorporated through Share Transfer, prepare what are provided for in the following items for the categories set forth respectively in those items, jointly with the Company Incorporated through Incorporation-type Company Split or the Wholly Owing Parent Company Incorporated through Share Transfer:

- (i) Splitting Stock Company(ies) in Incorporation-type Company Split:  
documents or Electromagnetic Records that state or record the rights and



- obligations that the Company Incorporated through Incorporation-type Company Split succeeded to by transfer from the Splitting Stock Company(ies) in Incorporation-type Company Split through the Incorporation-type Company Split and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning an Incorporation-type Company Split; and
- (i) Wholly Owned Subsidiary Company in Share Transfer: documents or Electromagnetic Records that state or record the number of shares of the Wholly Owned Subsidiary Company in Share Transfer acquired by the Wholly Owing Parent Company Incorporated through Share Transfer and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning a Share Transfer.
- (2) The Splitting Stock Company(ies) in Incorporation-type Company Split or the Wholly Owned Subsidiary Company in Share Transfer shall, for a period of six months from the day of formation of the Company Incorporated through Incorporation-type Company Split or the Wholly Owing Parent Company Incorporated through Share Transfer, keep the documents or Electromagnetic Records set forth in the items of the preceding paragraph at its head office.
- (3) Shareholders, creditors and any other interested parties of a Splitting Stock Company(ies) in Incorporation-type Company Split may make the following requests to the Splitting Stock Company(ies) in Incorporation-type Company Split at any time during its business hours; provided, however, that the fees designated by said Splitting Stock Company(ies) in Incorporation-type Company Split are required to be paid in order to make the requests set forth in item (ii) or item (iv):
- (i) requests for inspection of the documents set forth in the preceding paragraph
- (ii) requests for delivery of a transcript or extract of the documents set forth in the preceding paragraph;
- (iii) requests for inspection of anything that indicates the matters recorded in the Electromagnetic Records set forth in the preceding paragraph in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and
- (iv) requests that the matters recorded in the Electromagnetic Records set forth in the preceding paragraph be provided by the Electromagnetic Method designated by the Splitting Stock Company(ies) in Incorporation-type Company Split, or requests for the delivery of any document that states such matters.
- (4) The provisions of the preceding paragraph shall apply mutatis mutandis to a Wholly Owned Subsidiary Company in Share Transfer. In such cases, the phrase "shareholders, creditors and any other interested parties of a Splitting

Stock Company(ies) in Incorporation-type Company Split" shall be deemed to be replaced with "persons who were shareholders or holders of Share Options of the Wholly Owned Subsidiary Company in Share Transfer as of the day of formation of the Wholly Owing Parent Company Incorporated through Share Transfer."

(Special Provisions on Dividends of Surplus, etc.)

Article 812 The provisions of Article 458 and Part II, Chapter V, Section 6 shall not apply to the acts listed below:

- (i) acquisition of shares set forth in Article 763 (xii)(a) or Article 765 (1)(viii)(a); and
- (ii) Distribution of dividends of surplus set forth in Article 763 (xii)(b) or Article 765 (1)(viii)(b).

### **Division 2 Procedure for a Membership Company**

Article 813 (1) A Membership Company conducting any one of the acts below shall obtain the consent of all partners of the Membership Company with regard to the Consolidation-type Merger Agreement, etc.; provided, however, that this shall not apply in cases where it is otherwise provided for in the articles of incorporation:

- (i) Consolidation-type Merger; or
  - (ii) Incorporation-type Company Split (limited to cases where another Company succeeds to all of the rights and obligations held by such Membership Company (limited to a Limited Liability Company) in connection with its business).
- (2) The provisions of Article 810 (excluding paragraph (1)(iii) and paragraph (2)(iii)) shall apply mutatis mutandis to a Membership Company(ies) Consolidated through Consolidation-type Merger or a Splitting Company(ies) in Incorporation-type Company Split, which is a Limited Liability Company (hereinafter referred to as the "Splitting Limited Liability Company in Incorporation-type Company Split" in this Section). In such cases, the phrase "Creditors of the Splitting Stock Company(ies) in Incorporation-type Company Split who are unable to request the Splitting Stock Company(ies) in Incorporation-type Company Split to perform the obligations (including performance of the guarantee obligations that the Splitting Stock Company(ies) in Incorporation-type Company Split jointly and severally assumes with the Company Incorporated through Incorporation-type Company Split as a guarantor) (or, in the case where there are provisions on the matter set forth in Article 763 (xii) or Article 765 (1)(viii), creditors of the Splitting Stock Company(ies) in Incorporation-type Company Split)" in paragraph (1)(ii) of

Article 810 shall be deemed to be replaced with "Creditors of the Splitting Stock Company(ies) in Incorporation-type Company Split who are unable to request the Splitting Stock Company(ies) in Incorporation-type Company Split to perform the obligations (including performance of the guarantee obligations that the Splitting Stock Company(ies) in Incorporation-type Company Split jointly and severally assumes with the Company Incorporated through Incorporation-type Company Split as a guarantor)" and the term "Consolidated Stock Company, etc." in paragraph (3) of that Article shall be deemed to be replaced with "Membership Company(ies) Consolidated through Consolidation-type Merger (limited to a Limited Liability Company in the case where the Company Incorporated through Consolidation-type Merger is a Stock Company or a Limited Liability Company) or the Splitting Limited Liability Company in Incorporation-type Company Split."

**Subsection 2 Procedures for the Company Incorporated through  
Consolidation-type Merger, the Company Incorporated through  
Incorporation-type Company Split and the Wholly Owing Parent  
Company Incorporated through Share Transfer  
Division 1 Procedures for a Stock Company**

(Special Provisions on Incorporation of a Stock Company)

Article 814 (1) The provisions of Part II, Chapter I (excluding Article 27 (excluding items (iv) and (v)), Article 29, Article 31, Article 39, Section 6 and Article 49) shall not apply to incorporation of a Stock Company Incorporated through Consolidation-type Merger, a Stock Company Incorporated through Incorporation-type Company Split or a Wholly Owing Parent Company Incorporated through Share Transfer (hereinafter referred to as an "Incorporated Stock Company" in this Division).

(2) The articles of incorporation of an Incorporated Stock Company shall be prepared by the Consolidated Company, etc.

(Keeping and Inspection, etc. of Documents, etc. Concerning a Consolidation-type Merger Agreement, etc.)

Article 815 (1) The Stock Company Incorporated through Consolidation-type Merger shall, without delay after the day of its formation, prepare documents or Electromagnetic Records that state or record the rights and obligations that the Stock Company Incorporated through Consolidation-type Merger succeeded to by transfer from the Companies Consolidated through Consolidation-type Merger and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning a Consolidation-type Merger.

(2) The Stock Company Incorporated through Incorporation-type Company Split

(limited to the Stock Company Incorporated through Incorporation-type Company Split where only a Limited Liability Company(ies) effects the Incorporation-type Company Split) shall, without delay after the day of its formation, prepare, jointly with the Splitting Limited Liability Company in Incorporation-type Company Split, documents or Electromagnetic Records that state or record the rights and obligations that the Stock Company Incorporated through Incorporation-type Company Split succeeded to by transfer from the Splitting Limited Liability Company in Incorporation-type Company Split through the Incorporation-type Company Split and any other matters prescribed by the applicable Ordinance of the Ministry of Justice as those concerning an Incorporation-type Company Split.

- (3) Each of the Incorporated Stock Companies, etc. listed in the following items shall, for a period of six months from the day of its formation, keep what are specified respectively in those items at its head office:
- (i) Stock Company Incorporated through Consolidation-type Merger: the documents or Electromagnetic Records set forth in paragraph (1) and documents or Electromagnetic Records that state or record the contents of the Consolidation-type Merger agreement and other matters prescribed by the applicable Ordinance of the Ministry of Justice;
  - (ii) Stock Company Incorporated through Incorporation-type Company Split: the documents or Electromagnetic Records set forth in the preceding paragraph or Article 811 (1)(i); and
  - (iii) Wholly Owing Parent Company Incorporated through Share Transfer: the documents or Electromagnetic Records set forth in Article 811 (1)(ii).
- (4) Shareholders and creditors of the Stock Company Incorporated through Consolidation-type Merger may make the following requests to said Stock Company Incorporated through Consolidation-type Merger at any time during its business hours; provided, however, that the fees designated by said Stock Company Incorporated through Consolidation-type Merger are required to be paid in order to make the requests set forth in item (ii) or item (iv):
- (i) requests for inspection of the documents set forth in item (i) of the preceding paragraph;
  - (ii) requests for delivery of a transcript or extract of the documents set forth in item (i) of the preceding paragraph;
  - (iii) requests for inspection of anything that indicates the matters recorded in the Electromagnetic Records set forth in item (i) of the preceding paragraph in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and
  - (iv) requests that the matters recorded in the Electromagnetic Records set forth in item (i) of the preceding paragraph be provided by the Electromagnetic Method designated by the Stock Company Incorporated

through Consolidation-type Merger, or requests for the delivery of any document that states such matters.

- (5) The provisions of the preceding paragraph shall apply mutatis mutandis to the Stock Company Incorporated through Incorporation-type Company Split. In such cases, the phrase "shareholders and creditors" in that paragraph shall be deemed to be replaced with "shareholders, creditors and any other interested parties," and the term "item (i) of the preceding paragraph" in the items of that paragraph shall be deemed to be replaced with "item (ii) of the preceding paragraph."
- (6) The provisions of paragraph (4) shall apply mutatis mutandis to the Wholly Owing Parent Company Incorporated through Share Transfer. In such cases, the phrase "shareholders and creditors" in that paragraph shall be deemed to be replaced with "shareholders and holders of Share Options," and the term "item (i) of the preceding paragraph" in the items of that paragraph shall be deemed to be replaced with "item (iii) of the preceding paragraph."

## **Division 2 Procedures for a Membership Company**

(Special Provisions on Incorporation of a Membership Company)

- Article 816 (1) The provisions of Article 575 and Article 578 shall not apply to incorporation of a Membership Company Incorporated through Consolidation-type Merger or a Membership Company Incorporated through Incorporation-type Company Split (referred to as an "Incorporated Membership Company" in the following paragraph).
- (2) The articles of incorporation of an Incorporated Membership Company shall be prepared by the Consolidated Company, etc.

## **Part VI Foreign Company**

(Foreign Company's Representatives in Japan)

- Article 817 (1) When a Foreign Company intends to carry out transactions continuously in Japan, it shall specify its representatives in Japan. In such cases, one or more of such representatives in Japan shall be those whose domiciles are in Japan.
- (2) A Foreign Company's representatives in Japan shall have the authority to do any and all judicial and extra-judicial acts on behalf of such foreign company in connection with its business.
- (3) No limitation on the authority under the preceding paragraph may be asserted against a third party without knowledge of such limitation.
- (4) A Foreign Company shall be liable for damage caused to third parties by its representatives in Japan during the course of the performance of their duties.

(Prohibition, etc. of Continuous Transactions Prior to Registration)

Article 818 (1) A Foreign Company may not carry out transactions continuously in Japan before completing registration of a Foreign Company.

(2) A person who has carried out transactions in violation of the provisions of the preceding paragraph shall be liable, jointly and severally with the Foreign Company, to perform any obligations that have arisen from such transactions to the counterparty.

(Public Notice of What is Equivalent to a Balance Sheet)

Article 819 (1) A Foreign Company (limited to one for which the same kind of Company or the most similar Company in Japan is a Stock Company) that has completed registration of a Foreign Company shall, pursuant to the provisions of the applicable Ordinance of the Ministry of Justice, give public notice in Japan of what is equivalent to a balance sheet without delay after the conclusion of the same kind of procedure as the approval set forth in Article 438 (2) or a procedure similar thereto.

(2) Notwithstanding the provisions of the preceding paragraph, with respect to a Foreign Company for which the Method of Public Notice is a method listed in Article 939 (1)(i) or (ii), it shall be sufficient to give public notice of a summary of what is equivalent to a balance sheet provided for in the preceding paragraph.

(3) A Foreign Company referred to in the preceding paragraph may, without delay after the conclusion of the procedure set forth in paragraph (1), pursuant to the provisions of the applicable Ordinance of the Ministry of Justice, take measures to make the information contained in what is equivalent to the balance sheet provided for in that paragraph available to the general public continually by the Electromagnetic Method until the day on which five years have elapsed from the day of the conclusion of such procedure. In such cases, the provisions of the preceding two paragraphs shall not apply.

(4) The provisions of the preceding three paragraphs shall not apply to Foreign Companies that shall submit their securities reports to the Prime Minister pursuant to the provisions of Article 24 (1) of the Securities and Exchange Act.

(Resignation of Representatives in Japan Whose Domiciles Are in Japan)

Article 820 (1) A Foreign Company that has completed registration of a Foreign Company may, when all of its representatives in Japan (limited to those whose domiciles are in Japan) intend to resign, give public notice to creditors of the Foreign Company to the effect that they are able to state their objections, if any, during a certain period of time and shall give notice separately to each known creditor, if any; provided, however, that such period may not be less

than one month.

- (2) In cases where creditors raise objections within the period under the preceding paragraph, the Foreign Company set forth in that paragraph shall make payment or provide reasonable security to such creditors, or entrust equivalent property to a Trust Company, etc. for the purpose of having such creditors receive the payment; provided, however, that this shall not apply if there is no risk of harm to such creditors by the resignation set forth in that paragraph.
- (3) The resignation set forth in paragraph (1) shall become effective by completing the registration thereof after the completion of the procedures set forth in the preceding two paragraphs.

(Pseudo-Foreign Company)

Article 821 (1) A Foreign Company that has its head office in Japan or whose main purpose is to conduct business in Japan may not carry out transactions continuously in Japan.

- (2) A person who has carried out transactions in violation of the provisions of the preceding paragraph shall be liable, jointly and severally with the Foreign Company, to perform obligations that have arisen from such transactions to the counterparty.

(Liquidation of a Foreign Company's Property in Japan)

Article 822 (1) The court may, in response to a petition by interested persons or ex officio, order commencement of the liquidation of all of a Foreign Company's property in Japan in the cases listed below:

- (i) in cases where the Foreign Company receives the order under the provisions of Article 827 (1); or
  - (ii) in cases where the Foreign Company stops carrying out transactions continuously in Japan.
- (2) In the cases set forth in the preceding paragraph, the court shall appoint the liquidator.
  - (3) The provisions of Article 476, the provisions of Part II, Chapter IX, Section 1, Subsection 2, the provisions of Article 492, the provisions of Subsection 4 of that Section, the provisions of Article 508, and the provisions of Section 2 of that Chapter (excluding Article 510, Article 511 and Article 514) shall apply mutatis mutandis to the liquidation of a Foreign Company's property in Japan under the provisions of paragraph (1), excluding those that are not applicable by their nature.
  - (4) The provisions of Article 820 shall not apply in cases where a Foreign Company is ordered to commence the liquidation set forth in paragraph (1) and where all of the Foreign Company's representatives in Japan (limited to those

whose domiciles are in Japan) intend to resign.

(Application of Other Acts)

Article 823 With regard to application of other Acts, a Foreign Company shall be deemed to be the same kind of Company or the most similar kind of Company in Japan; provided, however, that this shall not apply when it is otherwise provided by other Acts.

## **Part VII Miscellaneous Provisions**

### **Chapter I Dissolution Order, etc. for a Company**

#### **Section 1 Dissolution Order for a Company**

(Dissolution Order for a Company)

Article 824 (1) In the cases listed below, if the court finds that the existence of a Company is unallowable for securing public interests, it may, in response to a petition by the Minister of Justice, shareholders, partners, creditors or any other interested parties, order the dissolution of the Company:

(i) when the Company is incorporated for an illegal purpose;

(ii) when the Company fails to commence its business within one year from the day of its formation or suspends its business continuously for one year or more, without justifiable grounds; or

(iii) in cases where an executive director, an executive officer or a partner who executes the business has committed an act that goes beyond or abuses the authority of the Company prescribed by laws and regulations or the articles of incorporation or that violates criminal laws and regulations, if such person commits such act continuously or repeatedly despite receiving a written warning from the Minister of Justice.

(2) When a shareholder, a partner, a creditor or any other interested party files the petition set forth in the preceding paragraph, the court may, in response to a petition by the Company, order the person who filed the petition set forth in that paragraph to provide reasonable security.

(3) When a Company intends to file the petition under the provisions of the preceding paragraph, it shall make a prima facie showing that the petition set forth in paragraph (1) has been filed in bad faith.

(4) The provisions of Article 75 (5) and (7) and Articles 76 to 80 of the Code of Civil Procedure (Act No. 109 of 1996) shall apply mutatis mutandis to the security to be provided with respect to the petition set forth in paragraph (1) pursuant to the provisions of paragraph (2).

(Temporary Restraining Order Concerning Property of a Company)

Article 825 (1) In cases where the petition set forth in paragraph (1) of the



preceding Article is filed, the court may, in response to a petition by the Minister of Justice or shareholders, partners, creditors or any other interested parties or ex officio, issue a disposition ordering administration by an administrator (referred to as an "Administration Order" in the following paragraph) or any other necessary temporary restraining order with respect to the property of the Company until a ruling is handed down on the petition set forth in that paragraph.

- (2) When the court issues an Administration Order, it shall appoint an administrator in such Administration Order.
- (3) The court may, in response to a petition by the Minister of Justice or shareholders, partners, creditors or any other interested parties or ex officio, dismiss the administrator set forth in the preceding paragraph.
- (4) When the court appoints the administrator set forth in paragraph (2), it may specify the amount of remuneration to be paid by the Company to such administrator.
- (5) The administrator set forth in paragraph (2) shall be supervised by the court.
- (6) The court may order the administrator set forth in paragraph (2) to report the status of the property of the Company and to account for the administration thereof.
- (7) The provisions of Article 644, Article 646, Article 647 and Article 650 of the Civil Code shall apply mutatis mutandis to the administrator set forth in paragraph (2). In such cases, the term "mandator" in Article 646, Article 647 and Article 650 of that Act shall be deemed to be replaced with "Company."

(Duty of a Government Agency, etc. to Give Notice to the Minister of Justice)

Article 826 If a court or any other government agency, a public prosecutor or an official comes to know in the course of their duties that there are grounds for filing the petition set forth in paragraph (1) of Article 824 or giving the warning set forth in item (iii) of that paragraph, such entity or person shall give notice to that effect to the Minister of Justice.

## **Section 2 Order of Prohibition of Continuous Transactions or Closure of a Business Office of a Foreign Company**

Article 827 (1) In the cases listed below, the court may, in response to a petition by the Minister of Justice, shareholders, partners, creditors or any other interested parties, order the prohibition of a Foreign Company to carry out transactions continuously in Japan or the closure of its business office established in Japan:

- (i) when the Foreign Company conducts business for an illegal purpose;
- (ii) when the Foreign Company fails to commence its business within one year

- from the day of registration of the Foreign Company or suspends its business continuously for one year or more, without justifiable grounds;
- (iii) when the Foreign Company stops payment without justifiable grounds; or
- (iv) in cases where the Foreign Company's representative in Japan or any other person who executes its business has committed an act that goes beyond or abuses the authority of the Foreign Company prescribed by laws and regulations or that violates criminal laws and regulations, if such person continuously or repeatedly commits such act despite receiving a written warning from the Minister of Justice.
- (2) The provisions of Article 824, paragraphs (2) to (4), and the preceding two Articles shall apply mutatis mutandis to the cases set forth in the preceding paragraph. In such cases, the term "preceding paragraph" in Article 824 (2), the term "paragraph (1)" in paragraph (3) and paragraph (4) of that Article, and the term "paragraph (1) of the preceding Article" in Article 825 (1) shall be deemed to be replaced with "Article 827 (1)," the term "Article 824 (1)" in the preceding Article shall be deemed to be replaced with "paragraph (1) of the following Article" and the term "item (iii) of that paragraph" in that Article shall be deemed to be replaced with "item (iv) of that paragraph."

## **Chapter II Suits**

### **Section 1 Actions Concerning the Organization of a Company**

(Actions Seeking Invalidation of Acts Concerning the Organization of a Company)

Article 828 (1) Invalidation of the acts listed in the following items may only be asserted by filing an action during the periods specified respectively in those items:

- (i) incorporation of a Company: within two years from the day of formation of the Company;
- (ii) share issue after the formation of a Stock Company: within six months from the day on which the share issue became effective (or, for a Stock Company which is not a Public Company, within one year from the day on which the share issue became effective);
- (iii) disposition of Treasury Shares: within six months from the day on which the disposition of Treasury Shares became effective (or, for a Stock Company which is not a Public Company, within one year from the day on which the disposition of Treasury Shares became effective);
- (iv) Share Option (in cases where the Share Options are those attached to Bonds with Share Options, it shall include the Bonds pertaining to Bonds with Share Options; hereinafter the same shall apply in this Chapter) issue: within six months from the day on which the Share Option issue became

- effective (or, for a Stock Company which is not a Public Company, within one year from the day on which the Share Option issue became effective);
- (v) reduction in the amount of stated capital of a Stock Company: within six months from the day on which the reduction in the amount of stated capital became effective;
  - (vi) Entity Conversion of a Company: within six months from the day on which the Entity Conversion became effective;
  - (vii) Absorption-type Merger of a Company: within six months from the day on which the Absorption-type Merger became effective;
  - (viii) Consolidation-type Merger of a Company: within six months from the day on which the Consolidation-type Merger became effective;
  - (ix) Absorption-type Company Split of a Company: within six months from the day on which the Absorption-type Company Split became effective;
  - (x) Incorporation-type Company Split: within six months from the day on which the Incorporation-type Company Split became effective;
  - (xi) Share Exchange of a Stock Company: within six months from the day on which the Share Exchange became effective; and
  - (xii) Share Transfer of a Stock Company: within six months from the day on which the Share Transfer became effective.
- (2) An action seeking invalidation of the acts listed in the following items may be filed only by the persons specified respectively in those items:
- (i) the act set forth in item (i) of the preceding paragraph: a Shareholder, etc. (meaning a shareholder, director or liquidator (or, for a Company with Company Auditors, it means a shareholder, director, company auditor or liquidator, and for a Company with Committees, it means a shareholder, director, executive officer or liquidator); hereinafter the same shall apply in this Section) of the incorporated Stock Company or a Partner, etc. (meaning a partner or liquidator; hereinafter the same shall apply in this paragraph) of the incorporated Membership Company;
  - (ii) the act set forth in item (ii) of the preceding paragraph: a Shareholder, etc. of the relevant Stock Company;
  - (iii) the act set forth in item (iii) of the preceding paragraph: a Shareholder, etc. of the relevant Stock Company;
  - (iv) the act set forth in item (iv) of the preceding paragraph: a Shareholder, etc. or a holder of Share Options of the relevant Stock Company;
  - (v) the act set forth in item (v) of the preceding paragraph: a Shareholder, etc., the trustee in bankruptcy or a creditor, who did not give approval to the reduction in the amount of stated capital, of the relevant Stock Company;
  - (vi) the act set forth in item (vi) of the preceding paragraph: a person who was a Shareholder, etc. or a Partner, etc. of the Company effecting the Entity Conversion as of the day on which such act became effective or a Shareholder,

- etc., a Partner, etc., the trustee in bankruptcy or a creditor, who did not give approval to the Entity Conversion, of the Company after the Entity Conversion;
- (vii) the act set forth in item (vii) of the preceding paragraph: a person who was a Shareholder, etc. or a Partner, etc. of the Company effecting the Absorption-type Merger as of the day on which such act became effective or a Shareholder, etc., a Partner, etc., the trustee in bankruptcy or a creditor, who did not give approval to the Absorption-type Merger, of the Company Surviving Absorption-type Merger;
- (viii) the act set forth in item (viii) of the preceding paragraph: a person who was a Shareholder, etc. or a Partner, etc. of the Company effecting the Consolidation-type Merger as of the day on which such act became effective or a Shareholder, etc., a Partner, etc., the trustee in bankruptcy or a creditor, who did not give approval to the Consolidation-type Merger, of the Company incorporated through the Consolidation-type Merger;
- (ix) the act set forth in item (ix) of the preceding paragraph: a person who was a Shareholder, etc. or a Partner, etc. of the Company that has concluded the Absorption-type Company Split agreement as of the day on which such act became effective or a Shareholder, etc., a Partner, etc., the trustee in bankruptcy or a creditor, who did not give approval to the Absorption-type Company Split, of the Company that has concluded the Absorption-type Company Split agreement;
- (x) the act set forth in item (x) of the preceding paragraph: a person who was a Shareholder, etc. or a Partner, etc. of the Company effecting the Incorporation-type Company Split as of the day on which such act became effective or a Shareholder, etc., a Partner, etc., the trustee in bankruptcy or a creditor, who did not give approval to the Incorporation-type Company Split, of the Company effecting the Incorporation-type Company Split or the Company incorporated through the Incorporation-type Company Split;
- (xi) the act set forth in item (xi) of the preceding paragraph: a person who was a Shareholder, etc. or a Partner, etc. of the Company that has concluded the Share Exchange agreement as of the day on which such act became effective or a Shareholder, etc., a Partner, etc., the trustee in bankruptcy or a creditor, who did not give approval to the Share Exchange, of the Company that has concluded the Share Exchange agreement; and
- (xii) the act set forth in item (xii) of the preceding paragraph: a person who was a Shareholder, etc. or a Partner, etc. of the Company that has concluded the Share Exchange agreement as of the day on which such act became effective or a Shareholder, etc., a Partner, etc., the trustee in bankruptcy or a creditor, who did not give approval to the Share Exchange, of the Company that has concluded the Share Exchange agreement.

(Action for Declaratory Judgment of Absence of a New Share Issue, etc.)

Article 829 With regard to the acts below, confirmation of the absence of the acts may be claimed by filing an action:

- (i) share issue after the formation of a Stock Company;
- (ii) disposition of Treasury Shares; and
- (iii) Share Option issue.

(Action for Declaratory Judgment of Absence or Invalidation of a Resolution of a Shareholders Meeting, etc.)

Article 830 (1) With regard to a resolution of a shareholders meeting, Class Meeting, Organizational Meeting or Class Organizational Meeting (hereinafter referred to as a "Shareholders Meeting, etc." in this Section and Article 937 (1)(i)(g)), confirmation of the absence of the resolution may be claimed by filing an action.

(2) With regard to a resolution of a Shareholders Meeting, etc., confirmation of invalidation of the resolution may be claimed by filing an action based on the reason that the contents of the resolution violate laws and regulations.

(Action Seeking Revocation of a Resolution of a Shareholders Meeting, etc.)

Article 831 (1) In the cases listed in the following items, a Shareholder, etc. (or, in cases where the Shareholders Meeting, etc. set forth respectively in each such item is an Organizational Meeting or a Class Organizational Meetings, a Shareholder, etc., a Shareholder at Incorporation, a Director at Incorporation or a Company Auditor at Incorporation) may, within three months from the day of resolution of the Shareholders Meeting, etc., claim revocation of the resolution by filing an action. The same shall apply to a person who becomes a director, company auditor or liquidator (or, in cases where such resolution is a resolution of a shareholders meeting or Class Meeting, it shall include a person who has the rights and obligations of a director, company auditor or liquidator pursuant to the provisions of Article 346 (1) (including cases where it is applied mutatis mutandis pursuant to Article 479 (4)), and in cases where such resolution is a resolution of an Organizational Meeting or Class Organizational Meeting, it shall include a Director at Incorporation or a Company Auditor at Incorporation) by rescission of such resolution:

- (i) when the calling procedures or the method of resolution of the Shareholders Meeting, etc. violate laws and regulations or the articles of incorporation or are grossly improper;
- (ii) when the contents of the resolution of the Shareholders Meeting, etc. violate the articles of incorporation; or
- (iii) when a grossly improper resolution is made as a result of a person having

a special interest in the resolution of the Shareholders Meeting, etc.  
exercising a voting right.

- (2) In cases where an action set forth in the preceding paragraph is filed, even if the calling procedures or the method of resolution of the Shareholders Meeting, etc. are in violation of laws and regulations or the articles of incorporation, the court may dismiss the claim prescribed in that paragraph if it finds that the facts in violation are not serious and will not affect the resolution.

(Action Seeking Rescission of the Incorporation of a Membership Company)

Article 832 In the cases listed in the following items, the persons specified respectively in those items may claim rescission of the incorporation of the Membership Company within two years from the day of formation of the Membership Company:

- (i) when a partner is able to rescind such partner's manifestation of intention relating to the incorporation pursuant to the provisions of the Civil Code or any other acts: such partner; or
- (ii) when a partner incorporates a Membership Company having the knowledge that it will be detrimental to its creditor: such creditor.

(Action Seeking Dissolution of a Company)

Article 833 (1) In the cases listed below, if there are unavoidable circumstances, a shareholder having not less than one-tenths (or, in cases where a lesser proportion is prescribed in the articles of incorporation, such proportion) of the voting rights of all shareholders (excluding shareholders who are unable to exercise voting rights on all matters which may be resolved at the shareholders meeting) or a shareholder having not less than one-tenth (or, in cases where a lesser proportion is prescribed in the articles of incorporation, such proportion) of the Issued Shares (excluding Treasury Shares) may claim dissolution of the Stock Company by filing an action:

- (i) when a Stock Company faces an extreme difficulty in executing business and the Stock Company suffers or is likely to suffer irreparable harm; or
- (ii) when the management or disposition of property of a Stock Company is extremely unreasonable and puts the existence of the Stock Company at risk.

- (2) In cases where there are unavoidable circumstances, partners of a Membership Company may claim dissolution of the Membership Company by filing an action.

(Defendant)

Article 834 With regard to the actions listed in the following items (hereinafter collectively referred to as an "Action Concerning Organization of Company" in this Section), the persons specified respectively in those items shall be the

defendant:

- (i) an action seeking invalidation of the incorporation of a Company: the incorporated Company;
- (ii) an action seeking invalidation of a share issue after the formation of a Stock Company (referred to as an "Action Seeking Invalidation of New Share Issue" in Article 840 (1)): The Stock Company that has issued the shares;
- (iii) an action seeking invalidation of a disposition of Treasury Shares: the Stock Company that has disposed of the Treasury Shares;
- (iv) an action seeking invalidation of a Share Option issue: the Stock Company that has issued the Share Options;
- (v) an action seeking invalidation of a reduction in the amount of stated capital of a Stock Company: the relevant Stock Company;
- (vi) an action seeking invalidation of an Entity Conversion of a Company: the Company after the Entity Conversion;
- (vii) an action seeking invalidation of an Absorption-type Merger of a Company: the Company surviving the Absorption-type Merger;
- (viii) an action seeking invalidation of a Consolidation-type Merger of a Company: the Company incorporated through the Consolidation-type Merger;
- (ix) an action seeking invalidation of an Absorption-type Company Split of a Company: the Company that has concluded the Absorption-type Company Split agreement;
- (x) an action seeking invalidation of an Incorporation-type Company Split: the Company(ies) effecting the Incorporation-type Company Split and the Company incorporated through the Incorporation-type Company Split;
- (xi) an action seeking invalidation of a Share Exchange of a Stock Company: the Company that has concluded the Share Exchange agreement;
- (xii) an action seeking invalidation of a Share Transfer of a Stock Company: the Stock Company(ies) effecting the Share Transfer and the Stock Company incorporated through the Share Transfer;
- (xiii) an action for declaratory judgment of absence of a share issue after the formation of a Stock Company: the Stock Company that has issued the shares;
- (xiv) an action for declaratory judgment of absence of a disposition of Treasury Shares: the Stock Company that has disposed of the Treasury Shares;
- (xv) an action for declaratory judgment of absence of a Share Option issue: the Stock Company that has issued the Share Options;
- (xvi) an action for declaratory judgment of absence of a resolution of a Shareholders Meeting, etc. or invalidation of a resolution of a Shareholders Meeting, etc. based on a reason that the contents of such resolution violate laws and regulations: the relevant Stock Company;
- (xvii) an action seeking revocation of a resolution of a Shareholders Meeting,

- etc.: the relevant Stock Company;
- (xviii) an action seeking rescission of the incorporation of a Membership Company under the provisions of Article 832 (i): such Membership Company;
- (xix) an action seeking rescission of the incorporation of a Membership Company under the provisions of Article 832 (ii): such Membership Company and the partner set forth in that item;
- (xx) an action seeking dissolution of a Stock Company: the relevant Stock Company; and
- (xxi) an action seeking dissolution of a Membership Company: such Membership Company.

(Jurisdiction over and Transfer of an Action)

- Article 835 (1) An Action Concerning Organization of Company shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of the head office of the Company which is the defendant.
- (2) When two or more district courts have jurisdiction pursuant to the provisions of items (ix) to (xii) of the preceding Article, the actions listed in those items shall be under the jurisdiction of the district court with which an action was filed first.
- (3) In cases set forth in the preceding paragraph, a court may, even when the suit pertaining to such action is under its jurisdiction, transfer the suit to another court with jurisdiction, in response to a petition or ex officio, if it finds it necessary for avoiding substantial detriment or delay.

(Order to Provide Security)

- Article 836 (1) With regard to an Action Concerning Organization of Company which may be filed by a shareholder or a Shareholder at Incorporation, the court may, in response to a petition by the defendant, order the shareholder or the Shareholder at Incorporation who has filed such Action Concerning Organization of Company to provide reasonable security; provided, however, that this shall not apply when such shareholder is a director, company auditor, executive officer or liquidator or when such Shareholder at Incorporation is a Director at Incorporation or a Company Auditor at Incorporation.
- (2) The provisions of the preceding paragraph shall apply mutatis mutandis to Actions Concerning the Organization of a Company which may be filed by creditors.
- (3) In order for a defendant to file the petition set forth in paragraph (1) (including the cases where it is applied mutatis mutandis pursuant to the preceding paragraph), the defendant shall make a prima facie showing that the action filed by the plaintiff is in bad faith



(Mandatory Consolidation of Oral Arguments, etc.)

Article 837 When several suits relating to an Action Concerning Organization of Company for the same claim are pending simultaneously, the oral arguments and judicial decisions thereof shall be made in consolidation.

(Persons Affected by an Upholding Judgment)

Article 838 A final and binding judgment upholding a claim relating to an Action Concerning Organization of Company shall also be effective against third parties.

(Effects of a Judgment of Invalidation, Revocation or Rescission)

Article 839 When a judgment upholding a claim relating to an Action Concerning Organization of Company (limited to any one of the actions listed in Article 834 (i) to (xii), (xviii) and (xix)) becomes final and binding, the act that is held to be invalid or revoked or rescinded by such judgment (in cases where a Company was incorporated by such act, it shall include such incorporation, and in cases where shares or Share Options were delivered at the time of such act, it shall include such shares or Share Options) shall become ineffective from then on.

(Effects of a Judgment of Invalidation of New Share Issue)

Article 840 (1) When a judgment upholding a claim relating to an Action Seeking Invalidation of a New Share Issue becomes final and binding, the relevant Stock Company shall pay, to the shareholders of such shares as of the time such judgment became final and binding, monies equivalent to the amount of payment received from them or the value of the property delivered by them as of the time of the delivery. In such cases, when such Stock Company is a Company Issuing Share Certificates, the Stock Company may request such shareholders to return the old share certificates representing such shares (meaning the share certificates representing the shares that became ineffective pursuant to the provisions of the preceding Article; hereinafter the same shall apply in this Section) in exchange for the payment of such monies.

(2) When the amount of the monies set forth in the preceding paragraph is extremely unreasonable in light of the status of the Company property as of the time the judgment set forth in that paragraph became final and conclusive, the court may, in response to a petition by the Stock Company or shareholders set forth in the first sentence of that paragraph, order an increase or decrease of such amount.

(3) The petition set forth in the preceding paragraph shall be filed within six months from the day the judgment set forth in that paragraph became final and conclusive.

- (4) In the cases prescribed in the first sentence of paragraph (1), the pledges on the shares set forth in the first sentence of that paragraph shall be effective with respect to the monies set forth in that paragraph.
- (5) In the cases prescribed in the first sentence of paragraph (1), Registered Pledges of Shares with respect to the pledges set forth in the preceding paragraph may receive the monies set forth in paragraph (1) from the Stock Company set forth in the first sentence of that paragraph, and appropriate them as payment to satisfy their own claims in priority to other creditors.
- (6) If the claims under the preceding paragraph are not yet due and payable, the Registered Pledges of Share Options may have the Stock Company set forth in the first sentence of paragraph (1) deposit an amount equivalent to the value of the monies provided for in that paragraph. In such cases, the pledges shall be effective with respect to the monies so deposited.

(Effects of a Judgment of Invalidation of Disposition of Treasury Shares)

Article 841 (1) When a judgment upholding a claim relating to an action seeking invalidation of a disposition of Treasury Shares becomes final and binding, the relevant Stock Company shall pay, to shareholders of such Treasury Shares as of the time such judgment became final and binding, monies equivalent to the amount of payment received from them or the value of the property delivered by them as of the time of the delivery. In such cases, when such Stock Company is a Company Issuing Share Certificates, the Stock Company may request such shareholders to return the old share certificates representing such Treasury Shares in exchange for the payment of such monies.

- (2) The provisions of paragraphs (2) to (6) of the preceding Article shall apply mutatis mutandis to the cases set forth in the preceding paragraph. In such cases, the term "shares" in paragraph (4) of that Article shall be deemed to be replaced with "Treasury Shares."

(Effects of a Judgment of Invalidation of Share Option Issue)

Article 842 (1) When a judgment upholding a claim relating to an action seeking invalidation of a Share Option issue becomes final and binding, the relevant Stock Company shall pay, to the holders of such Share Options as of the time such judgment became final and binding, monies equivalent to the amount of payment received from them or the value of the property delivered by them as of the time of the delivery. In such cases, when such Stock Company has issued Share Option certificates pertaining to such Share Options (or, in cases where such Share Options are those attached to Bonds with Share Options, certificates of Bonds with Share Options pertaining to such Bonds with Share Options; hereinafter the same shall apply in this paragraph), the Stock Company may request holders of the Share Options to return the Share Option

certificates pertaining to the Share Options that became ineffective pursuant to the provisions of Article 839 in exchange for the payment of such monies.

- (2) The provisions of paragraphs (2) to (6) of Article 840 shall apply mutatis mutandis to the cases set forth in the preceding paragraph. In such cases, the term "shareholders" in paragraph (2) of that Article shall be deemed to be replaced with "holders of Share Options," the term "shares" in paragraph (4) of that Article shall be deemed to be replaced with "Share Options," and the term "Registered Pledges of Shares" set forth in paragraphs (5) and (6) of that Article shall be deemed to be replaced with "Registered Pledges of Share Options."

(Effects of a Judgment of Invalidation of a Merger or Company Split)

Article 843 (1) When a judgment upholding a claim relating to an action seeking invalidation of any one of the acts listed in the following items becomes final and binding, the Company that carried out such act shall be liable jointly and severally to perform the obligations assumed by the Companies specified respectively in those items after the day on which such act became effective:

- (i) Absorption-type Merger: the Company surviving the Absorption-type Merger;
- (ii) Consolidation-type Merger: the Company incorporated through the Consolidation-type Merger;
- (iii) Absorption-type Company Split: the Company succeeding to all or part of the rights and obligations held by the Company effecting the Absorption-type Company Split in connection with its business by transfer from such Company; or
- (iv) Incorporation-type Company Split: the Company incorporated through the Incorporation-type Company Split.

(2) In the cases prescribed in the preceding paragraph, the property acquired, after the day on which the acts listed in the items of that paragraph became effective, by the Companies specified respectively in those items shall be co-owned by the Companies that carried out such acts; provided, however, that in cases where the act set forth in item (iv) of that paragraph has been carried out by a single Company, the property acquired by the Company specified in that item shall be owned by the single Company that carried out such act.

(3) In the cases prescribed in paragraph (1) and the main clause of the preceding paragraph, each Company's portion of the obligations to be assumed set forth in paragraph (1) and share of co-ownership of property set forth in the main clause of the preceding paragraph shall be decided through discussion among the Companies.

(4) If no agreement is reached in the discussion set forth in the preceding paragraph with regard to each Company's portion of the obligations to be

assumed set forth in paragraph (1) and share of co-ownership of property set forth in the main clause of the preceding paragraph, the court shall come to a decision, in response to a petition by the Companies, by taking into account the amount of property of each Company as of the time the act set forth in any one of the items of paragraph (1) became effective and all other circumstances.

(Effects of a Judgment of Invalidation of a Share Exchange or Share Transfer)

- Article 844 (1) In cases where a judgment upholding a claim relating to an action seeking invalidation of a Share Exchange or Share Transfer of a Stock Company has become final and binding, if the Stock Company acquiring all of the Issued Shares (hereinafter referred to as the "Former Wholly Owing Parent Company" in this Article) of the Stock Company effecting the Share Exchange or Share Transfer (hereinafter referred to as the "Former Wholly Owned Subsidiary Company" in this Article) has delivered the shares of the Former Wholly Owing Parent Company (hereinafter referred to as the "Shares of the Former Wholly Owing Parent Company" in this Article) at the time of the Share Exchange or Share Transfer, the Former Wholly Owing Parent Company shall deliver to shareholders pertaining to the Shares of the Former Wholly Owing Parent Company as of the time such judgment became final and conclusive the shares of the Former Wholly Owned Subsidiary Company (hereinafter referred to as the "Shares of the Former Wholly Owned Subsidiary Company" in this Article) that had been held, at the time of the Share Exchange or Share Transfer, by the persons who received delivery of the Shares of the Former Wholly Owing Parent Company. In such cases, when such Former Wholly Owing Parent Company is a Company Issuing Share Certificates, the Former Wholly Owing Parent Company may request such shareholders to return the old share certificates representing such Shares of the Former Wholly Owing Parent Company in exchange for the delivery of such Shares of the Former Wholly Owned Subsidiary Company.
- (2) In the cases prescribed in the first sentence of the preceding paragraph, pledges on the Shares of the Former Wholly Owing Parent Company shall be effective with respect to the Shares of the Former Wholly Owned Subsidiary Company.
- (3) When the pledgees with respect to the pledges set forth in the preceding paragraph are Registered Pledgees of Shares, the Former Wholly Owing Parent Company shall, without delay after the judgment set forth in paragraph (1) became final and conclusive, notify the Former Wholly Owned Subsidiary Company of the matters listed in the items of Article 148 regarding such Registered Pledgees of Shares.
- (4) The Former Wholly Owned Subsidiary Company that has received the notice under the provisions of the preceding paragraph shall, when it states or

records in the shareholder registry the Matters to Be Stated in the Shareholder Registry relating to the shares underlying the pledges of the Registered Pledgees of Shares set forth in that paragraph, immediately state or record in such shareholder registry the matters listed in the items of Article 148 regarding such Registered Pledgees of Shares.

(5) In the cases prescribed in paragraph (3), when the Former Wholly Owned Subsidiary Company set forth in that paragraph is a Company Issuing Share Certificates, the Former Wholly Owning Parent Company shall deliver the share certificates representing the Shares of the Former Wholly Owned Subsidiary Company set forth in paragraph (2).

(Effects of a Judgment of Invalidation or Rescission of the Incorporation of a Membership Company)

Article 845 In cases where a judgment upholding a claim relating to an action seeking invalidation or rescission of the incorporation of a Membership Company becomes final and binding, if the cause of the invalidation or rescission is attributable only to part of the partners, the Membership Company may continue in existence with the consent of all of the other partners. In such cases, the partners attributable to the cause shall be deemed to have withdrawn.

(Liability for Damages in Cases Where the Plaintiff Is Defeated)

Article 846 In cases where the plaintiffs who filed Actions Concerning the Organization of a Company are defeated, if the plaintiffs were in bad faith or grossly negligent, they shall be jointly and severally liable to compensate the defendant for damages.

## **Section 2 Action for Pursuing the Liability, etc. of a Stock Company**

(Action for Pursuing Liability, etc.)

Article 847 (1) A shareholder (excluding a Holder of Shares Less than One Unit who is unable to exercise rights pursuant to the provisions of the articles of incorporation) having the shares consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, such period or more) may demand the Stock Company, in writing or by any other method prescribed by the applicable Ordinance of the Ministry of Justice, to file an action for pursuing the liability of an incorporator, Director at Incorporation, Company Auditor at Incorporation, Officer, etc. (meaning the Officer, etc. prescribed in Article 423 (1); hereinafter the same shall apply in this Article) or liquidator, an action seeking the return of the benefits set forth in Article 120 (3) or an action seeking payment under

the provisions of Article 212 (1) or Article 285 (1) (hereinafter referred to as an "Action for Pursuing Liability, etc." in this Section); provided, however, that this shall not apply in cases where the purpose of the Action for Pursuing Liability, etc. is to seek unlawful gains of such shareholder or a third party or to inflict damages on such Stock Company.

- (2) With regard to application of the provisions of the preceding paragraph to a Stock Company that is not a Public Company, the phrase "A shareholder (excluding a Holder of Shares Less than One Unit who is unable to exercise rights pursuant to the provisions of the articles of incorporation)" in that paragraph shall be deemed to be replaced with "A shareholder."
- (3) When the Stock Company does not file an Action for Pursuing Liability, etc. within sixty days from the day of the demand under the provisions of paragraph (1), the shareholder who has made such demand may file an Action for Pursuing Liability, etc. on behalf of the Stock Company.
- (4) In cases where the Stock Company does not file an Action for Pursuing Liability, etc. within sixty days from the day of the demand under the provisions of paragraph (1), if there is a request by the shareholder who made such demand or the incorporator, Director at Incorporation, Company Auditor at Incorporation, Officer, etc. or liquidator set forth in that paragraph, it shall, without delay, notify the person who made such a request of the reason for not filing an Action for Pursuing Liability, etc. in writing or by any other method prescribed by the applicable Ordinance of the Ministry of Justice.
- (5) Notwithstanding the provisions of paragraphs (1) and (3), in cases where the Stock Company is likely to suffer irreparable harm through the elapse of the period set forth in those paragraphs, the shareholder set forth in paragraph (1) may immediately file an Action for Pursuing Liability, etc. on behalf of the Stock Company; provided, however, that this shall not apply in the cases prescribed in the proviso to that paragraph.
- (6) The Action for Pursuing Liability, etc. set forth in paragraph (3) or the preceding paragraph shall be deemed to be an action relating to a claim which is not a claim based on a property right in calculating the value of the subject-matter of the suit.
- (7) When a shareholder files an Action for Pursuing Liability, etc., the court may, in response to a petition by the defendant, order such shareholder to provide reasonable security.
- (8) When the defendant intends to file the petition set forth in the preceding paragraph, the defendant shall make a prima facie showing that the Action for Pursuing Liability, etc. has been filed in bad faith.

(Jurisdiction of an Action)

Article 848 An Action for Pursuing Liability, etc. shall be under the exclusive

jurisdiction of the district court having jurisdiction over the location of the head office of the Stock Company.

(Intervention)

- Article 849 (1) A shareholder or a Stock Company may intervene in a suit relating to an Action for Pursuing Liability, etc. either as a coparty or for assisting either of the parties; provided, however, that this shall not apply when it will unduly delay the court proceedings or impose an excessive administrative burden on the court.
- (2) In order for a Stock Company to intervene in a suit relating to an Action for Pursuing Liability, etc. to assist a director (excluding an Audit Committee Member), executive officer, liquidator or a person who was formerly in such a position, it shall obtain the consent of the persons specified in the following items for the categories listed respectively in those items:
- (i) Company with Company Auditors: the company auditor (in cases where there are two or more company auditors, each of such company auditors); or
  - (ii) Company with Committees: each Audit Committee Member.
- (3) When a shareholder files an Action for Pursuing Liability, etc., the shareholder shall give notice of suit to the Stock Company without delay.
- (4) When a Stock Company files an Action for Pursuing Liability, etc. or receives the notice of suit set forth in the preceding paragraph, it shall give public notice to that effect or give notice thereof to its shareholders without delay.
- (5) With regard to application of the provisions of the preceding paragraph to a Stock Company that is not a Public Company, the phrase "give public notice to that effect or give notice thereof to its shareholders" in that paragraph shall be deemed to be replaced with "give notice to that effect to its shareholders."

(Settlement)

- Article 850 (1) The provisions of Article 267 of the Code of Civil Procedure shall not apply to the subject-matter of a suit relating to an Action for Pursuing Liability, etc. in cases where a Stock Company is not a party to settlement in such suit; provided, however, that this shall not apply when such Stock Company has given approval.
- (2) In the case prescribed in the preceding paragraph, the court shall notify the Stock Company of the contents of the settlement and give the Stock Company notice to the effect that it should state its objection to such settlement, if any, within two weeks.
- (3) In cases where the Stock Company does not raise any objections in writing within the period set forth in the preceding paragraph, it shall be deemed to have given the approval for shareholders to effect a settlement with the contents of the notice under the provisions of that paragraph.

- (4) The provisions of Article 55, Article 120 (5), Article 424 (including the cases where it is applied mutatis mutandis pursuant to Article 486 (4)), Article 462 (3) (limited to the portion pertaining to the obligations assumed for the portion not exceeding the Distributable Amount prescribed in the proviso to that paragraph), Article 464 (2) and Article 465 (2) shall not apply in cases of effecting a settlement in a suit relating to an Action for Pursuing Liability, etc.

(Conduct of a Suit of a Person Who is No Longer a Shareholder)

Article 851 (1) Even where a shareholder who has filed an Action for Pursuing Liability, etc. or a shareholder who has intervened in a suit relating to the Action for Pursuing Liability, etc. as a coparty ceases to be a shareholder during the pendency of such suit, such person may conduct the suit in the following cases:

- (i) when such person acquires shares of the Wholly Owing Parent Company (meaning a Stock Company holding all of the Issued Shares of a certain Stock Company or a Stock Company prescribed by the applicable Ordinance of the Ministry of Justice as being equivalent thereto; hereinafter the same shall apply in this Article) of the relevant Stock Company through a Share Exchange or Share Transfer of such Stock Company; or
  - (ii) when such person acquires shares of the Stock Company incorporated through the merger or the Stock Company surviving a merger, or the Wholly Owing Parent Company thereof, through a merger in which the relevant Stock Company is a Company extinguished by the Merger
- (2) The provisions of the preceding paragraph shall apply mutatis mutandis when, in the case set forth in item (i) of that paragraph (including the cases where it is applied mutatis mutandis pursuant to this paragraph or the following paragraph), the shareholder set forth in the preceding paragraph ceases to be a shareholder of shares of the Wholly Owing Parent Company of the relevant Stock Company during the pendency of the suit set forth in that paragraph. In such cases, the term "the relevant Stock Company" in that paragraph (including the cases where it is applied mutatis mutandis pursuant to this paragraph or the following paragraph) shall be deemed to be replaced with "the relevant Wholly Owing Parent Company."
- (3) The provisions of paragraph (1) shall apply mutatis mutandis when, in the case set forth in item (ii) of that paragraph (including the cases where it is applied mutatis mutandis pursuant to the preceding paragraph or this paragraph), the shareholder set forth in paragraph (1) ceases to be a shareholder of shares of the Stock Company incorporated through the merger or the Stock Company surviving a merger, or the Wholly Owing Parent Company thereof, during the pendency of the suit set forth in that paragraph. In such cases, the term "the relevant Stock Company" in that paragraph



(including the cases where it is applied mutatis mutandis pursuant to the preceding paragraph and this paragraph) shall be deemed to be replaced with "the Stock Company incorporated through the merger or the Stock Company surviving a merger, or the Wholly Owning Parent Company thereof."

(Demand for Costs, etc.)

- Article 852 (1) In cases where a shareholder who has filed an Action for Pursuing Liability, etc. wins the suit (including cases of partially winning the suit), if the shareholder has paid the necessary costs (excluding court costs) or is to pay a fee to an attorney or a legal professional corporation with respect to the suit relating to the Action for Pursuing Liability, etc., the shareholder may demand the relevant Stock Company to pay an amount that is found to be reasonable, not exceeding the amount of such costs or the amount of such fee.
- (2) Even in cases where a shareholder who has filed an Action for Pursuing Liability, etc. loses the case, the shareholder shall not be obligated to compensate the relevant Stock Company for the damages arising as a result thereof, except when the shareholder was in bad faith.
- (3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to any shareholder who intervened in the suit set forth in paragraph (1) of Article 849 pursuant to the provisions of that paragraph.

(Action for a Retrial)

- Article 853 (1) In cases where an Action for Pursuing Liability, etc. has been filed, if the plaintiff and the defendant, in conspiracy, caused the court to render a judgment for the purpose of prejudicing the rights of the Stock Company, which are the subject-matter of the suit relating to the Action for Pursuing Liability, etc., the Stock Company or shareholders may enter an appeal against the final judgment that became final and conclusive, by filing an action for a retrial.
- (2) The provisions of the preceding Article shall apply mutatis mutandis to the appeal for a retrial set forth in the preceding paragraph.

### **Section 3 Action Seeking Dismissal of an Officer of a Stock Company**

(Action Seeking Dismissal of an Officer of a Stock Company)

- Article 854 (1) If, notwithstanding the presence of misconduct or material facts in violation of laws and regulations or the articles of incorporation in connection with the execution of the duties of an officer (meaning the officer prescribed in Article 329 (1); hereinafter the same shall apply in this Section), a proposal to dismiss such officer is rejected at the shareholders meeting or a resolution of the shareholders meeting to dismiss such officer fails to become

effective pursuant to the provisions of Article 323, the following shareholders may demand dismissal of such officer by filing an action within thirty days from the day of such shareholders meeting:

- (i) a shareholder (excluding the following shareholders) holding consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, such period or more) not less than three-hundredths (or, in cases where a lesser proportion is prescribed in the articles of incorporation, such proportion) of the voting rights of all shareholders (excluding the following shareholders):
    - (a) a shareholder who is unable to exercise a voting right with respect to the proposal to dismiss such officer; and
    - (b) a shareholder who is the officer pertaining to such demand; and
  - (ii) a shareholder (excluding the following shareholders) holding consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, such period or more) not less than three-hundredths (or, in cases where a lesser proportion is prescribed in the articles of incorporation, such proportion) of the Issued Shares (excluding the shares held by the following shareholders):
    - (a) a shareholder who is such Stock Company; and
    - (b) a shareholder who is the officer pertaining to such demand.
- (2) With regard to application of the provisions of the items of the preceding paragraph to a Stock Company that is not a Public Company, the phrase "holding consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, such period or more)" in those provisions shall be deemed to be replaced with "holding."
- (3) With regard to application of the provisions of paragraph (1) in cases where the class of shares for which there are provisions on the matters set forth in Article 108 (1)(ix) (limited to those relating to directors) have been issued, the term "shareholders meeting" in that paragraph shall be deemed to be replaced with "shareholders meeting (including the Class Meeting set forth in Article 339 (1) as applied mutatis mutandis by replacing the terms pursuant to the provisions of Article 347 (1))."
- (4) With regard to application of the provisions of paragraph (1) in cases where the class of shares for which there are provisions on the matters set forth in Article 108 (1)(ix) (limited to those relating to company auditors) have been issued, the term "shareholders meeting" in that paragraph shall be deemed to be replaced with "shareholders meeting (including the Class Meeting set forth in Article 339 (1) as applied mutatis mutandis by replacing the terms pursuant to the provisions of Article 347 (2))."

(Defendants)

Article 855 With regard to the action set forth in paragraph (1) of the preceding Article (referred to as an "Action Seeking Dismissal of an Officer of a Stock Company" in the following Article and Article 937 (1)(i)(j)), the relevant Stock Company and the officer set forth in paragraph (1) of the preceding Article shall be the defendants.

(Jurisdiction over an Action)

Article 856 An Action Seeking Dismissal of an Officer of a Stock Company shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of the head office of the relevant Stock Company.

#### **Section 4 Action Concerning Special Liquidation**

(Jurisdiction over an Action Seeking Rescission of Exemption from Liability of an Officer)

Article 857 The action set forth in Article 544 (2) shall be under the exclusive jurisdiction of the Special Liquidation Court (meaning the Special Liquidation Court prescribed in Article 880 (1); the same shall apply in paragraph (3) of the following Article).

(Action for Objection to a Ruling Evaluating a Subject Officer's Liability)

Article 858 (1) A person who is dissatisfied with a Ruling Evaluating a Subject Officer's Liability (meaning the Ruling Evaluating a Subject Officer's Liability prescribed in Article 545 (1); hereinafter the same shall apply in this Article) may file an action for objection within the unextendable period of one month from the day of receiving the service under the provisions of Article 899 (4).

(2) With regard to the action set forth in the preceding paragraph, the Liquidating Stock Company shall be the defendant if the person filing the action is the Subject Officer (meaning the Subject Officer prescribed in Article 542 (1); hereinafter the same shall apply in this paragraph), and the Subject Officer shall be the defendant if such person is the Liquidating Stock Company.

(3) The action set forth in paragraph (1) shall be under the exclusive jurisdiction of the Special Liquidation Court.

(4) A judgment for the action set forth in paragraph (1) shall approve, change or revoke the Ruling Evaluating the Subject Officer's Liability, except in cases of dismissing the action as being unlawful.

(5) A judgment that has approved or changed the Ruling Evaluating the Subject Officer's Liability shall have the same effect as a judgment ordering performance, with regard to compulsory execution.

(6) With regard to a judgment that has approved or changed the Ruling Evaluating the Subject Officer's Liability, the court in charge of the case may

make a declaration of provisional execution pursuant to the provisions of Article 259 (1) of the Code of Civil Procedure.

**Section 5 Action Seeking Removal of Partner of Membership Company, etc.**

(Action Seeking Removal of Partner of Membership Company)

Article 859 If any one of the following grounds applies to a partner of a Membership Company (hereinafter referred to as the "Subject Partner" in this Article and Article 861 (i)), such Membership Company may demand removal of the Subject Partner by filing an action, based on a resolution adopted by a majority of the partners other than the Subject Partner:

- (i) a failure to perform the obligation of contribution;
- (ii) a violation of the provisions of Article 594 (1) (including the cases where it is applied *mutatis mutandis* pursuant to Article 598 (2));
- (iii) engagement in misconduct in executing duties or involvement in execution of duties when having no right to execute the duties;
- (iv) engagement in misconduct in representing the Membership Company or conducting an act by representing the Membership Company when having no authority of representation; or
- (v) in addition to what is provided for in the preceding items, a failure to fulfill an important obligation.

(Action Seeking Extinguishment of Right to Execute Business or Authority of Representation of Partner Executing Business of Membership Company)

Article 860 If any one of the following grounds apply to a partner executing the business of a Membership Company (hereinafter referred to as the "Subject Managing Partner" in this Article and item (ii) of the following Article), such Membership Company may demand extinguishment of the right to execute business or the authority of representation of the Subject Managing Partner by filing an action, based on a resolution adopted by a majority of the partners other than the Subject Managing Partner:

- (i) when there are any of the grounds listed in the items of the preceding Article; or
- (ii) when the partner is too incompetent to execute the business of the Membership Company or to represent the Membership Company.

(Defendants)

Article 861 With regard to the actions listed in the following items, the persons specified respectively in those items shall be the defendants:

- (i) the action set forth in Article 859 (referred to as an "Action Seeking

Removal of Partner of Membership Company" in the following Article and Article 937 (1)(i)(k): the Subject Partner; and  
(ii) the action set forth in the preceding Article (referred to as an "Action Seeking Extinguishment of Right to Execute Business or Authority of Representation of Partner Executing Business of Membership Company" in the following Article and Article 937 (1)(i)(l)): the Subject Managing Partner.

(Jurisdiction over an Action)

Article 862 An Action Seeking Removal of Partner of Membership Company and an Action Seeking Extinguishment of Right to Execute Business or Authority of Representation of Partner Executing Business of Membership Company shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of the head office of the relevant Membership Company.

### **Section 6 Action Seeking Rescission of Disposition of Property of a Liquidating Membership Company**

(Action Seeking Rescission of Disposition of Property of a Liquidating Membership Company)

Article 863 (1) When a Liquidating Membership Company (limited to a General Partnership Company or a Limited Partnership Company; hereinafter the same shall apply in this paragraph) commits any one of the acts listed in the following items, the persons specified respectively in those items may demand rescission of such act by filing an action; provided, however, that this shall not apply if there is no risk of harm to such persons by such acts:

(i) disposition of property of the Liquidating Membership Company in violation of the provisions of Article 670: a creditor of the Liquidating Membership Company; or

(ii) disposition of property of the Liquidating Membership Company in violation of the provisions of Article 671 (1): a creditor who has attached the equity interest of a partner of the Liquidating Membership Company.

(2) The provisions of the proviso to Article 424 (1), Article 425 and Article 426 of the Civil Code shall apply mutatis mutandis to the cases set forth in the preceding paragraph. In such cases, the phrase "from such act" in the proviso to Article 424 (1) of the Civil Code shall be deemed to be replaced with "from any one of the acts listed in the items of Article 863 of the Companies Act (Act No. 86 of 2005)."

(Defendants)

Article 864 With regard to the action set forth in paragraph (1) of the preceding Article, the counterparties to the acts set forth in the items of that paragraph

or the subsequent purchasers shall be the defendants.

### **Section 7 Action Seeking Rescission of Performance, etc. of a Bond-Issuing Company**

(Action Seeking Rescission of Performance, etc. of a Bond-Issuing Company)

Article 865 (1) When a bond-issuing Company's payment to a bondholder, settlement effected with a bondholder, or other act conducted against or with a bondholder is grossly improper, the bond manager may demand rescission of such act by filing an action.

(2) The action set forth in the preceding paragraph may not be filed when six months have elapsed from the time when the bond manager learned about the fact that serves as the cause for the rescission of the act set forth in that paragraph. The same shall apply when one year has elapsed from the time of the act set forth in that paragraph.

(3) In the cases prescribed in paragraph (1), if there is a resolution of bondholders meeting, a representative bondholder or a Resolution Administrator (meaning the Resolution Administrator prescribed in Article 737 (2)) may also demand rescission of the act set forth in paragraph (1) by filing an action; provided, however, that this shall not apply when one year has elapsed from the time of the act set forth in that paragraph.

(4) The provisions of the proviso to Article 424 (1) and Article 425 of the Civil Code shall apply mutatis mutandis to the cases set forth in paragraph (1) and the main clause of the preceding paragraph. In such cases, the phrase "from such act" in the proviso to Article 424 (1) of that Act shall be deemed to be replaced with "from the act prescribed in Article 865 (1) of the Companies Act," the phrase "the fact that the obligee is to be prejudiced" in that paragraph shall be deemed to be replaced with "that such act is grossly improper," and the term "obligees" in Article 425 shall be deemed to be replaced with "bondholders."

(Defendants)

Article 866 With regard to the action set forth in paragraph (1) or paragraph (3) of the preceding Article, the counterparty to the act set forth in paragraph (1) of that Article or the subsequent purchaser shall be the defendant.

(Jurisdiction over an Action)

Article 867 The action set forth in paragraph (1) or paragraph (3) of Article 865 shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of the head office of the bond-issuing Company.

## **Chapter III Non-Contentious Cases**

### **Section 1 General Provisions**

(Jurisdiction over Non-Contentious Cases)

Article 868 (1) A non-contentious case under the provisions of this Act (excluding the cases prescribed in the following paragraph to paragraph (5)) shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of the head office of the Company.

(2) A case relating to a petition for permission for the following Inspection, etc. (meaning inspection, copying, delivery of a transcript or extract, provision of certain matters or delivery of a document that states such matters; the same shall apply in Article 870 (i) of documents or Electromagnetic Records prepared or kept by a Stock Company pursuant to the provisions of this Act, filed by a Member of the Parent Company (limited to a shareholder or member of the Parent Company, which is a Company), shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of the head office of such Stock Company:

(i) inspection, copying or delivery of a transcript or extract of the documents;  
and

(ii) inspection or copying of anything that indicates the matters recorded in the Electromagnetic Records, provision of such matters by an Electromagnetic Method or delivery of a document that states such matters.

(3) A case relating to a petition for a judicial decision under the provisions of Article 705 (4), Article 706 (4), Article 707, Article 711 (3), Article 713, Article 714 (1) and (3), Article 718 (3), Article 732, Article 740 (1) and Article 741 (1) shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of the head office of the bond-issuing Company.

(4) A case relating to liquidation of a Foreign Company under the provisions of Article 822 (1) and a case relating to a judicial decision under the provisions of Article 827 (1) or a temporary restraining order under the provisions of Article 825 (1) as applied mutatis mutandis pursuant to Article 827 (2) shall be under the exclusive jurisdiction of the district court having jurisdiction over the location of such Foreign Company's business office in Japan (or, in cases where no business office is established in Japan, the location of the domicile of the representative in Japan).

(5) A case in relation to the petition set forth in paragraph (4) of Article 843 shall be under the exclusive jurisdiction of the court in charge of the first instance of an action seeking invalidation of any one of the acts listed in the items of paragraph (1) of that Article.

(Prima Facie Showing)

Article 869 In cases of filing a petition for permission under the provisions of this Act, a prima facie showing shall be made with regard to the fact that serves as the cause thereof.

(Hearing of Statements)

Article 870 When the court makes the judicial decisions listed in the following items from among judicial decisions relating to non-contentious cases under the provisions of this Act (excluding Part II, Chapter IX, Section 2), it shall hear statements by the persons specified respectively in those items (excluding the petitioner in cases of items (iv) and (vi)):

- (i) a judicial decision relating to a petition for permission for Inspection, etc. of documents or Electromagnetic Records prepared or kept by a Stock Company pursuant to the provisions of this Act: the relevant Stock Company;
- (ii) a determination of the amount of remuneration for a person who is temporarily to perform the duties of a director, accounting advisor, company auditor, Representative Director, committee member, executive officer or representative executive officer appointed pursuant to the provisions of Article 346 (2), Article 351 (2) or Article 401 (3) (including cases where it is applied mutatis mutandis pursuant to Article 403 (3) or Article 420 (3)), a liquidator, a person who is temporarily to perform the duties of a liquidator or representative liquidator appointed pursuant to the provisions of Article 346 (2) as applied mutatis mutandis pursuant to Article 479 (4) or the provisions of Article 351 (2) as applied mutatis mutandis pursuant to Article 483 (6), an inspector, or the administrator set forth in Article 825 (2) (including cases where it is applied mutatis mutandis pursuant to Article 827 (2)): the relevant Company and the person receiving the remuneration;
- (iii) a judicial decision on dismissal of a liquidator or a bond manager: such liquidator or bond manager;
- (iv) a determination of the price of the shares or Share Options (in cases where such Share Options are those attached to Bonds with Share Options, if there is a demand for the purchase of Bonds pertaining to such Bonds with Share Options, they shall include such Bonds) under the provisions of Article 117 (2), Article 119 (2), Article 172 (1), Article 193 (2) (including cases where it is applied mutatis mutandis pursuant to Article 194 (4)), Article 470 (2), Article 778 (2), Article 786 (2), Article 788 (2), Article 798 (2), Article 807 (2), or Article 809 (2): a person who is able to file a petition for a determination of the price;
- (v) a judicial decision under the provisions of Article 33 (7): a Director at Incorporation, the person who contributes property other than monies set forth in Article 28 (i) and the assignor set forth in item (ii) of that Article;
- (vi) a determination of the sale price of shares under the provisions of



- paragraph (2) of Article 144 (including the cases where it is applied mutatis mutandis pursuant to paragraph (7) of that Article) or Article 177 (2): a person who is able to file a petition for a determination of the sale price (in cases where there is the Designated Purchaser prescribed in Article 140 (4), such person shall include the Designated Purchaser);
- (vii) a judicial decision under the provisions of Article 207 (7) or Article 284 (7): the relevant Stock Company and a person who contributes property other than monies pursuant to the provisions of Article 199 (1)(iii) or Article 236 (1)(iii);
- (viii) a judicial decision under the provisions of Article 455 (2)(ii) or Article 505 (3)(ii): the relevant shareholder;
- (ix) a judicial decision under the provisions of Article 456 or Article 506: the relevant shareholder;
- (x) a judicial decision under the provisions of Article 732: an interested party;
- (xi) a judicial decision upholding a petition under the provisions of Article 740 (1): the bond-issuing Company;
- (xii) a judicial decision on the petition for permission set forth in Article 741 (1): the bond-issuing Company;
- (xiii) a judicial decision under the provisions of Article 824 (1): the relevant Company;
- (xiv) a judicial decision under the provisions of Article 827 (1): the relevant Foreign Company; and
- (xv) a judicial decision on the petition set forth in Article 843 (4): the Company that carried out the act prescribed in that paragraph.

(Appending of the Reason)

Article 871 A judicial decision for a non-contentious case under the provisions of this Act shall append the reason thereof; provided, however, that this shall not apply to the following judicial decisions:

- (i) the judicial decision set forth in item (ii) of the preceding Article; and  
(ii) the judicial decisions listed in the items of Article 874.

(Immediate Appeal)

Article 872 An immediate appeal may be entered against the judicial decisions listed in the following items by the persons specified respectively in those items:

- (i) a judicial decision on a temporary restraining order under the provisions of Article 609 (3) or Article 825 (1) (including the cases where it is applied mutatis mutandis pursuant to Article 827 (2)): an interested party;
- (ii) a judicial decision on a petition under the provisions of Article 840 (2) (including the cases where it is applied mutatis mutandis pursuant to Article

- 841 (2)): the petitioner, shareholders and the Stock Company;
- (iii) a judicial decision on a petition under the provisions of Article 840 (2) as applied mutatis mutandis pursuant to Article 842 (2): the petitioner, holders of Share Options and the Stock Company; and
- (iv) the judicial decisions listed in the items of Article 870: The petitioner and the persons specified respectively in those items (or, for the judicial decisions listed in items (ii), (v) and (vii) of that Article, it shall only be the persons specified respectively in those items).

(Stay of Execution of the Judicial Decision of the Prior Instance)

Article 873 The immediate appeal set forth in the preceding Article shall have the effect of staying execution; provided, however, that this shall not apply to an immediate appeal against the following judicial decisions:

- (i) the judicial decision set forth in Article 870 (ii);
- (ii) the judicial decision set forth in Article 870 (iii);
- (iii) the judicial decisions set forth in Article 870 (v) and (vii); and
- (iv) the judicial decisions set forth in Article 870 (xi).

(Restrictions on Appeal)

Article 874 No appeal may be entered against the following judicial decisions:

- (i) a judicial decision on the appointment or selection of a person who is temporarily to perform the duties of a director, accounting advisor, company auditor, Representative Director, committee member, executive officer or representative executive officer prescribed in item (ii) of Article 870, a liquidator, a representative liquidator, a liquidator who represents a Liquidating Membership Company, a person who is temporarily to perform the duties of a liquidator or representative liquidator prescribed in that item, an inspector, the appraiser set forth in Article 501 (1) (including the cases where it is applied mutatis mutandis pursuant to Article 822 (3)) or Article 662 (1), the person who retains Accounting Materials set forth in Article 508 (2) (including the cases where it is applied mutatis mutandis pursuant to Article 822 (3)) or Article 672 (3), a special agent of a bond manager or the bond manager to succeed to the administration of bonds set forth in Article 714 (3);
- (ii) a judicial decision on appointment or dismissal of the administrator set forth in Article 825 (2) (including the cases where it is applied mutatis mutandis pursuant to Article 827 (2));
- (iii) a judicial decision under the provisions of Article 825 (6) (including the cases where it is applied mutatis mutandis pursuant to Article 827 (2)); and
- (iv) a judicial decision upholding a petition for permission under the provisions of this Act (excluding the judicial decisions listed in Article 870 (i) and (xii)).

(Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act)

Article 875 The provisions of Article 15 of the Non-Contentious Cases Procedures Act shall not apply to non-contentious cases under the provisions of this Act.

(Supreme Court Rules)

Article 876 In addition to what is provided for in this Act, necessary matters concerning the procedures of non-contentious cases under the provisions of this Act shall be specified by the Supreme Court Rules.

## **Section 2 Special Provisions on the Procedures of Increasing or Decreasing the Refund after a Judgment of Invalidation of a New Share Issue**

(Mandatory Consolidation of Hearings, etc.)

Article 877 When several cases relating to the petition set forth in Article 840 (2) (including the cases where it is applied mutatis mutandis pursuant to Article 841 (2) and Article 842 (2)) are pending simultaneously, the hearings and judicial decisions thereof shall be made in consolidation.

(Effects of a Judicial Decision)

Article 878 (1) A judicial decision on the petition set forth in Article 840 (2) (including the cases where it is applied mutatis mutandis pursuant to Article 841 (2)) shall be effective against all of the shareholders.  
(2) A judicial decision on the petition set forth in Article 840 (2) as applied mutatis mutandis pursuant to Article 842 (2) shall be effective against all of the holders of Share Options.

## **Section 3 Special Provisions on the Procedures of Special Liquidation**

### **Subsection 1 Common Provisions**

(Jurisdiction over a Special Liquidation Case)

Article 879 (1) Notwithstanding the provisions of Article 868 (1), in cases where a juridical person has a majority of the voting rights of all shareholders of a Stock Company (excluding shareholders who are unable to exercise voting rights on all the matters which may be resolved at the shareholders meeting; the same shall apply in the following paragraph), if a special liquidation case, a bankruptcy case, a rehabilitation case or a reorganization case (hereinafter referred to as a "Special Liquidation Case, etc." in this Article) is pending with

regard to such juridical person (hereinafter referred to as the "Parent Juridical Person" in this Article), a petition for commencement of special liquidation relating to such Stock Company may be filed alternatively with the district court before which the Special Liquidation Case, etc. of the Parent Juridical Person is pending.

- (2) In cases where the Stock Company prescribed in the preceding paragraph, or the Parent Juridical Person and the Stock Company prescribed in that paragraph have a majority of the voting rights of all shareholders of another Stock Company, a petition for commencement of special liquidation relating to such other Stock Company may be filed alternatively with the district court before which the Special Liquidation Case, etc. of the Parent Juridical Person is pending.
- (3) With regard to application of the preceding two paragraphs, the shareholder prescribed by the applicable Ordinance of the Ministry of Justice set forth in Article 308 (1) shall be deemed to have voting rights with respect to the shares which such shareholder holds.
- (4) Notwithstanding the provisions of Article 868 (1), in cases where a Stock Company has, pursuant to the provisions of Article 444, prepared Consolidated Financial Statements of that Stock Company or another Stock Company for the Most Recent Business Year and the contents thereof have been reported to the annual shareholders meeting of that Stock Company, if a Special Liquidation Case, etc. is pending with regard to that Stock Company, a petition for commencement of special liquidation relating to such other Stock Company may be filed alternatively with the district court before which the Special Liquidation Case, etc. of that Stock Company is pending.

(Jurisdiction over and Transfer of an Ordinary Liquidation Case after Commencement of Special Liquidation)

- Article 880 (1) Notwithstanding the provisions of Article 868 (1), if an order to commence special liquidation is issued with regard to a Liquidating Stock Company, a case relating to a petition under the provisions of Part II, Chapter IX, Section 1 (excluding Article 508) (referred to as an "Ordinary Liquidation Case" in the following paragraph) relating to such Liquidating Stock Company shall be under the jurisdiction of the district court (hereinafter referred to as the "Special Liquidation Court" in this Section) before which the special liquidation case of such Liquidating Stock Company is pending.
- (2) In cases where a special liquidation case relating to a Liquidating Stock Company is pending before a district court other than the district court before which an Ordinary Liquidation Case relating to the same Liquidating Stock Company is pending and an order to commence special liquidation has been issued, if it is found reasonable for processing such Ordinary Liquidation Case,

the court (meaning a judge or a panel of judges handling the Ordinary Liquidation Case) may transfer such Ordinary Liquidation Case to the special liquidation court ex officio.

(Prima Facie Showing)

Article 881 The provisions of Article 869 shall not apply to a petition for permission under the provisions of Part II, Chapter IX, Section 2 (excluding Article 547 (3)).

(Appending of the Reason)

Article 882 (1) A ruling concerning procedures of special liquidation against which an immediate appeal may be entered shall append the reason thereof; provided, however, that this shall not apply to a ruling under the provisions of paragraph (1) of Article 526 (including the cases where it is applied mutatis mutandis pursuant to paragraph (2) of that Article) and Article 532 (1) (including the cases where it is applied mutatis mutandis pursuant to Article 534).

(2) The provisions of Article 871 shall not apply to a ruling concerning procedures of special liquidation.

(Service of a Written Judgment)

Article 883 The provisions of Part I, Chapter V, Section 4 of the Code of Civil Procedure (excluding Article 104) shall apply mutatis mutandis to the service of a written judgment under the provisions of this Section.

(Appeal)

Article 884 (1) A person who has an interest in a judicial decision concerning procedures of special liquidation may enter an immediate appeal against such judicial decision only in the case where there are special provisions in this Section.

(2) The immediate appeal set forth in the preceding paragraph shall have the effect of staying execution except as otherwise provided by this Section.

(3) The provisions of Article 20 of the Non-Contentious Cases Procedures Act shall not apply to a ruling concerning procedures of special liquidation.

(Public Notice)

Article 885 (1) A public notice under the provisions of this Section shall be effected by publication in an official gazette.

(2) The public notice set forth in the preceding paragraph shall become effective on the day immediately following the day of publication.

(Inspection, etc. of Documents Concerning a Case)

- Article 886 (1) An interested party may make a request to a court clerk for inspection of the documents or any other articles (hereinafter referred to as the "Documents, etc." in this Article and paragraph (1) of the following Article) submitted to the court or prepared by the court based on the provisions of Part II, Chapter IX, Section 2 or this Section or Part I of the Non-Contentious Cases Procedures Act (or, in cases where an order to commence special liquidation has been issued, Part II, Chapter IX, Section 1 or Section 2, or Section 1 of this Chapter (limited to the portions pertaining to a case relating to a petition under the provisions of Part II, Chapter IX, Section 1) or this Section, or Part I of the Non-Contentious Cases Procedures Act) (including the provisions of this Act or any other Acts applied mutatis mutandis under these provisions).
- (2) An interested party may make a request to a court clerk for copying of the Documents, etc., delivery of the original, a transcript or an extract thereof, or delivery of a certificate of matters concerning the case.
- (3) The provisions of the preceding paragraph shall not apply to sound recording tapes or video tapes (including objects on which certain matters are recorded by a method equivalent thereto) among the Documents, etc. In such cases, a court clerk shall permit reproduction of these objects if there is a request from an interested party for such objects.
- (4) Notwithstanding the provisions of the preceding three paragraphs, the persons listed in the following items may not make a request under the provisions of the preceding three paragraphs until any one of the orders, temporary restraining orders, dispositions or judicial decisions specified respectively in those items has been issued; provided, however, that this shall not apply in cases where any such person is a petitioner with respect to commencement of special liquidation:
- (i) an interested party other than the Liquidating Stock Company: an order to suspend under the provisions of Article 512, a temporary restraining order under the provisions of Article 540 (2), a disposition under the provisions of Article 541 (2), or a judicial decision relating to a petition for commencement of special liquidation; or
- (ii) the Liquidating Stock Company: a judicial decision designating the date of the hearing on which the Liquidating Stock Company is to be summoned concerning a petition for commencement of special liquidation or the order, temporary restraining order, disposition or judicial decision specified in the preceding item.
- (5) The provisions of Article 91 (5) of the Code of Civil Procedure shall apply mutatis mutandis to the Documents, etc.

(Restrictions on Inspection, etc. of a Detrimental Part)

Article 887 (1) In cases where a prima facie showing is made that any one of the following Documents, etc. include a part (hereinafter referred to as a "Detrimental Part") where inspection or copying thereof, delivery of the original or a transcript or an extract thereof, or reproduction thereof (hereinafter referred to as "Inspection, etc." in this Article) by interested parties is likely to cause considerable detriment to the implementation of liquidation of the Liquidating Stock Company, the court may, in response to a petition from the Liquidating Stock Company that submitted such Documents, etc. or by an investigator, limit the persons who are able to request Inspection, etc. of the Detrimental Part to the person who has filed such petition and the Liquidating Stock Company:

- (i) Documents, etc. relating to a report under the provisions of Article 520 or a report of the results of the investigation prescribed in Article 522 (1); or
  - (ii) Documents, etc. submitted to the court for obtaining the permission set forth in Article 535 (1) or Article 536 (1).
- (2) When the petition set forth in the preceding paragraph is filed, interested parties (excluding the person who has filed the petition set forth in that paragraph and the Liquidating Stock Company; the same shall apply in the following paragraph) may not request Inspection, etc. of the Detrimental Part until the judicial decision on such petition becomes final and binding.
- (3) An interested party who intends to request Inspection, etc. of the Detrimental Part may file a petition for revocation of the ruling under the provisions of paragraph (1) with the special liquidation court on the basis that the requirements prescribed in that paragraph are not satisfied or are no longer satisfied.
- (4) An immediate appeal may be entered against a ruling to dismiss the petition set forth in paragraph (1) or against a judicial decision relating to the petition set forth in the preceding paragraph.
- (5) A ruling to revoke the ruling under the provisions of paragraph (1) shall not become effective until it is final and binding.

### **Subsection 2 Special Provisions on Procedures for Commencement of Special Liquidation**

(Petition for Commencement of Special Liquidation)

Article 888 (1) When a creditor or shareholder files a petition for commencement of special liquidation, such creditor or shareholder shall make a prima facie showing of the grounds that serve as the cause for commencement of special liquidation.

- (2) When a creditor files a petition for commencement of special liquidation, the creditor shall also make a prima facie showing of the presence of the claims the

creditor holds.

- (3) When filing a petition for commencement of special liquidation, the petitioner shall prepay the amount specified by the court as expenses for the procedures of special liquidation prescribed in Article 514 (i).
- (4) An immediate appeal may be entered against a ruling concerning the prepayment of expenses set forth in the preceding paragraph.

(Order to Suspend Other Procedures)

Article 889 (1) The court may change or revoke an order to suspend under the provisions of Article 512.

- (2) An immediate appeal may be entered against the order to suspend set forth in the preceding paragraph and a ruling under the provisions of that paragraph.
- (3) The immediate appeal set forth in the preceding paragraph shall not have the effect of staying execution.
- (4) In cases where the judicial decision prescribed in paragraph (2) or a judicial decision relating to the immediate appeal set forth in that paragraph is made, the written judgment thereof shall be served on the parties.

(Order to Commence Special Liquidation)

Article 890 (1) When the court issues an order to commence special liquidation, it shall immediately give public notice to that effect and serve the written judgment of the order to commence special liquidation on the Liquidating Stock Company.

- (2) An order to commence special liquidation shall become effective when the written judgment thereof is served on the Liquidating Stock Company.
- (3) When an order to commence special liquidation is issued, the expenses for the procedures of special liquidation shall be borne by the Liquidating Stock Company.
- (4) Only the Liquidating Stock Company may enter an immediate appeal against an order to commence special liquidation.
- (5) Only the petitioner may enter an immediate appeal against a judicial decision that dismissed a petition for commencement of special liquidation.
- (6) The court that has issued an order to commence special liquidation shall, in cases where the immediate appeal set forth in paragraph (4) has been entered, if a ruling to revoke such order becomes final and binding, immediately give public notice to that effect.

(Order to Suspend Procedures to Enforce Security Interests)

Article 891 (1) The court shall, when issuing an order to suspend under the provisions of Article 516, hear statements by the petitioner of the procedures to enforce security interests prescribed in that Article.



- (2) The court may change or revoke the order to suspend set forth in the preceding paragraph.
- (3) Only the petitioner set forth in paragraph (1) may enter an immediate appeal against the order to suspend set forth in paragraph (1) and a ruling to change under the provisions of the preceding paragraph.
- (4) The immediate appeal set forth in the preceding paragraph shall not have the effect of staying execution.
- (5) In cases where the judicial decision prescribed in paragraph (3) or a judicial decision on the immediate appeal set forth in that paragraph is made, the written judgment thereof shall be served on the parties.

### **Subsection 3 Special Provisions on Procedure of Implementation of Special Liquidation**

#### (Investigation Order)

- Article 892 (1) The court may change or revoke an Investigation Order (meaning an Investigation Order prescribed in Article 522 (1); the same shall apply in the following paragraph).
- (2) An immediate appeal may be entered against an order to investigate and a ruling under the provisions of the preceding paragraph.
  - (3) The immediate appeal set forth in the preceding paragraph shall not have the effect of staying execution.
  - (4) In cases where the judicial decision prescribed in paragraph (2) or a judicial decision on the immediate appeal set forth in that paragraph is made, the written judgment thereof shall be served on the parties.

#### (Dismissal and Remuneration, etc. of a Liquidator)

- Article 893 (1) The court shall, in cases of dismissing a liquidator pursuant to the provisions of Article 524 (1), hear statements from such liquidator.
- (2) An immediate appeal may be filed against a judicial decision on dismissal under the provisions of article 524(1).
  - (3) The immediate appeal set forth in the preceding paragraph shall not have the effect of staying execution.
  - (4) An immediate appeal may be filed against a ruling under the provisions of paragraph (1) of Article 526 (including the cases where it is applied mutatis mutandis pursuant to paragraph (2) of that Article).

#### (Dismissal and Remuneration, etc. of a Supervisor)

- Article 894 (1) The court shall, in cases of dismissing a supervisor, hear statements from such supervisor.
- (2) An immediate appeal may be filed against a ruling under the provisions of

Article 532 (1).

(Dismissal and Remuneration, etc. of an Investigator)

Article 895 The provisions of the preceding Article shall apply mutatis mutandis pursuant to investigators.

(Petition for Permission of Assignment of Business)

Article 896 (1) A liquidator shall, in cases of filing a petition for the permission set forth in Article 536 (1), hear the opinions of the known creditors and report the contents thereof to the court.

(2) The court shall, in cases of issuing the permission set forth in Article 536 (1), hear the opinions of the Labor Union, etc. (meaning the labor union if there is a labor union consisting of a majority of the employees and any other workers of the Liquidating Stock Company, and the person representing a majority of the employees and any other workers of the Liquidating Stock Company if there is no labor union consisting of a majority of the employees and any other workers of the Liquidating Stock Company).

(Designating Periods for Disposition by Security Interest Holders)

Article 897 (1) An immediate appeal may be entered against a judicial decision relating to the petition set forth in Article 539 (1).

(2) In cases where the judicial decision set forth in the preceding paragraph or a judicial decision relating to the immediate appeal set forth in that paragraph is made, the written judgment thereof shall be served on the parties.

(Temporary Restraining Order, etc. Concerning Property of a Liquidating Stock Company)

Article 898 (1) The court may change or revoke any one of the following judicial decisions:

- (i) a temporary restraining order under the provisions of Article 540 (1) or (2);
- (ii) a disposition under the provisions of Article 541 (1) or (2);
- (iii) a temporary restraining order under the provisions of Article 542 (1) or (2);

or

(iv) a disposition under the provisions of Article 543.

(2) An immediate appeal may be entered against the judicial decisions listed in the items of the preceding paragraph and a ruling under the provisions of that paragraph.

(3) The immediate appeal set forth in the preceding paragraph shall not have the effect of staying execution.

(4) In cases where the judicial decision prescribed in paragraph (2) or a judicial decision relating to the immediate appeal set forth in that paragraph is made,

the written judgment thereof shall be served on the parties.

- (5) When the court makes the judicial decision set forth in paragraph (1)(ii), it shall immediately give public notice to that effect. The same shall apply when it makes a ruling to change or revoke such judicial decision.

(Ruling Evaluating the Subject Officer's Liability)

Article 899 (1) When a Liquidating Stock Company intends to file the petition set forth in Article 545 (1), it shall make a prima facie showing with regard to the fact that serves as the cause thereof.

- (2) A Ruling Evaluating the Subject Officer's Liability (meaning the Ruling Evaluating the Subject Officer's Liability prescribed in Article 545 (1); hereinafter the same shall apply in this Article) and a ruling to dismiss the petition set forth in the preceding paragraph shall append the reason therefor.
- (3) The court shall, when making the judicial decision prescribed in the preceding paragraph, hear statements from the Subject Officer (meaning the Subject Officer prescribed in Article 542 (1)).
- (4) In cases where a Ruling Evaluating the Subject Officer's Liability is made, the written judgment thereof shall be served on the parties.
- (5) When the action set forth in Article 858 (1) is not filed within the period set forth in that paragraph or is dismissed, the Ruling Evaluating the Subject Officer's Liability shall have the same effect as a final and binding judgment ordering performance.

(Judicial Decision Relating to the Petition for Permission to Call a Bondholders' Meeting)

Article 900 An immediate appeal may be entered against a ruling to dismiss the petition for permission set forth in Article 547 (3).

(Ruling Approving or Rejecting an Agreement)

- Article 901 (1) An interested party may state an opinion on whether the agreement relating to the petition set forth in Article 568 should be approved.
- (2) When the court makes the ruling approving the agreement set forth in Article 569 (1), it shall immediately give public notice to that effect.
- (3) An immediate appeal may be entered against a judicial decision relating to the petition set forth in Article 568. In such cases, the period for entering an immediate appeal against the ruling approving the agreement set forth in the preceding paragraph shall be two weeks from the day on which the public notice under the provisions of that paragraph has become effective.
- (4) The provisions of the preceding three paragraphs shall apply mutatis mutandis to cases of changing the details of an agreement pursuant to the provisions of Article 572.

#### **Subsection 4 Special Provisions on Procedures of Completion of Special Liquidation**

(Judicial Decision Relating to a Petition for the Conclusion of Special Liquidation)

Article 902 (1) When the court makes a ruling to conclude special liquidation, it shall immediately give public notice to that effect.

(2) An immediate appeal may be entered against a judicial decision relating to a petition for the conclusion of special liquidation. In such cases, the period for entering an immediate appeal against a ruling to conclude special liquidation shall be two weeks from the day on which the public notice under the provisions of the preceding paragraph has become effective.

(3) A ruling to conclude special liquidation shall not become effective until it is final and binding.

(4) The court that has made a ruling to conclude special liquidation shall, in cases where the immediate appeal set forth in paragraph (2) has been entered, if a ruling to revoke such ruling becomes final and binding, immediately give public notice to that effect.

#### **Section 4 Special Provisions on Procedures of Liquidation of a Foreign Company**

(Application Mutatis Mutandis of the Provisions on Procedures of Special Liquidation)

Article 903 The provisions of the preceding Section shall apply mutatis mutandis to liquidation of a Foreign Company's property in Japan under the provisions of Article 822 (1), excluding those that are not applicable by their nature.

#### **Section 5 Special Provisions on Procedures of a Dissolution Order, etc. for a Company**

(Participation of the Minister of Justice)

Article 904 (1) When the court makes a judicial decision relating to the petition set forth in Article 824 (1) or Article 827 (1), it shall seek the opinion of the Minister of Justice.

(2) The Minister of Justice may, when the court carries out a hearing concerning the case relating to the petition set forth in the preceding paragraph, attend such hearing.

(3) The court shall notify the Minister of Justice that a case relating to the petition set forth in paragraph (1) became pending and of the date of the

hearing set forth in the preceding paragraph.

- (4) The Minister of Justice may enter an immediate appeal against a judicial decision to dismiss the petition set forth in paragraph (1).

(Special Provisions on a Temporary Restraining Order Concerning Property of a Company)

Article 905 (1) In cases where the court issues the temporary restraining order set forth in Article 825 (1) (including the cases where it is applied *mutatis mutandis* pursuant to Article 827 (2)), the expenses referred to in the main clause of Article 26 of the Non-Contentious Cases Procedures Act shall be borne by the Company or Foreign Company. The same shall apply to the necessary expenses with regard to such temporary restraining order.

- (2) In cases where an immediate appeal has been entered against the temporary restraining order set forth in the preceding paragraph or against a judicial decision dismissing a petition under the provisions of Article 825 (1) (including the cases where it is applied *mutatis mutandis* pursuant to Article 827 (2)), if the court of the appeal revokes the judicial decision of the prior instance by finding that such immediate appeal has grounds, the court costs required for the procedures in such appeal instance and the court costs required for the procedures in the prior instance, which had been borne by the appellant, shall be borne by the Company or Foreign Company.

Article 906 (1) An interested party may make a request to a court clerk for inspection of documents relating to the report or account set forth in Article 825 (6) (including the cases where it is applied *mutatis mutandis* pursuant to Article 827 (2)).

- (2) An interested party may make a request to a court clerk for the copying of the documents set forth in the preceding paragraph or delivery of the original, transcript or an extract thereof.
- (3) The provisions of the preceding paragraph shall not apply to sound recording tapes or video tapes (including objects on which certain matters are recorded by a method equivalent thereto) among the documents set forth in paragraph (1). In such cases, a court clerk shall permit reproduction of these objects if there is such a request from an interested party for such objects.
- (4) The Minister of Justice may make a request to a court clerk for inspection of the documents set forth in paragraph (1).
- (5) The provisions of Article 91 (5) of the Code of Civil Procedure shall apply *mutatis mutandis* to the documents set forth in paragraph (1).

#### **Chapter IV Registration**

##### **Section 1 General Provisions**

(Common Provisions)

Article 907 The matters to be registered pursuant to the provisions of this Act (excluding the matters pertaining to the registration of the temporary restraining order set forth in Article 938 (3)) shall be registered in the commercial registry through application by a party or commission of a court clerk, in accordance with the provisions of the Commercial Registration Act (Act No. 125 of 1963).

(Effects of Registration)

Article 908 (1) The matters to be registered pursuant to the provisions of this Act may not be duly asserted against a third party who has no knowledge of such matters until after the registration. The same shall apply after the registration, if a third party did not know that such matters were registered based on justifiable grounds.

(2) A person who has registered false matters intentionally or by negligence may not duly assert the falsity of such matters against a third party without knowledge of such falsity.

(Registration of a Change and Registration of an Extinction)

Article 909 When there is a change to the matters registered pursuant to the provisions of this Act or when such matters becomes extinct, the party shall have the registration of the change or the registration of the extinction completed without delay.

(Period for Registration)

Article 910 The period for the registration of those matters to be registered pursuant to the provisions of this Act which require the permission of a government agency shall be counted from the day of the arrival of the written permission.

## **Section 2 Registration of a Company**

### **Subsection 1 Registration at the Location of the Head Office**

(Registration of Incorporation of a Stock Company)

Article 911 (1) The registration of incorporation of a Stock Company shall be completed at the location of the head office within two weeks from whichever of the following days that is later:

(i) the day on which the investigation under the provisions of paragraph (1) of Article 46 ended (or, in cases where the Stock Company to be incorporated is a Company with Committees, the day on which the Representative Executive

- Officer at Incorporation received the notice under the provisions of paragraph (3) of that Article); or
- (ii) the day specified by the incorporator.
- (2) Notwithstanding the provisions of the preceding paragraph, in cases of making the solicitation set forth in Article 57 (1), the registration set forth in the preceding paragraph shall be completed within two weeks from whichever of the following days that is the latest:
- (i) the day of the conclusion of an Organizational Meeting;
  - (ii) if the resolution of a Class Organizational Meeting set forth in Article 84 is made, the day of such resolution;
  - (iii) if the resolution of the Organizational Meeting set forth in Article 97 is made, the day on which two weeks have elapsed from the day of such resolution;
  - (iv) if the resolution of a Class Organizational Meeting set forth in Article 100 (1) is made, the day on which two weeks have elapsed from the day of such resolution; or
  - (v) if the resolution of a Class Organizational Meeting set forth in Article 101 (1) is made, the day of such resolution.
- (3) The following matters shall be registered upon the registration set forth in paragraph (1):
- (i) the purpose;
  - (ii) the trade name;
  - (iii) the addresses of the head office and branch offices;
  - (iv) if there are provisions in the articles of incorporation with regard to the duration or the grounds for dissolution of the Stock Company, such provisions;
  - (v) the amount of stated capital;
  - (vi) the Total Number of Authorized Shares;
  - (vii) the details of the shares it issues (or, for a Company with Class Shares, the Total Number of Authorized Shares in a Class and the details of the shares of each class);
  - (viii) if there are provisions in the articles of incorporation with regard to the Share Unit, such Share Unit;
  - (ix) the total number of the Issued Shares and the class(es) and the number of each class of the Issued Shares;
  - (x) if the Stock Company is a Company Issuing Share Certificates, a statement to that effect;
  - (xi) if there is an Administrator of the Shareholder Registry, the name, domicile and business office of the Administrator;
  - (xii) if the Stock Company has issued Share Options, the following matters:
    - (a) the number of the Share Options;

- (b) the matters listed in Article 236 (1)(i) to (iv);
- (c) in addition to the matters set forth in (b), if conditions on the exercise of the Share Options have been prescribed, such conditions; and
- (d) the matters listed in Article 236 (1)(vii) and Article 238 (1)(ii) and (iii);
- (xiii) the names of the directors;
- (xiv) the name and domicile of the Representative Director (excluding the cases prescribed in item (xxii));
- (xv) if the Stock Company is a Company with a Board of Directors, a statement to that effect;
- (xvi) if the Stock Company is a Company with Accounting Advisors, a statement to that effect, the name(s) of the accounting advisor(s) and the place set forth in Article 378 (1);
- (xvii) if the Stock Company is a Company with Auditors (including a Stock Company the articles of incorporation of which provide that the scope of the audit by its company auditors shall be limited to an audit related to accounting), a statement to that effect and the name(s) of the company auditor(s);
- (xviii) if the Stock Company is a Company with a Board of Company Auditors, a statement to that effect and the fact that those among the company auditors who are Outside Company Auditors are Outside Company Auditors;
- (xix) if the Stock Company is a Company with Accounting Auditors, a statement to that effect and the name(s) of the accounting auditor(s);
- (xx) if the Stock Company has a person who is temporarily to perform the duties of an accounting auditor who has been appointed pursuant to the provisions of Article 346 (4), such person's name;
- (xxi) if there are provisions on the vote by Special Directors under the provisions of Article 373 (1), the following matters:
  - (a) a statement to the effect that there are provisions on the vote by Special Directors under the provisions of Article 373 (1);
  - (b) the names of the Special Directors; and
  - (c) a statement to the effect that those among the directors who are Outside Directors are Outside Directors;
- (xxii) if the Stock Company is a Company with Committees, a statement to that effect and the following matters:
  - (a) a statement to the effect that those among the directors who are Outside Directors are Outside Directors;
  - (b) the names of the committee members and executive officers of each Committee; and
  - (c) the name and domicile of the representative executive officer;
- (xxiii) if there are provisions in the articles of incorporation with regard to exemption from liability of directors, accounting advisors, company auditors,



- executive officers or accounting auditors under the provisions of Article 426 (1), such provisions of the articles of incorporation;
- (xxiv) if there are provisions in the articles of incorporation with regard to the conclusion of contracts for the limitation of liabilities assumed by Outside Directors, accounting advisors, Outside Company Auditors or accounting auditors under the provisions of Article 427 (1), such provisions of the articles of incorporation;
- (xxv) if the provisions of the articles of incorporation set forth in the preceding item are related to Outside Directors, a statement to the effect that those among the directors who are Outside Directors are Outside Directors;
- (xxvi) if the provisions of the articles of incorporation set forth in item (xxiv) are related to Outside Company Auditors, a statement to the effect that those among the company auditors who are Outside Company Auditors are Outside Company Auditors;
- (xxvii) when taking measures under the provisions of paragraph (3) of Article 440, the matters prescribed by the applicable ordinance of the Ministry of Justice which are necessary for making the information contained in the balance sheet provided for in paragraph (1) of that Article available to the general public;
- (xxviii) if there are provisions in the articles of incorporation with regard to the Method of Public Notice under the provisions of Article 939 (1), such provisions of the articles of incorporation;
- (xxix) if the provisions of the articles of incorporation set forth in the preceding item provide that electronic public notice shall be the Method of Public Notice, the following matters:
- (a) the matters prescribed by the applicable ordinance of the Ministry of Justice which are necessary for making the information to be publicly notified through electronic public notice available to the general public; and
- (b) if there are provisions of the articles of incorporation under the provisions of the second sentence of Article 939 (3), such provisions of the articles of incorporation; and
- (xxx) if there are no provisions of the articles of incorporation set forth in item (xxviii), a statement to the effect that publication in an official gazette shall be the Method of Public Notice pursuant to the provisions of Article 939 (4).

(Registration of Incorporation of a General Partnership Company)

Article 912 The registration of incorporation of a General Partnership Company shall be completed by registering the following matters at the location of the head office:

- (i) the purpose;

- (ii) the trade name;
- (iii) the addresses of the head office and branch offices;
- (iv) if there are provisions in the articles of incorporation with regard to the duration or the grounds for dissolution of the General Partnership Company, such provisions;
- (v) the names and domiciles of the partners;
- (vi) the name of the partner representing the General Partnership Company (limited to cases where there is a partner(s) not representing the General Partnership Company);
- (vii) if the partner representing the General Partnership Company is a juridical person, the name and domicile of the person who is to perform the duties of such partner;
- (viii) if there are provisions in the articles of incorporation with regard to the Method of Public Notice under the provisions of Article 939 (1), such provisions of the articles of incorporation;
- (ix) if the provisions of the articles of incorporation set forth in the preceding item provide that electronic public notice shall be the Method of Public Notice, the following matters:
  - (a) the matters prescribed by the applicable ordinance of the Ministry of Justice which are necessary for making the information to be publicly notified through electronic public notice available to the general public; and
  - (b) if there are provisions of the articles of incorporation under the provisions of the second sentence of Article 939 (3), such provisions of the articles of incorporation; and
- (x) if there are no provisions of the articles of incorporation set forth in item (viii), a statement to the effect that publication in an official gazette shall be the Method of Public Notice pursuant to the provisions of Article 939 (4).

(Registration of Incorporation of a Limited Partnership Company)

Article 913 The registration of incorporation of a Limited Partnership Company shall be completed by registering the following matters at the location of the head office:

- (i) the purpose;
- (ii) the trade name;
- (iii) the addresses of the head office and branch offices;
- (iv) if there are provisions in the articles of incorporation with regard to the duration or the grounds for dissolution of the Limited Partnership Company, such provisions;
- (v) the names and domiciles of the partners;
- (vi) a statement as to whether the partners are limited partners or unlimited

- partners;
- (vii) the subjects of the contributions by limited partners, the value thereof and the value of the contributions already performed;
- (viii) the name of the partner representing the Limited Partnership Company (limited to cases where there is a partner(s) not representing the Limited Partnership Company);
- (ix) if the partner representing the Limited Partnership Company is a juridical person, the name and domicile of the person who is to perform the duties of such partner;
- (x) if there are provisions in the articles of incorporation with regard to the Method of Public Notice under the provisions of Article 939 (1), such provisions of the articles of incorporation;
- (xi) if the provisions of the articles of incorporation set forth in the preceding item provide that electronic public notice shall be the Method of Public Notice, the following matters:
  - (a) the matters prescribed by the applicable ordinance of the Ministry of Justice which are necessary for making the information to be publicly notified through electronic public notice available to the general public; and
  - (b) if there are provisions of the articles of incorporation under the provisions of the second sentence of Article 939 (3), such provisions of the articles of incorporation; and
- (xii) if there are no provisions of the articles of incorporation set forth in item (x), a statement to the effect that publication in an official gazette shall be the Method of Public Notice pursuant to the provisions of Article 939 (4).

(Registration of Incorporation of a Limited Liability Company)

Article 914 The registration of incorporation of a Limited Liability Company shall be completed by registering the following matters at the location of the head office:

- (i) the purpose;
- (ii) the trade name;
- (iii) the addresses of the head office and branch offices;
- (iv) if there are provisions in the articles of incorporation with regard to the duration or the grounds for dissolution of the Limited Liability Company, such provisions;
- (v) the amount of stated capital;
- (vi) the names of the partners who execute the business of the Limited Liability Company;
- (vii) the name and domicile of the partner representing the Limited Liability Company;

- (viii) if the partner representing the Limited Liability Company is a juridical person, the name and domicile of the person who is to perform the duties of such partner;
- (ix) if there are provisions in the articles of incorporation with regard to the Method of Public Notice under the provisions of Article 939 (1), such provisions of the articles of incorporation;
- (x) if the provisions of the articles of incorporation set forth in the preceding item provide that electronic public notice shall be the Method of Public Notice, the following matters:
  - (a) the matters prescribed by the applicable ordinance of the Ministry of Justice which are necessary for making the information to be publicly notified through electronic public notice available to the general public; and
  - (b) if there are provisions of the articles of incorporation under the provisions of the second sentence of Article 939 (3), such provisions of the articles of incorporation; and
- (xi) if there are no provisions of the articles of incorporation set forth in item (ix), a statement to the effect that publication in an official gazette shall be the Method of Public Notice pursuant to the provisions of Article 939 (4).

(Registration of a Change)

- Article 915 (1) When there is a change to the matters listed in the items of Article 911 (3) or in the items of the preceding three Articles with regard to a Company, the registration of the change shall be completed at the location of the head office within two weeks.
- (2) Notwithstanding the provisions of the preceding paragraph, in cases where the period set forth in Article 199 (1)(iv) has been prescribed, it shall be sufficient to complete the registration of a change resulting from a share issue within two weeks from the last day of such period.
- (3) Notwithstanding the provisions of paragraph (1), it shall be sufficient to complete the registration of a change based on any one of the following grounds within two weeks from the last day of each month:
- (i) exercise of Share Options; or
  - (ii) the demand under the provisions of Article 166 (1) (limited to cases where the matters listed in Article 107 (2)(ii)(c) or (d) or Article 108 (2)(v)(b) are provided for as the features of shares).

(Registration of Relocation of the Head Office to the Jurisdictional District of Another Registry)

- Article 916 When a Company relocates its head office to the jurisdictional district of another registry, the registration of relocation shall be completed at

the old location and the matters specified in the following items for the categories of Companies set forth respectively in those items shall be registered at the new location within two weeks:

- (i) Stock Company: the matters listed in the items of Article 911 (3);
- (ii) General Partnership Company: the matters listed in the items of Article 912;
- (iii) Limited Partnership Company: the matters listed in the items of Article 913; and
- (iv) Limited Liability Company: the matters listed in the items of Article 914.

(Registration of a Provisional Disposition, etc. Suspending Execution of Duties)

Article 917 When a provisional disposition order suspending execution of duties by any one of the persons specified in the following items for the categories of Companies set forth respectively in those items or appointing a person who will perform such duties on behalf of the former person is issued or a ruling changing or revoking such provisional disposition order is made, the registration thereof shall be completed at the location of the head office:

- (i) Stock Company: a director, accounting advisor, company auditor, Representative Director, committee member, executive officer or representative executive officer;
- (ii) General Partnership Company: a partner;
- (iii) Limited Partnership Company: a partner; or
- (iv) Limited Liability Company: a partner executing business.

(Registration of a Manager)

Article 918 When a Company appoints a manager or a manager's authority of representation becomes extinct, the registration thereof shall be completed at the location of the head office.

(Registration of a Change of Kind of a Membership Company)

Article 919 When a Membership Company becomes a Membership Company of another kind pursuant to the provisions of Article 638, the registration of dissolution shall be completed with regard to the Membership Company as it was prior to the change of kind and the registration of incorporation shall be completed with regard to the Membership Company as it will be after the change of kind, at the location of the head office, within two weeks from the day on which the change to the articles of incorporation prescribed in that Article became effective.

(Registration of an Entity Conversion)

Article 920 When a Company effects an Entity Conversion, the registration of

dissolution shall be completed with regard to the Company as it was prior to the Entity Conversion and the registration of incorporation shall be completed with regard to the Company as it will be after the Entity Conversion, at the location of the head office, within two weeks from the day on which the Entity Conversion became effective.

(Registration of an Absorption-type Merger)

Article 921 When a Company effects an Absorption-type Merger, the registration of dissolution shall be completed with regard to the Company absorbed through the Absorption-type Merger and the registration of a change shall be completed with regard to the Company surviving the Absorption-type Merger, at the location of the head office, within two weeks from the day on which the Absorption-type Merger became effective.

(Registration of a Consolidation-type Merger)

Article 922 (1) In cases where two or more Companies effect a Consolidation-type Merger, if the Company incorporated through the Consolidation-type Merger is a Stock Company, the registration of dissolution shall be completed with regard to the Companies consolidated through the Consolidation-type Merger and the registration of incorporation shall be completed with regard to the Company incorporated through the Consolidation-type Merger, at the location of the head office, within two weeks from the days specified in the following items for the categories of cases set forth respectively in those items:

- (i) in cases where the Companies consolidated through the Consolidation-type Merger are only Stock Companies: whichever of the following days that is the latest:
  - (a) the day of the resolution of the shareholders meeting set forth in Article 804 (1);
  - (b) if a resolution of a Class Meeting is required to effect the Consolidation-type Merger, the day of such resolution;
  - (c) the day on which twenty days have elapsed from the day of the notice under the provisions of paragraph (3) of Article 806 or the public notice set forth in paragraph (4) of that Article;
  - (d) if the Companies consolidated through the Consolidation-type Merger have issued Share Options, the day on which twenty days have elapsed from the day of the notice under the provisions of paragraph (3) of Article 808 or the public notice set forth in paragraph (4) of that Article;
  - (e) the day on which the procedures under the provisions of Article 810 have been completed; or
  - (f) the day decided on by an agreement between the Companies consolidated through the Consolidation-type Merger;

- (ii) in cases where the Companies consolidated through the Consolidation-type Merger are only Membership Companies: whichever of the following days that is the latest:
    - (a) the day on which the consent of all partners set forth in paragraph (1) of Article 813 has been obtained (or, in the cases prescribed in the proviso to that paragraph, the day on which the procedures provided for in the articles of incorporation have been completed);
    - (b) the day on which the procedures under the provisions of Article 810 as applied mutatis mutandis pursuant to Article 813 (2) have been completed; or
    - (c) the day decided on by an agreement between the Companies consolidated through the Consolidation-type Merger; and
  - (iii) in cases where the Companies consolidated through the Consolidation-type Merger include both a Stock Company(ies) and a Membership Company(ies): Whichever of the days specified in the preceding two items that is later.
- (2) In cases where two or more Companies effect a Consolidation-type Merger, if the Company incorporated through the Consolidation-type Merger is a Membership Company, the registration of dissolution shall be completed with regard to the Companies consolidated through the Consolidation-type Merger and the registration of incorporation shall be completed with regard to the Company incorporated through the Consolidation-type Merger, at the location of the head office, within two weeks from the days specified in the following items for the categories of cases set forth respectively in those items:
- (i) in cases where the Companies consolidated through the Consolidation-type Merger are only Stock Companies: whichever of the following days that is the latest:
    - (a) the day on which the consent of all partners set forth in Article 804 (2) has been obtained;
    - (b) if the Companies consolidated through the Consolidation-type Merger have issued Share Options, the day on which twenty days have elapsed from the day of the notice under the provisions of paragraph (3) of Article 808 or the public notice set forth in paragraph (4) of that Article;
    - (c) the day on which the procedures under the provisions of Article 810 have been completed; or
    - (d) the day decided on by an agreement between the Companies consolidated through the Consolidation-type Merger;
  - (ii) in cases where the Companies consolidated through the Consolidation-type Merger are only Membership Companies: whichever of the following days that is the latest:
    - (a) the day on which the consent of all partners set forth in paragraph (1) of Article 813 has been obtained (or, in the cases prescribed in the proviso to

- that paragraph, the day on which the procedures provided for in the articles of incorporation have been completed);
- (b) the day on which the procedures under the provisions of Article 810 as applied mutatis mutandis pursuant to Article 813 (2) have been completed; or
- (c) the day decided on by an agreement between the Companies consolidated through the Consolidation-type Merger; and
- (iii) in cases where the Companies consolidated through the Consolidation-type Merger include both a Stock Company(ies) and a Membership Company(ies): Whichever of the days specified in the preceding two items that is later.

(Registration of an Absorption-type Company Split)

Article 923 When a Company effects an Absorption-type Company Split, the registration of a change shall be completed with regard to the Company effecting the Absorption-type Company Split and the Company succeeding to all or part of the rights and obligations held by such Company in connection with its business by transfer from such Company, at the location of the head office, within two weeks from the day on which the Absorption-type Company Split became effective.

(Registration of an Incorporation-type Company Split)

Article 924 (1) In cases where a Stock Company(ies) and/or a Limited Liability Company(ies) effect an Incorporation-type Company Split, if the Company incorporated through the Incorporation-type Company Split is a Stock Company, the registration of a change shall be completed with regard to the Company(ies) effecting the Incorporation-type Company Split and the registration of incorporation shall be completed with regard to the Company incorporated through the Incorporation-type Company Split, at the location of the head office, within two weeks from the days specified in the following items for the categories of cases set forth respectively in those items:

- (i) in cases where the Company(ies) effecting the Incorporation-type Company Split is only a Stock Company(ies), whichever of the following days that is the latest:
  - (a) in cases other than those prescribed in Article 805, the day of the resolution of the shareholders meeting set forth in Article 804 (1);
  - (b) if a resolution of a Class Meeting is required to effect the Incorporation-type Company Split, the day of such resolution;
  - (c) in cases other than those prescribed in Article 805, the day on which twenty days have elapsed from the day of the notice under the provisions of paragraph (3) of Article 806 or the public notice set forth in paragraph (4) of that Article;



- (d) if there are holders of Share Options who are to receive the notice under the provisions of paragraph (3) of Article 808, the day on which twenty days have elapsed from the day of the notice under the provisions of that paragraph or the public notice set forth in paragraph (4) of that Article;
  - (e) if the procedures under the provisions of Article 810 need to be carried out, the day on which such procedures are completed; or
  - (f) the day decided on by the Stock Company effecting the Incorporation-type Company Split (or, in cases where two or more Stock Companies jointly effect the Incorporation-type Company Split, the day decided on by an agreement between such two or more Stock Companies effecting the Incorporation-type Company Split);
- (ii) in cases where the Company(ies) effecting the Incorporation-type Company Split is only a Limited Liability Company(ies), whichever of the following days that is the latest:
- (a) the day on which the consent of all partners set forth in paragraph (1) of Article 813 has been obtained (or, in the cases prescribed in the proviso to that paragraph, the day on which the procedures provided for in the articles of incorporation have been completed);
  - (b) if the procedures under the provisions of Article 810 as applied mutatis mutandis pursuant to Article 813 (2) need to be carried out, the day on which such procedures were completed; or
  - (c) the day decided on by the Limited Liability Company effecting the Incorporation-type Company Split (or, in cases where two or more Limited Liability Companies jointly effect the Incorporation-type Company Split, the day decided on by an agreement between such two or more Limited Liability Companies effecting the Incorporation-type Company Split); and
- (iii) in cases where the Company(ies) effecting the Incorporation-type Company Split include both a Stock Company(ies) and a Limited Liability Company(ies), Whichever of the days specified in the preceding two items that is later.
- (2) In cases where a Stock Company(ies) and/or a Limited Liability Company(ies) effect an Incorporation-type Company Split, if the Company incorporated through the Incorporation-type Company Split is a Membership Company, the registration of a change shall be completed with regard to the Company(ies) effecting the Incorporation-type Company Split and the registration of incorporation shall be completed with regard to the Company incorporated through the Incorporation-type Company Split, at the location of the head office, within two weeks from the days specified in the following items for the categories of cases set forth respectively in those items:
- (i) in cases where the Company(ies) effecting the Incorporation-type Company Split is only a Stock Company(ies), whichever of the following days that is

the latest:

- (a) in cases other than those prescribed in Article 805, the day of the resolution of the shareholders meeting set forth in Article 804 (1);
- (b) if a resolution of a Class Meeting is required to effect the Incorporation-type Company Split, the day of such resolution;
- (c) in cases other than those prescribed in Article 805, the day on which twenty days have elapsed from the day of the notice under the provisions of paragraph (3) of Article 806 or the public notice set forth in paragraph (4) of that Article;
- (d) if the procedures under the provisions of Article 810 need to be carried out, the day on which such procedures were completed; or
- (e) the day decided on by the Stock Company effecting the Incorporation-type Company Split (or, in cases where two or more Stock Companies jointly effect the Incorporation-type Company Split, the day decided on by an agreement between such two or more Stock Companies effecting the Incorporation-type Company Split);
- (ii) in cases where the Company(ies) effecting the Incorporation-type Company Split is only a Limited Liability Company(ies), whichever of the following days that is the latest:
  - (a) the day on which the consent of all partners set forth in paragraph (1) of Article 813 has been obtained (or, in the cases prescribed in the proviso to that paragraph, the day on which the procedures provided for in the articles of incorporation have been completed);
  - (b) if the procedures under the provisions of Article 810 as applied mutatis mutandis pursuant to Article 813 (2) need to be carried out, the day on which such procedures were completed; or
  - (c) the day decided on by the Limited Liability Company effecting the Incorporation-type Company Split (or, in cases where two or more Limited Liability Companies jointly effect the Incorporation-type Company Split, the day decided on by an agreement between such two or more Limited Liability Companies effecting the Incorporation-type Company Split); and
- (iii) in cases where the Company(ies) effecting the Incorporation-type Company Split include both a Stock Company(ies) and a Limited Liability Company(ies), whichever of the days specified in the preceding two items that is later.

(Registration of a Share Transfer)

Article 925 In cases where a Stock Company(ies) effects a Share Transfer, the registration of incorporation shall be completed with regard to the Stock Company incorporated through the Share Transfer, at the location of the head office, within two weeks from whichever of the following days that is the latest:

- (i) the day of the resolution of the shareholders meeting set forth in Article 804 (1);
- (ii) if a resolution of a Class Meeting is required to effect the Share Transfer, the day of such resolution;
- (iii) the day on which twenty days have elapsed from the day of the notice under the provisions of paragraph (3) of Article 806 or the public notice set forth in paragraph (4) of that Article;
- (iv) if there are holders of Share Options who are to receive the notice under the provisions of paragraph (3) of Article 808, the day on which twenty days have elapsed from the day of the notice under the provisions of that paragraph or the public notice set forth in paragraph (4) of that Article;
- (v) if the procedures under the provisions of Article 810 need to be carried out, the day on which such procedures were completed; or
- (vi) the day decided on by the Stock Company effecting the Share Transfer (or, in cases where two or more Stock Companies jointly effect the Share Transfer, the day decided on by an agreement between such two or more Stock Companies effecting the Share Transfer).

(Registration of Dissolution)

Article 926 When a Company is dissolved pursuant to the provisions of Article 471 (i) to (iii) or Article 641 (i) to (iv), the registration of dissolution shall be completed at the location of the head office within two weeks.

(Registration of Continuation)

Article 927 When a Company continues in existence pursuant to the provisions of Article 473, Article 642 (1) or Article 845, the registration of continuation shall be completed at the location of the head office within two weeks.

(Registration of a Liquidator)

Article 928 (1) When the person set forth in Article 478 (1)(i) becomes a liquidator of a Liquidating Stock Company, the following matters shall be registered at the location of the head office within two weeks from the day of dissolution:

- (i) the name of the liquidator;
- (ii) the name and domicile of the representative liquidator; and
- (iii) if the Liquidating Stock Company is a Company with a Board of Liquidators, a statement to that effect.

(2) When the person set forth in Article 647 (1)(i) becomes a liquidator of a Liquidating Membership Company, the following matters shall be registered at the location of the head office within two weeks from the day of dissolution:

- (i) the name of the liquidator;

- (ii) the name of the liquidator representing the Liquidating Membership Company (limited to cases where there is a liquidator(s) not representing the Liquidating Membership Company); and
  - (iii) if the liquidator representing the Liquidating Membership Company is a juridical person, the name and domicile of the person who is to perform the duties of the liquidator.
- (3) When a liquidator is appointed, the matters listed in the items of paragraph (1) shall be registered in the case of a Liquidating Stock Company and the matters listed in the items of the preceding paragraph shall be registered in the case of a Liquidating Membership Company, at the location of the head office, within two weeks.
- (4) The provisions of Article 915 (1) shall apply mutatis mutandis to the registration under the provisions of the preceding three paragraphs, and the provisions of Article 917 shall apply mutatis mutandis to a liquidator, representative liquidator or liquidator representing a Liquidating Membership Company.

(Registration of Completion of Liquidation)

Article 929 When liquidation is completed, the registration of the completion of liquidation shall be completed at the location of the head office within two weeks from the days specified in the following items for the categories of Companies set forth respectively in those items:

- (i) Liquidating Stock Company: the day of the approval set forth in Article 507 (3);
- (ii) Liquidating Membership Company (limited to a General Partnership Company or a Limited Partnership Company): the day of the approval set forth in Article 667 (1) (or, in cases where the method of disposition of property set forth in Article 668 (1) has been prescribed, the day on which such disposition of property has been completed); and
- (iii) Liquidating Membership Company (limited to a Limited Liability Company): the day of the approval set forth in Article 667 (1).

**Subsection 2 Registration at the Location of a Branch Office**

(Registration at the Location of a Branch Office)

Article 930 (1) In the cases listed in the following items (excluding cases where the branch offices prescribed in those items are within the jurisdictional district of the registry having jurisdiction over the location of the head office), the registration at the location of a branch office shall be completed at the location of the relevant branch office within the periods specified respectively in those items:

- (i) in cases where a branch office is established at the time of the incorporation of a Company (excluding the cases prescribed in the following item to item (iv)), within two weeks from the day the registration of incorporation was completed at the location of the head office;
  - (ii) in cases where a branch office is established by the Company Incorporated through Consolidation-type Merger at the time of the Consolidation-type Merger, within three weeks from the days specified in the items of Article 922 (1) or in the items of Article 922 (2);
  - (iii) in cases where a branch office is established by the Company Incorporated through Incorporation-type Company Split at the time of the Incorporation-type Company Split, within three weeks from the days specified in the items of Article 924 (1) or in the items of Article 924 (2);
  - (iv) in cases where a branch office is established by the Stock Company Incorporated through Share Transfer at the time of the Share Transfer, within three weeks from whichever of the days listed in the items of Article 925 that is the latest; and
  - (v) in cases where a branch office is established after the formation of a Company, within three weeks from the day of establishment of the branch office.
- (2) The following matters shall be registered upon the registration at the location of a branch office; provided, however, that it shall be sufficient to register the matter set forth in item (iii) when a branch office is established within the jurisdictional district of the registry having jurisdiction over the location of an existing branch office:
- (i) the trade name;
  - (ii) the address of the head office; and
  - (iii) the address(es) of the branch office(s) (limited to those within the jurisdictional district of the registry having jurisdiction over the location of the relevant branch office).
- (3) When there is a change to the matters listed in the items of the preceding paragraph, the registration of the change shall be completed at the location of the relevant branch office within three weeks.

(Registration of Relocation of a Branch Office to the Jurisdictional District of Another Registry)

Article 931 When a Company relocates a branch office to the jurisdictional district of another registry, the registration of relocation shall be completed at the old location (excluding cases where the old location is within the jurisdictional district of the registry having jurisdiction over the location of the head office) within three weeks, and the matters specified in the items of paragraph (2) of the preceding Article shall be registered at the new location

(excluding cases where the new location is within the jurisdictional district of the registry having jurisdiction over the location of the head office; hereinafter the same shall apply in this Article) within four weeks; provided, however, that it shall be sufficient to register the matter set forth in item (iii) of that paragraph at the new location when a branch office is relocated to the jurisdictional district of the registry having jurisdiction over the location of an existing branch office.

(Registration of a Change, etc. with Regard to a Branch Office)

Article 932 In the cases prescribed in Articles 919 to 925 and Article 929, the registration prescribed in these provisions shall be completed also at the location(s) of the branch office(s) within three weeks from the days prescribed in these provisions; provided, however, that the registration of a change prescribed in Article 921, Article 923 or Article 924 shall be completed only in cases where there is a change to the matters listed in the items of Article 930 (2).

### **Section 3 Registration of a Foreign Company**

(Registration of a Foreign Company)

Article 933 (1) When a Foreign Company specifies its representative(s) in Japan for the first time pursuant to the provisions of Article 817 (1), registration of the Foreign Company shall be completed at the locations specified in the following items for the categories of cases set forth respectively in those items, within three weeks:

(i) in cases where no business office is established in Japan, the location(s) of the domicile(s) of its representative(s) in Japan (limited to those whose domicile is in Japan); or

(ii) in cases where a business office is established in Japan, the location of such business office.

(2) Upon the registration of a Foreign Company, the matters listed in the items of Article 911 (3) or in the items of Articles 912 to 914 shall be registered and also the following matters shall be registered, in accordance with the same kind of Company or the most similar kind of Company in Japan:

(i) the law governing the incorporation of the Foreign Company;

(ii) the name(s) and domicile(s) of its representative(s) in Japan;

(iii) if the same kind of Company or the most similar Company in Japan is a Stock Company, the method of giving public notice under the provisions of the governing law prescribed in item (i);

(iv) in the cases prescribed in the preceding item, if the Foreign Company intends to take the measure prescribed in Article 819 (3), the matters

- prescribed by the applicable ordinance of the Ministry of Justice which are necessary for making the information contained in what is equivalent to the balance sheet provided for in paragraph (1) of that Article available to the general public;
- (v) if there are provisions with regard to the Method of Public Notice under the provisions of Article 939 (2), such provisions;
  - (vi) if the provisions set forth in the preceding item provide that electronic public notice shall be the Method of Public Notice, the following matters:
    - (a) the matters prescribed by the applicable ordinance of the Ministry of Justice which are necessary for making the information to be publicly notified through electronic public notice available to the general public; and
    - (b) if there are provisions under the provisions of the second sentence of Article 939 (3), such provisions; and
  - (vii) if there are no provisions set forth in item (v), a statement to the effect that publication in an official gazette shall be the Method of Public Notice pursuant to the provisions of Article 939 (4).
- (3) With regard to application of the provisions of the preceding paragraph concerning a business office established in Japan by a Foreign Company, such business office shall be deemed to be the branch office prescribed in Article 911 (3)(iii), Article 912 (iii), Article 913 (iii) or Article 914 (iii).
- (4) The provisions of Article 915 and Articles 918 to 929 shall apply mutatis mutandis to Foreign Companies. In such cases, the term "two weeks" in these provisions shall be deemed to be replaced with "three weeks" and the term "location of the head office" in those provisions shall be deemed to be replaced with "location(s) of the domicile(s) of its representative(s) in Japan (limited to those whose domicile is in Japan) (or, for a Foreign Company that has established a business office in Japan, the location of such business office)."
- (5) When a matter that should be registered pursuant to the provisions of the preceding paragraphs arises in a foreign country, the period for registration shall be counted from the day on which the notice thereof reached a representative in Japan.

(Registration, etc. of Appointment of a Representative in Japan)

Article 934 (1) In cases where a Foreign Company that has not established a business office in Japan specifies a new representative in Japan after registration of the Foreign Company (excluding cases where the location of the domicile of the relevant representative is within the jurisdictional district of the registry having jurisdiction over the location of the domicile of another representative in Japan), the registration of the Foreign Company shall also be completed at the location of the domicile of such newly specified representative

in Japan, within three weeks.

- (2) In cases where a Foreign Company that has established a business office(s) in Japan establishes a new business office in Japan after registration of the Foreign Company (excluding cases where the location of the relevant business office is within the jurisdictional district of the registry having jurisdiction over the location of another registered business office), the registration of the Foreign Company shall also be completed at the location of such newly established business office in Japan, within three weeks.

(Registration, etc. of the Relocation of the Domicile of a Representative in Japan)

Article 935 (1) When a representative in Japan of a Foreign Company that has not established a business office in Japan relocates such representative's domicile to the jurisdictional district of another registry after registration of the Foreign Company, the registration of relocation shall be completed at the location of the old domicile within three weeks and the registration of the Foreign Company shall be completed at the location of the new domicile within four weeks; provided, however, that it shall be sufficient to have the relocation of the domicile registered at the location of the new domicile when such representative relocates such representative's domicile to the jurisdictional district of the registry having jurisdiction over the location of the domicile of another registered representative in Japan.

- (2) When a Foreign Company that has established a business office in Japan relocates its business office to the jurisdictional district of another registry after registration of the Foreign Company, the registration of relocation shall be completed at the old location within three weeks and the registration of the Foreign Company shall be completed at the new location within four weeks; provided, however, that it shall be sufficient to have the relocation of the business office registered at the new location when it relocates a business office to the jurisdictional district of the registry having jurisdiction over the location of the domicile of another registered business office.

(Registration, etc. of Establishment of a Business Office in Japan)

Article 936 (1) When a Foreign Company that has not established a business office in Japan establishes a business office in Japan after registration of the Foreign Company, the registration of the establishment of the business office shall be completed at the location(s) of the domicile(s) of its representative(s) in Japan within three weeks and the registration of the Foreign Company shall be completed at the location of the business office within four weeks; provided, however, that it shall be sufficient to have the establishment of the business office registered when it establishes a business office to the jurisdictional



district of the registry having jurisdiction over the location of the domicile of a registered representative in Japan.

- (2) When a Foreign Company that has established a business office in Japan closes all of its business offices in Japan after registration of the Foreign Company, the registration of the closure of the business office shall be complete at the location(s) of its business office(s) within three weeks and the registration of the Foreign Company shall be completed at the location(s) of the domicile(s) of its representative(s) in Japan within four weeks, except in cases where all of its representatives in Japan of such Foreign Company intend to resign; provided, however, that it shall be sufficient to have the closure of all business offices registered when the location(s) of the domicile(s) of its representative(s) in Japan is within the jurisdictional district of the registry having jurisdiction over the location of the registered business office(s).

#### **Section 4 Commissioning of Registration**

(Commissioning of Registration by a Judicial Decision)

Article 937 (1) In the following cases, a court clerk shall commission the registration, ex officio, to the registry having jurisdiction over the location of the head office (or, in the cases prescribed in item (i)(g), if the matters listed in the items of Article 930 (2) have been registered as a result of such resolution, the head office and the branch office(s) pertaining to such registration) of the Company without delay:

- (i) when a judgment upholding a claim relating to any one of the following actions becomes final and binding:
  - (a) an action seeking invalidation of the incorporation of a Company;
  - (b) an action seeking invalidation of a share issue after the formation of a Stock Company;
  - (c) an action seeking invalidation of an issue of Share Options (in cases where such Share Options are those attached to Bonds with Share Options, they shall include the Bonds pertaining to such Bonds with Share Options; hereinafter the same shall apply in this Section);
  - (d) an action seeking invalidation of a reduction in the amount of stated capital of a Stock Company;
  - (e) an action for a declaratory judgment of absence of a share issue after the formation of a Stock Company;
  - (f) an action for a declaratory judgment of absence of a Share Option issue;
  - (g) the following actions in cases where matters resolved at a Shareholders Meeting, etc. have been registered:
    - 1. an action for a declaratory judgment of absence of a resolution of a Shareholders Meeting, etc. or invalidation of a resolution of a

- Shareholders Meeting, etc. on the basis that the contents of such resolution violate laws and regulations; or
2. an action seeking revocation of a resolution of a Shareholders Meeting, etc.;
- (h) an action seeking rescission of the incorporation of a Membership Company;
- (i) an action seeking dissolution of a Company;
- (j) an action Seeking Dismissal of an Officer of a Stock Company;
- (k) an Action Seeking Removal of Partner of Membership Company; or
- (l) an Action Seeking Extinguishment of Right to Execute Business or Authority of Representation of Partner Executing Business of Membership Company;
- (ii) when any one of the following judicial decisions is made:
- (a) a judicial decision on the appointment of a person who is temporarily to perform the duties of a director, accounting advisor, company auditor, Representative Director, committee member, executive officer or representative executive officer under the provisions of Article 346 (2), Article 351 (2) or Article 401 (3) (including the cases where it is applied mutatis mutandis pursuant to Article 403 (3) and Article 420 (3));
- (b) a judicial decision on the appointment of a person who is temporarily to perform the duties of a liquidator or representative liquidator under the provisions of Article 351 (2) as applied mutatis mutandis pursuant to Article 346 (2) or Article 483 (6) as applied mutatis mutandis pursuant to Article 479 (4) (excluding the judicial decision prescribed in paragraph (2)(i) of the following Article);
- (c) a judicial decision revoking the judicial decision set forth in (a) or (b) (excluding the judicial decision prescribed in paragraph (2)(ii) of the following Article);
- (d) a judicial decision revoking a judicial decision on the appointment or selection of a liquidator, a representative liquidator or a liquidator who represents a Liquidating Membership Company (excluding the judicial decision prescribed in paragraph (2)(iii) of the following Article); or
- (e) a judicial decision on the dismissal of a liquidator (excluding the judicial decision prescribed in paragraph (2)(iv) of the following Article); and
- (iii) when any one of the following judicial decisions becomes final and binding:
- (a) a judicial decision revoking the judicial decision set forth in (e) of the preceding item; or
- (b) a judicial decision ordering the dissolution of a Company under the provisions of Article 824 (1).
- (2) When a judicial decision ordering the prohibition of a Foreign Company's continuous transactions in Japan or closure of its business office in Japan

under the provisions of Article 827 (1) becomes final and binding, a court clerk shall commission the registration, ex officio, to the registry having jurisdiction over the locations specified in the following items for the categories of Foreign Companies set forth respectively in those items without delay:

- (i) Foreign Company that has not established a business office in Japan: The location(s) of the domicile(s) of its representative(s) in Japan (limited to those whose domicile is in Japan); and
- (ii) Foreign Company that has established a business office(s) in Japan: The location(s) of such business office(s).

(3) In cases where a judgment upholding a claim relating to the actions listed in the following items becomes final and binding, a court clerk shall commission the registrations specified respectively in those items, ex officio, to the registry having jurisdiction over the location of the head office of each Company without delay:

- (i) an action seeking invalidation of an Entity Conversion of a Company: registration of dissolution with regard to the Company after the Entity Conversion and registration of restoration with regard to the Company effecting the Entity Conversion;
- (ii) an action seeking invalidation of an Absorption-type Merger of a Company: registration of a change with regard to the Company Surviving Absorption-type Merger and registration of restoration with regard to the Company absorbed by the Absorption-type Merger;
- (iii) an action seeking invalidation of a Consolidation-type Merger of a Company: registration of dissolution with regard to the Company incorporated through the Consolidation-type Merger and registration of restoration with regard to the Companies consolidated through the Consolidation-type Merger;
- (iv) an action seeking invalidation of an Absorption-type Company Split of a Company: registration of a change with regard to the Company effecting the Absorption-type Company Split and the Company succeeding to all or part of the rights and obligations held by such Company in connection with its business by transfer from such Company;
- (v) an action seeking invalidation of an Incorporation-type Company Split: registration of a change with regard to the Company(ies) effecting the Incorporation-type Company Split and registration of dissolution with regard to the Company incorporated through the Incorporation-type Company Split;
- (vi) an action seeking invalidation of a Share Exchange of a Stock Company: registration of a change with regard to the Stock Company effecting the Share Transfer (limited to cases where there are provisions on the matters set forth in Article 768 (1)(iv)) and the Company acquiring all of the Issued Shares of the Stock Company effecting the Share Transfer; and

- (vii) an action seeking invalidation of a Share Exchange of a Stock Company(ies): registration of a change with regard to the Company(ies) effecting the Share Transfer (limited to cases where there are provisions on the matters set forth in Article 773 (1)(ix)) and registration of dissolution with regard to the Stock Company incorporated through the Share Transfer.
- (4) In the cases prescribed in the preceding paragraph, if the matters listed in the items of paragraph (2) of Article 930 have been registered as a result of the Entity Conversion, merger or company split that is the subject of the claim relating to any one of the actions listed in the items of that paragraph, the court clerk shall, in addition, commission the registrations specified in the items of the preceding paragraph to the registry(ies) having jurisdiction over the location(s) of the branch office(s) of each Company.

(Commissioning of Registration by a Juridical Decision Concerning Special Liquidation)

Article 938 (1) In the cases listed in the following items, a court clerk shall commission the registrations specified respectively in those items, ex officio, to the registry having jurisdiction over the location of the head office (or, in the cases set forth in item (iii), if a ruling to conclude special liquidation is made due to completion of special liquidation, the head office and branch office(s)) of the Liquidating Stock Company without delay:

- (i) when an order to commence special liquidation is issued, registration of commencement of special liquidation;
  - (ii) when a ruling to revoke an order to commence special liquidation becomes final and binding, registration of revocation of commencement of special liquidation; and
  - (iii) when a ruling to conclude special liquidation becomes final and binding, registration of conclusion of special liquidation.
- (2) In the following cases, a court clerk shall commission the registration, ex officio, to the registry having jurisdiction over the location of the head office of the Liquidating Stock Company without delay:
- (i) when the court makes a judicial decision on the appointment of a person who is temporarily to perform the duties of a liquidator or representative liquidator under the provisions of Article 351 (2) as applied mutatis mutandis pursuant to Article 346 (2) or Article 483 (6) as applied mutatis mutandis pursuant to Article 479 (4) after the commencement of special liquidation;
  - (ii) when the court makes a judicial decision revoking the judicial decision set forth in the preceding item;
  - (iii) when the court makes a judicial decision revoking a judicial decision on the appointment or selection of a liquidator or representative liquidator after the

- commencement of special liquidation;
- (iv) when the court makes a judicial decision on the dismissal of a liquidator after the commencement of special liquidation; and
- (v) when a judicial decision revoking the judicial decision set forth in the preceding item becomes final and binding.
- (3) In the following cases, a court clerk shall commission the registration of such temporary restraining order, ex officio, without delay:
- (i) when the court issues a temporary restraining order under the provisions of Article 540 (1) or (2) concerning a right which is categorized as the property of the Liquidating Stock Company and which is registered; and
- (ii) when the court issues a temporary restraining order under the provisions of Article 542 (1) or (2) concerning a registered right.
- (4) The provisions of the preceding paragraph shall apply mutatis mutandis to cases where the temporary restraining order prescribed in that paragraph is changed or revoked or in cases where such temporary restraining order becomes ineffective.
- (5) The provisions of the preceding two paragraphs shall apply mutatis mutandis to registered rights.
- (6) The provisions of the preceding paragraphs shall apply mutatis mutandis to the liquidation of a Foreign Company's property in Japan under the provisions of Article 822 (1), excluding those that are not applicable by their nature.

## **Chapter V Public Notice**

### **Section 1 General Provisions**

(Method of Public Notice of a Company)

Article 939 (1) A Company may prescribe any one of the following methods as the Method of Public Notice in its articles of incorporation:

- (i) publication in an official gazette;
- (ii) publication in a daily newspaper that publishes matters on current affairs;
- or
- (iii) electronic public notice.

(2) A Foreign Company may prescribe any one of the methods listed in the items of the preceding paragraph as the Method of Public Notice.

(3) In cases where a Company or a Foreign Company prescribes to the effect that the method set forth in item (iii) of paragraph (1) shall be the Method of Public Notice, it shall be sufficient to prescribe to the effect that electronic public notice shall be the Method of Public Notice. In such cases, the method set forth in item (i) or item (ii) of that paragraph may be prescribed as the Method of Public Notice for cases where it is unable to give public notice by way of electronic public notice due to an accident or other unavoidable circumstances.

- (4) The Method of Public Notice of a Company or a Foreign Company that does not have the provisions under the provisions of paragraph (1) or paragraph (2) shall be the method set forth in paragraph (1)(i).

(Public Notice Period, etc. of Electronic Public Notice)

Article 940 (1) In cases where a Stock Company or a Membership Company gives public notice under the provisions of this Act by way of electronic public notice, it shall give public notice by way of electronic public notice continuously until the days specified in the following items for the categories of public notice set forth respectively in those items:

- (i) public notice in cases where the public notice shall be given a certain period prior to a specified date pursuant to the provisions of this Act: such specified date;
- (ii) public notice under the provisions of Article 440 (1): the day on which five years have elapsed from the day of the conclusion of the annual shareholders meeting set forth in that paragraph;
- (iii) public notice to the effect that objections may be stated within the period specified in the public notice: the day on which such period has elapsed; and
- (iv) public notice other than that set forth in the preceding three items: the day on which one month has elapsed from the start of such public notice.

(2) In cases where a Foreign Company gives public notice under the provisions of Article 819 (1) by way of electronic public notice, it shall give public notice by way of electronic public notice continuously until the day on which five years have elapsed from the day of the conclusion of the procedure set forth in that paragraph.

(3) Notwithstanding the provisions of the preceding two paragraphs, in cases where an Interruption of Public Notice (meaning that the information, which was made available to the general public, is no longer made available or that such information has been altered after being made available to the general public; hereinafter the same shall apply in this paragraph) occurs during the period in which public notice was to be given by way of electronic public notice pursuant to these provisions (hereinafter referred to as the "Public Notice Period" in this Chapter), if all of the following conditions are met, such Interruption of Public Notice shall not affect the effects of such public notice:

- (i) the Company is without knowledge and is not grossly negligent or the Company has justifiable grounds with regard to the occurrence of the Interruption of Public Notice;
- (ii) the total time during which the Interruption of Public Notice has occurred does not exceed one-tenth of the Public Notice Period; and
- (iii) promptly after learning about the occurrence of the Interruption of Public Notice, the Company has given public notice of such fact, the time when the

Interruption of Public Notice occurred and the details of the Interruption of Public Notice by appending such information to the relevant public notice.

## **Section 2 Electronic Public Notice Investigation Body**

(Electronic Public Notice Investigation)

Article 941 A Company that intends to give public notice under the provisions of this Act or another Act (excluding the public notice under the provisions of Article 440 (1); hereinafter the same shall apply in this Section) by way of electronic public notice shall request a person who has been registered by the Minister of Justice (hereinafter referred to as an "Investigation Body" in this Section) to carry out an investigation as to whether the information contained in such public notice is being made available to the general public during the Public Notice Period, pursuant to the provisions of the applicable Ordinance of the Ministry of Justice.

(Registration)

Article 942 (1) The registration set forth in the preceding Article (hereinafter simply referred to as the "Registration" in this Section) shall be made through an application by a person who intends to conduct the investigation under the provisions of that Article (hereinafter referred to as the "Electronic Public Notice Investigation" in this Section).

(2) A person who intends to obtain the Registration shall pay a fee to the amount specified by the applicable Cabinet Order by giving consideration to the actual cost.

(Grounds for Disqualification)

Article 943 A person who falls under any one of the following categories of persons may not obtain the Registration:

(i) a person who has been sentenced to a fine or a severer punishment for the violation of the provisions of this Section or the provisions of Article 955 (1) as applied mutatis mutandis pursuant to Article 92 (5) of the Agricultural Cooperatives Act (Act No. 132 of 1947), Article 34-20 (6) of the Certified Public Accountants Act, Article 121 (5) of the Fisheries Cooperatives Act (Act No. 242 of 1948), Article 33 (7) of the Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949) (including the cases where it is applied mutatis mutandis pursuant to Article 20 of the Export Fisheries Promotion Act (Act No. 154 of 1954) and Article 5-23 (3) and Article 47 (2) of the Act on Organizations of Small and Medium Sized Enterprises (Act No. 185 of 1957)), Article 30-28 (6) of the Attorneys Act (Act No. 205 of 1949) (including the cases where it is applied mutatis mutandis pursuant to Article

43 (3) of that Act), Article 55 (3) of the Ship Owners' Mutual Insurance Union Act (Act No. 177 of 1950), Article 45-2 (6) of the Judicial Scrivener Act (Act No. 197 of 1950), Article 40-2 (6) of the Land and House Investigator Act (Act No. 228 of 1950), Article 11 (9) of the Commodity Exchange Act (Act No. 239 of 1950), Article 13-20-2 (6) of the Administrative Scrivener Act (Act No. 4 of 1951), Article 48-2 (3) of the Act on Securities Investment Trust and Securities Investment Corporations (Act No. 198 of 1951) (including the cases where it is applied mutatis mutandis pursuant to Article 49-13 (2) and (3) and Article 59 of that Act) and Article 186-2 (4) of that Act, Article 48-19-2 (6) of the Certified Public Tax Accountant Act (including the cases where it is applied mutatis mutandis pursuant to Article 49-12 (3) of that Act), Article 87-4 (4) of the Shinkin Bank Act (Act No. 238 of 1951), Article 15 (6) of the Export and Import Transaction Act (Act No. 299 of 1952) (including the cases where it is applied mutatis mutandis pursuant to Article 19-6 of that Act), Article 55 (5) of the Loan Security Act for Small and Medium Sized Fishery Industry (Act No. 346 of 1952), Article 91-4 (4) of the Labor Bank Act (Act No. 227 of 1953), Article 9 (7) of the Act on Research and Development Partnership concerning Mining and Manufacturing Technology (Act No. 81 of 1961), Article 48-3 (5) of the Agricultural Credit Guarantee Insurance Act (Act No. 204 of 1961) (including the cases where it is applied mutatis mutandis pursuant to Article 48-9 (7) of that Act), Article 25-23-2 (6) of the Act on Public Consultants on Social and Labor Insurance (Act No. 89 of 1968), Article 23 (6) of the Act on Foreign Securities Brokers (Act No. 5 of 1971), Article 8-2 (5) of the Forestry Partnership Act (Act No. 36 of 1978), Article 49-2 (2) of the Banking Act, Article 84 (7) of the Financial Instruments and Exchange Act (Act No. 77 of 1988), Article 67-2 and Article 217 (3) of the Insurance Business Act (Act No. 105 of 1995), Article 194 (4) and Article 288 (3) of the Act on Securitization of Assets (Act No. 105 of 1998), Article 53-2 (6) of the Patent Attorney Act (Act No. 49 of 2000), Article 96-2 (4) of the Norinchukin Bank Act (Act No. 93 of 2001) and Article 57 (6) of the Trust Business Act (hereinafter collectively referred to as the "Electronic Public Notice Related Provisions" in this Section) or the violation of an order based on the provisions this Section and where two years have yet to elapse from the day on which the execution of the sentence has been completed or the sentence has become no longer applicable;

(ii) a person whose Registration has been rescinded pursuant to the provisions of Article 954 and where two years have yet to elapse from the day of such rescission; or

(iii) a juridical person where the Directors, etc. engaged in the business thereof (meaning directors, executive officers, partners executing business, inspectors, company auditors or persons equivalent thereto; the same shall



apply in Article 947) include a person who falls under any one of the preceding two items.

(Registration Standards)

Article 944 (1) When a person who has filed an application for a Registration pursuant to the provisions of Article 942 (1) satisfies all of the following requirements, the Minister of Justice shall complete the Registration of such person. In such cases, the necessary procedures concerning a Registration shall be prescribed by the applicable Ordinance of the Ministry of Justice:

- (i) the person shall carry out the Electronic Public Notice Investigation by using the computers (including input-output devices; hereinafter the same shall apply in this item) and Programs (meaning instructions given to a computer, combined so as to obtain a certain result; hereinafter the same shall apply in this item) necessary for the Electronic Public Notice Investigation, which satisfy all of the following requirements:
  - (a) such computers and Programs shall allow users to inspect, through the Internet, the information that is publicly notified by way of electronic public notice;
  - (b) necessary measures shall be taken for preventing persons from making such computers fail to operate in accordance with the purpose of use or making them operate against the purpose of use by damaging such computers or Electromagnetic Records to be used by such computers, giving false information or wrongful instructions to such computers or any other method;
  - (c) such computers and Programs shall have the function of preserving the information and instructions that have been input into such computers and the information received through the Internet throughout the period of carrying out the Electronic Public Notice Investigation; and
- (ii) the necessary implementation method for carrying out the Electronic Public Notice Investigation appropriately shall have been prescribed.

(2) The Registration shall be completed by stating or recording the following matters in the Investigation Body registry:

- (i) the date of the Registration and the Registration number;
- (ii) the name and domicile of the person who obtained the Registration, and in the case of a juridical person, the name of the representative thereof; and
- (iii) the location of the place of business where the person who obtained the Registration will carry out the Electronic Public Notice Investigation.

(Renewal of Registration)

Article 945 (1) Unless a Registration is renewed at an interval of not less than three years as specified by the applicable Cabinet Order, it shall become

ineffective by the expiration of such period.

- (2) The provisions of the preceding three Articles shall apply mutatis mutandis to the renewal of a Registration set forth in the preceding paragraph.

(Obligation, etc. of Investigation)

Article 946 (1) When being requested to carry out an Electronic Public Notice Investigation, an Investigation Body shall carry out the Electronic Public Notice Investigation except in cases where there are justifiable grounds.

- (2) An Investigation Body shall carry out an Electronic Public Notice Investigation fairly and by the method prescribed by the applicable Ordinance of the Ministry of Justice.

- (3) In cases where an Investigation Body carries out an Electronic Public Notice Investigation, such Investigation Body shall report to the Minister of Justice the trade name of the person who has requested the Electronic Public Notice Investigation (hereinafter referred to as the "Investigation Entruster" in this Section) and any other matters prescribed by the applicable Ordinance of the Ministry of Justice, pursuant to the provisions of the applicable Ordinance of the Ministry of Justice.

- (4) An Investigation Body shall, without delay after an Electronic Public Notice Investigation, notify the Investigation Entruster of the results of the Electronic Public Notice Investigation, pursuant to the provisions of the applicable Ordinance of the Ministry of Justice.

(Cases Where an Electronic Public Notice Investigation Is Unable to Be Carried Out)

Article 947 An Investigation Body is unable to carry out an Electronic Public Notice Investigation with regard to public notice given by any one of the following persons by way of electronic public notice or with regard to the public notice in the cases prescribed by the applicable Ordinance of the Ministry of Justice as those where such persons or Directors, etc. thereof were involved in the public notice given by way of electronic public notice:

- (i) the relevant Investigation Body;
- (ii) the Parent Stock Company (meaning a Stock Company which has the relevant Investigation Body as its Subsidiary Company) in cases where the relevant Investigation Body is a Stock Company;
- (iii) a juridical person whose Directors, etc. or employees (including those who have been in either of such positions within the past two years; the same shall apply in the following item) constitute more than half of the Directors, etc. of the relevant Investigation Body; or
- (iv) a juridical person whose Directors, etc. or employees include the relevant Investigation Body (excluding one who is a juridical person) or a Director, etc.

having the authority of representation of the relevant Investigation Body.

(Notification of a Change in the Place of Business)

Article 948 When an Investigation Body intends to change the location of the place of business where Electronic Public Notice Investigations will be carried out, such Investigation Body shall give notification to the Minister of Justice by two weeks prior to the day of such change.

(Business Rules)

Article 949 (1) An Investigation Body shall prescribe rules concerning the business of Electronic Public Notice Investigations (referred to as the "Business Rules" in the following paragraph) and notify the Minister of Justice thereof prior to the commencement of the business of Electronic Public Notice Investigations. The same shall apply when the Investigation Body intends to change the Business Rules.

(2) The Business Rules shall provide for the implementation method of Electronic Public Notice Investigations, fees concerning Electronic Public Notice Investigations and any other matters prescribed by the applicable Ordinance of the Ministry of Justice.

(Suspension or Discontinuance of Business)

Article 950 When an Investigation Body intends to suspend or discontinue all or part of the business of Electronic Public Notice Investigations, such Investigation Body shall notify the Minister of Justice to that effect in advance, pursuant to the provisions of the applicable Ordinance of the Ministry of Justice.

(Keeping and Inspection, etc. of Financial Statements, etc.)

Article 951 (1) An Investigation Body shall, within three months from the end of each business year, prepare an inventory of property, a balance sheet, profit and loss statement or settlement of accounts, and business report (including Electromagnetic Records in cases where Electromagnetic Records are prepared in lieu of preparation of these documents; referred to as the "Financial Statements, etc." in the following paragraph) for such business year, and keep them at such Investigation Body's place of business for five years.

(2) An Investigation Entruster or any other interested party may make the following requests to an Investigation Body at any time during the business hours of the Investigation Body; provided, however, that such person shall pay the fee designated by the Investigation Body when making the request set forth in item (ii) or item (iv):

(i) when the Financial Statements, etc. are prepared in the form of documents,

- requests for the inspection or copying of such documents;
- (ii) requests for the delivery of a transcript or extract of the documents set forth in the preceding item;
  - (iii) when the Financial Statements, etc. are prepared in the form of Electromagnetic Records, requests for inspection or copying of anything that indicates the matters recorded in such Electromagnetic Records in a manner prescribed by the applicable Ordinance of the Ministry of Justice; and
  - (iv) requests that the matters recorded in the Electromagnetic Records set forth in the preceding item be provided by the Electromagnetic Method designated by the Investigation Body, or requests for the delivery of any document that states such matters.

(Compliance Order)

Article 952 When the Minister of Justice finds that an Investigation Body no longer complies with any one of the items of Article 944 (1), the minister may order the Investigation Body to take necessary measures for complying with these provisions.

(Order for Improvement)

Article 953 When the Minister of Justice finds that an Investigation Body violates the provisions of Article 946, the minister may order the Investigation Body to carry out Electronic Public Notice Investigations or to take necessary measures to improve the method of Electronic Public Notice Investigation or the method of any other business.

(Rescission, etc. of Registration)

Article 954 When an Investigation Body falls under any one of the following items, the Minister of Justice may rescind the Registration of the Investigation Body or order the suspension of all or part of the business of Electronic Public Notice Investigations for a set period:

- (i) when the Investigation Body falls under Article 943 (i) or (iii);
- (ii) when the Investigation Body violates the provisions of Article 947 (including the cases where it is applied *mutatis mutandis* pursuant to the Electronic Public Notice Related Provisions) to Article 950, Article 951 (1) or paragraph (1) of the following Article (including the cases where it is applied *mutatis mutandis* pursuant to the Electronic Public Notice Related Provisions);
- (iii) when the Investigation Body rejects a request under the provisions of the items of Article 951 (2) or the items of paragraph (2) of the following Article (including the cases where it is applied *mutatis mutandis* pursuant to the Electronic Public Notice Related Provisions) without justifiable grounds;

- (iv) when the Investigation Body violates the order set forth in Article 952 or in the preceding Article (including the cases where it is applied mutatis mutandis pursuant to the Electronic Public Notice Related Provisions); or
- (v) when the Investigation Body obtains the Registration set forth in Article 941 by wrongful means.

(Statements, etc. in an Investigation Record Book, etc.)

Article 955 (1) An Investigation Body shall, pursuant to the provisions of the applicable Ordinance of the Ministry of Justice, keep investigation records or what is prescribed by the applicable Ordinance of the Ministry of Justice as being equivalent thereto (hereinafter referred to as the "Investigation Record Book, etc." in this Article), state or record the matters prescribed by the applicable Ordinance of the Ministry of Justice concerning Electronic Public Notice Investigations, and preserve such Investigation Record Book, etc.

(2) An Investigation Entruster or any other interested party may make the following requests to an Investigation Body with regard to the Investigation Record Book, etc. preserved by such Investigation Body pursuant to the provisions of the preceding paragraph or paragraph (2) of the following Article (limited to the portions in which such person has an interest) at any time during the business hours of the Investigation Body; provided, however, that such person shall pay the fee designated by the Investigation Body when making such requests:

- (i) when the Investigation Record Book, etc. is prepared in the form of documents, requests for the delivery of a copy of such documents; and
- (ii) when the Investigation Record Book, etc. is prepared in the form of Electromagnetic Records, requests that the matters recorded in such Electromagnetic Records be provided by the Electromagnetic Method designated by the Investigation Body, or requests for the delivery of any document that states such matters.

(Succession of an Investigation Record Book, etc.)

Article 956 (1) When an Investigation Body intends to discontinue all of its business of Electronic Public Notice Investigation or when its Registration is rescinded pursuant to the provisions of Article 954, the Investigation Body shall have another Investigation Body succeed to the Investigation Record Book, etc. set forth in paragraph (1) of the preceding Article (including the cases where it is applied mutatis mutandis pursuant to the Electronic Public Notice Related Provisions), which the former Investigation Body has preserved.

(2) An Investigation Body that has succeeded to the Investigation Record Book, etc. set forth in the preceding paragraph pursuant to the provisions of that paragraph shall preserve such Investigation Record Book, etc. pursuant to the

provisions of the applicable Ordinance of the Ministry of Justice.

(Implementation of the Business of Electronic Public Notice Investigation by the Minister of Justice)

- Article 957 (1) When no person obtains a Registration, when a notification to suspend or discontinue all or part of the business of Electronic Public Notice Investigation under the provisions of Article 950 is given, when rescinding a Registration or ordering an Investigation Body to suspend all or part of the business of Electronic Public Notice Investigation pursuant to the provisions of Article 954, when it becomes difficult for an Investigation Body to implement all or part of the business of Electronic Public Notice Investigation due to a natural disaster or on any other grounds, or in any other cases where it is found necessary, the Minister of Justice may himself/herself carry out all or part of the business of Electronic Public Notice Investigation.
- (2) The succession of the business of Electronic Public Notice Investigation and any other necessary matters in cases where the Minister of Justice himself/herself carries out all or part of the business of Electronic Public Notice Investigation pursuant to the provisions of the preceding paragraph shall be prescribed by the applicable Ordinance of the Ministry of Justice.
- (3) A person who seeks the Electronic Public Notice Investigation carried out by the Minister of Justice pursuant to the provisions of paragraph (1) shall pay a fee to the amount specified by the applicable Cabinet Order by giving consideration to the actual cost.

(Reports and Inspections)

- Article 958 (1) The Minister of Justice may, to the extent necessary for the enforcement of this Act, have an Investigation Body report on the status of such Investigation Body's business or accounting, or have officials of the Minister of Justice enter the office or place of business of an Investigation Body and inspect the status of the business or the books, documents or any other articles.
- (2) An official shall, when conducting an on-site inspection pursuant to the provisions of the preceding paragraph, carry an identification card and present it to the person(s) concerned.
- (3) The authority to conduct on-site inspections under paragraph (1) shall not be construed as being vested for criminal investigation.

(Public Notice)

- Article 959 In the following cases, the Minister of Justice shall give public notice to that effect in an official gazette:
- (i) when the minister completes a Registration;

- (ii) when the minister confirms that a Registration became ineffective pursuant to the provisions of Article 945 (1);
- (iii) when the notification set forth in Article 948 or Article 950 is given;
- (iv) when the minister rescinds a Registration or orders the suspension of all or part of the business of Electronic Public Notice Investigation pursuant to the provisions of Article 954; or
- (v) when the Minister of Justice himself/herself carries out all or part of the business of Electronic Public Notice Investigation pursuant to the provisions of Article 957 (1) or when the minister ceases to carry out all or part of the business of Electronic Public Notice Investigation that the minister had carried out himself/herself

### **Part VIII Penal Provisions**

(Crime of an Aggravated Breach of Trust by a Director, etc.)

Article 960 (1) When any one of the following persons, for the purpose of promoting such person's own interest or the interest of a third party or inflicting damage on a Stock Company, commits an act in breach of such person's duties and causes financial damages to such Stock Company, such person shall be punished by imprisonment with work for not more than ten years or a fine of not more than ten million yen, or both:

- (i) an incorporator;
  - (ii) a Director at Incorporation or Company Auditor at Incorporation;
  - (iii) a director, accounting advisor, company auditor or executive officer;
  - (iv) a person to perform duties on behalf of a director, company auditor or executive officer who has been appointed based on a provisional disposition order under the provisions of Article 56 of the Civil Provisional Remedies Act;
  - (v) a person who is temporarily to perform the duties of a director, accounting advisor, company auditor, Representative Director, committee member, executive officer or representative executive officer appointed pursuant to the provisions of Article 346 (2), Article 351 (2) or Article 401 (3) (including the cases where it is applied mutatis mutandis pursuant to Article 403 (3) and Article 420 (3));
  - (vi) a manager;
  - (vii) an employee to whom the authority of a certain kind of matter or a specific matter concerning business has been delegated; or
  - (viii) an inspector.
- (2) The provisions of the preceding paragraph shall also apply when any one of the following persons, for the purpose of promoting such person's own interest or the interest of a third party or inflicting damage on a Liquidating Stock

Company, commits an act in breach of such person's duties and causes financial damages to such Liquidating Stock Company:

- (i) a liquidator of the Liquidating Stock Company;
- (ii) a person to perform duties on behalf of a liquidator of the Liquidating Stock Company who has been appointed based on a provisional disposition order under the provisions of Article 56 of the Civil Provisional Remedies Act;
- (iii) a person who is temporarily to perform the duties of a liquidator or representative liquidator appointed pursuant to the provisions of Article 346 (2) as applied mutatis mutandis pursuant to Article 479 (4) or Article 351 (2) as applied mutatis mutandis pursuant to Article 483 (6);
- (iv) a liquidator's agent;
- (v) a supervisor; or
- (vi) an investigator.

(Crime of an Aggravated Breach of Trust by a Representative Bondholder, etc.)

Article 961 When a representative bondholder or a Resolution Administrator (meaning the Resolution Administrator prescribed in Article 737 (2); the same shall apply hereinafter), for the purpose of promoting such person's own interest or the interest of a third party or inflicting damage on a bondholder, commits an act in breach of such person's duties and causes financial damages to the bondholder, such person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.

(Attempted Crime)

Article 962 Attempts of the crimes set forth in the preceding two Articles shall be punished.

(Crimes That Put Company Property at Risk)

Article 963 (1) When the person set forth in Article 960 (1)(i) or (ii) makes a false statement to or conceals facts from a court, an Organizational Meeting or a Class Organizational Meeting with regard to payment or delivery under the provisions of Article 34 (1) or Article 63 (1) or the matters listed in the items of Article 28, such person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.

(2) The provisions of the preceding paragraph shall also apply when any one of the persons listed in Article 960 (1)(iii) to (v) makes a false statement to or conceals facts from a court, a shareholders meeting or a Class Meeting with regard to the matters set forth in Article 199 (1)(iii) or Article 236 (1)(iii).

(3) The provisions of paragraph (1) shall also apply when an inspector makes a false statement to or conceals facts from a court with regard to the matters set forth in the items of Article 28, Article 199 (1)(iii) or Article 236 (1)(iii).



- (4) The provisions of paragraph (1) shall also apply when a person appointed pursuant to the provisions of Article 94 (1) makes a false statement to or conceals facts from an Organizational Meeting with regard to payment or delivery under the provisions of Article 34 (1) or Article 63 (1) or the matters set forth in the items of Article 28.
- (5) The provisions of paragraph (1) shall also apply when any one of the persons listed in Article 960 (1)(iii) to (vii) falls under any one of the following items:
- (i) when the person, under any name, unlawfully acquires shares of a Stock Company on the account of such Stock Company;
  - (ii) when the person pays dividends of surplus in violation of the provisions of laws and regulations or the articles of incorporation; or
  - (iii) when the person disposes of a Stock Company's property for the purpose of speculative trading outside the scope of the purpose of the Stock Company.

(Crime of Use of False Documents, etc.)

Article 964 (1) When any one of the following persons, in soliciting subscribers for shares, Share Options, Bonds or Bonds with Share Options, uses materials providing explanations about the business of the Company or any other matters, advertisements for such solicitation or any other documents concerning such solicitation that contain false statements with regard to important matters or, in cases where Electromagnetic Records have been prepared in lieu of preparation of such documents, uses such Electromagnetic Records that contain false records with regard to important matters for the administration of such solicitation, such person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both:

- (i) any one of the persons listed in Article 960 (1)(i) to (vii);
  - (ii) a partner who executes the business of a Membership Company;
  - (iii) a person to perform duties on behalf of a partner who executes the business of a Membership Company, who has been appointed based on a provisional disposition order under the provisions of Article 56 of the Civil Provisional Remedies Act; or
  - (iv) a person to whom solicitation of subscribers for shares, Share Options, Bonds or Bonds with Share Options has been entrusted.
- (2) The provisions of the preceding paragraph shall also apply when a person who carries out the secondary distribution of shares, Share Options, Bonds or Bonds with Share Options uses documents concerning such secondary distribution that contain false statements with regard to important matters or, in cases where Electromagnetic Records have been prepared in lieu of preparation of such documents, uses such Electromagnetic Records that contain false records with regard to important matters for the administration

of such secondary distribution.

(Crime of Borrowing and Depositing of Money)

Article 965 When any one of the persons listed in Article 960 (1)(i) to (vii) borrows and deposits money for disguising the payment relating to a share issue, such person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both. The same shall apply to any person who accepts such borrowing and depositing of money.

(Crime of Excessive Issue of Shares)

Article 966 When any one of the following persons issues shares exceeding the total number of shares that may be issued by a Stock Company, such person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen:

- (i) An incorporator
- (ii) A Director at Incorporation or Executive Officer at Incorporation
- (iii) A director or executive officer or a liquidator of a Liquidating Stock Company
- (iv) a person to perform duties on behalf of a director or executive officer or a liquidator of a Liquidating Stock Company who has been appointed based on a provisional disposition order under the provisions of Article 56 of the Civil Provisional Remedies Act; or
- (v) a person who is temporarily to perform the duties of a director or executive officer or a liquidator of a Liquidating Stock Company appointed pursuant to the provisions of Article 346 (2) (including the cases where it is applied mutatis mutandis pursuant to Article 479 (4)) or Article 401 (3) as applied mutatis mutandis pursuant to Article 403 (3).

(Crime of the Giving or Acceptance of a Bribe by a Director, etc.)

Article 967 (1) When any one of the following persons accepts, solicits or promises to accept property benefits in connection with such person's duties, in response to a wrongful request, such person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen:

- (i) any one of the persons listed in the items of Article 960 (1) or the items of Article 960 (2);
  - (ii) the person prescribed in Article 961; or
  - (iii) an accounting auditor or a person who is temporarily to perform the duties of an accounting auditor appointed pursuant to the provisions of Article 346 (4).
- (2) A person who has given, offered or promised to give the benefits set forth in

the preceding paragraph shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen.

(Crime of the Giving or Acceptance of a Bribe in Relation to Exercise of a Right of a Shareholder, etc.)

Article 968 (1) A person who has accepted, solicited or promised to accept property benefits in relation to any one of the following matters, in response to a wrongful request, shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen:

- (i) statement of opinions or exercise of a voting right at a shareholders meeting, Class Meeting, Organizational Meeting or Class Organizational Meeting, bondholders meeting or creditors meeting;
  - (ii) exercise of the right of a shareholder prescribed in Article 210 or Article 247, Article 297 (1) or (4), Article 303 (1) or (2), Article 304, Article 305 (1) or Article 306 (1) or (2) (including the cases where these provisions are applied mutatis mutandis pursuant to Article 325), Article 358 (1), Article 360 (1) or (2) (including the cases where these provisions are applied mutatis mutandis pursuant to Article 482 (4)), Article 422 (1) or (2), Article 426 (5), Article 433 (1) or Article 479 (2), exercise of the right of a shareholder or creditor prescribed in Article 511 (1) or Article 522 (1) or exercise of the right of a creditor prescribed in Article 547 (1) or (3);
  - (iii) exercise of a right of a bondholder holding Bonds of not less than one-tenth of the total amount of Bonds (excluding bonds that have been redeemed);
  - (iv) filing of the action prescribed in Article 828 (1), Articles 829 to 831, Article 833 (1), Article 847 (3) or (5), Article 853, Article 854 or Article 858 (limited to one filed by a shareholder or creditor of a Stock Company or a person holding Share Options or Bonds with Share Options of a Stock Company); or
  - (v) a shareholder's intervention in a suit under the provisions of Article 849 (1).
- (2) The provisions of the preceding paragraph shall also apply to a person who has given, offered or promised to give the benefits set forth in that paragraph.

(Confiscation and Collection of Equivalent Value)

Article 969 In the cases set forth in Article 967 (1) or paragraph (1) of the preceding Article, the benefits accepted by the offender shall be confiscated. When it is not possible to confiscate all or part of such benefits, an equivalent value thereof shall be collected.

(Crime of the Giving of Benefits in Relation to Exercise of a Right of a Shareholder)

Article 970 (1) When any one of the persons listed in Article 960 (1)(iii) to (vi) or any other employee of a Stock Company gives property benefits on the account

- of such Stock Company or its Subsidiary Company in relation to the exercise of a right of a shareholder, such person shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen.
- (2) The provisions of the preceding paragraph shall also apply to a person who has, knowingly, received the benefits set forth in that paragraph or caused such benefits to be given to a third party.
- (3) The provisions of paragraph (1) shall also apply to a person who has requested the person prescribed in that paragraph to give to him/her or a third party the benefits set forth in that paragraph on the account of a Stock Company or its Subsidiary Company in relation to the exercise of a right of a shareholder.
- (4) When a person who has committed either of the crimes set forth in the preceding two paragraphs intimidates the person prescribed in paragraph (1) with regard to committing such crime, the former person shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen.
- (5) A person who has committed any one of the crimes set forth in the preceding three paragraphs may be punished by cumulative imposition of both imprisonment with work and a fine in light of the circumstances.
- (6) When a person who has committed the crime set forth in paragraph (1) surrenders, the punishment may be reduced or such person may be exempted from punishment.

(Crime Committed Outside Japan)

- Article 971 (1) The crimes set forth in Articles 960 to 963, Article 965, Article 966, Article 967 (1), Article 968 (1) and paragraph (1) of the preceding Article shall also apply to persons who committed such crimes outside Japan.
- (2) The crimes set forth in Article 967 (2), Article 968 (2) and paragraphs (2) to (4) of the preceding Article shall be governed by Article 2 of the Penal Code (Act No. 45 of 1907).

(Application of Penal Provisions to Juridical Persons)

- Article 972 When the person prescribed in Article 960, Article 961, Articles 963 to 966, Article 967 (1) or Article 970 (1) is a juridical person, these provisions and the provisions of Article 962 shall apply respectively to the director, executive officer or any other officer executing business, or the manager who has committed such act.

(Crime of Violation of an Order to Suspend Business)

- Article 973 A person who has violated an order to suspend all or part of the business of Electronic Public Notice Investigation (meaning the Electronic

Public Notice Investigation prescribed in Article 942 (1)) under the provisions of Article 954 shall be punished by imprisonment with work for not more than one year or a fine of not more than one million yen, or both.

(Crime of False Notification, etc.)

Article 974 A person who falls under any one of the following items shall be punished by a fine of not more than three hundred thousand yen:

- (i) a person who has failed to give notification under the provisions of Article 950 or has given false notification;
- (ii) a person who, in violation of the provisions of paragraph (1) of Article 955, has failed to state or record in an Investigation Record Book, etc. (meaning the Investigation Record Book, etc. prescribed in that paragraph; hereinafter the same shall apply in this item) the matters prescribed by the applicable Ordinance of the Ministry of Justice concerning Electronic Public Notice Investigations prescribed in that paragraph, or has stated or recorded false matters, or who, in violation of the provisions of that paragraph or Article 956 (2), has failed to preserve an Investigation Record Book, etc.; or
- (iii) a person who has failed to make a report under the provisions of paragraph (1) of Article 958 or has made a false report, or who has refused, obstructed or avoided an inspection under the provisions of that paragraph.

(Dual Liability)

Article 975 When the representative of a juridical person, or an agent, employee or other worker of a juridical person or individual commits any one of the violations set forth in the preceding two Articles with regard to the business of such juridical person or individual, not only the offender shall be punished but also such juridical person or individual shall be punished by the fine prescribed in the respective Articles.

(Acts to be Punished by a Non-Penal Fine)

Article 976 When an incorporator, Director at Incorporation, Company Auditor at Incorporation, Executive Officer at Incorporation, director, accounting advisor or member who is to perform the duties thereof, company auditor, executive officer, accounting auditor or member who is to perform the duties thereof, liquidator, liquidator's agent, member who executes the business of a Membership Company, person to perform duties on behalf of a director, company auditor, executive officer, liquidator or partner who executes the business of a Membership Company who has been appointed based on a provisional disposition order under the provisions of Article 56 of the Civil Provisional Remedies Act, person who is temporarily to perform the duties of a director, accounting advisor, company auditor, Representative Director,

committee member, executive officer or representative executive officer prescribed in Article 960 (1)(v), person who is temporarily to perform the duties of a liquidator or representative liquidator prescribed in paragraph (2)(iii) of that Article, person who is temporarily to perform the duties of an accounting auditor prescribed in Article 967 (1)(iii), inspector, supervisor, investigator, Administrator of the Shareholder Registry, manager of the Bond Registry, bond manager, bond manager to succeed to the administration of the bonds, representative bondholder, Resolution Administrator, Foreign Company's representative in Japan or manager falls under any one of the following items, such person shall be punished by a non-penal fine of not more than one million yen; provided, however, that this shall not apply when such act should be made subject to a criminal punishment:

- (i) when the person fails to complete a registration under the provisions of this Act;
- (ii) when the person fails to give public notice or notice under the provisions of this Act or has given improper public notice or notice;
- (iii) when the person fails to disclose matters under the provisions of this Act;
- (iv) when, in violation of the provisions of this Act, the person refuses to allow the inspection or copying of documents or anything that indicates the matters recorded in Electromagnetic Records in a manner prescribed by the applicable Ordinance of the Ministry of Justice, to deliver a transcript or extract of documents, to provide matters recorded in Electromagnetic Records by an Electromagnetic Method or to deliver a document that states such matters, without justifiable grounds;
- (v) when the person obstructs an inspection under the provisions of this Act;
- (vi) when the person makes a false statement to or conceals facts from a government agency, shareholders meeting, Class Meeting, Organizational Meeting or Class Organizational Meeting, bondholders meeting or creditors meeting;
- (vii) when the person fails to state or record matters to be stated or recorded in the articles of incorporation, shareholder registry, registry of lost share certificates, Share Option registry, Bond Registry, minutes, inventory of property, accounting books, balance sheet, profit and loss statement, business report, administrative report, annexed detailed statements set forth in Article 435 (2) or Article 494 (1), accounting advisor's report, audit report, accounting audit report, settlement of accounts, or the documents or Electromagnetic Records set forth in Article 122 (1), Article 149 (1), Article 250 (1), Article 270 (1), Article 682 (1), Article 695 (1), Article 782 (1), Article 791 (1), Article 794 (1), Article 801 (1) or (2), Article 803 (1), Article 811 (1) or Article 815 (1) or (2), or states or records false matters;
- (viii) when the person fails to keep books, documents or Electromagnetic

- Records in violation of the provisions of Article 31 (1) or the provisions of Article 74 (6), Article 75 (3), Article 76 (4), Article 81 (2) or Article 82 (2) (including the cases where these provisions are applied mutatis mutandis pursuant to Article 86), Article 125 (1), Article 231 (1) or Article 252 (1), Article 310 (6), Article 311 (3), Article 312 (4), Article 318 (2) or (3) or Article 319 (2) (including the cases where these provisions are applied mutatis mutandis pursuant to Article 325), Article 371 (1) (including the cases where these provisions are applied mutatis mutandis pursuant to Article 490 (5)), Article 378 (1), Article 394 (1), Article 413 (1), Article 442 (1) or (2), Article 496 (1), Article 684 (1), Article 731 (2), Article 782 (1), Article 791 (2), Article 794 (1), Article 801 (3), Article 803 (1), Article 811 (2) or Article 815 (3);
- (ix) when the person fails to provide an explanation about the matters for which an explanation was sought by shareholders or Shareholders at Incorporation at a shareholders meeting, Class Meeting, Organizational Meeting or Class Organizational Meeting, without justifiable grounds;
  - (x) when the person acquires shares in violation of the provisions of paragraph (1) of Article 135 or fails to dispose of shares in violation of the provisions of paragraph (3) of that Article;
  - (xi) when the person cancels shares in violation of the provisions of Article 178 (1) or (2);
  - (xii) when the person sells shares by auction or by any other method in violation of the provisions of Article 197 (1) or (2);
  - (xiii) when the person issues share certificates, Share Option certificates or Bond certificates prior to the day of issue of the shares, Share Options or Bonds;
  - (xiv) when the person fails to issue share certificates, Share Option certificates or Bond certificates without delay in violation of the provisions of Article 215 (1), Article 288 (1) or Article 696;
  - (xv) when the person fails to state matters to be stated in share certificates, Share Option certificates or Bond certificates or states false matters;
  - (xvi) when the person fails to cancel a Registration of Lost Share Certificate in violation of the provisions of Article 225 (4), Article 226 (2), Article 227 or Article 229 (2);
  - (xvii) when the person states or records matters in a shareholder registry in violation of the provisions of Article 230 (1);
  - (xviii) when the person fails to call a shareholders meeting in violation of the provisions of Article 296 (1) or a court order under the provisions of Article 307 (1)(i) (including the cases where it is applied mutatis mutandis pursuant to Article 325) or Article 359 (1)(i);
  - (xix) when, in cases where a demand under the provisions of Article 303 (1) or (2) (including the cases where they are applied mutatis mutandis pursuant to

- Article 325) has been filed, the person fails to include the matter pertaining to such demand in the purpose of the shareholders meeting or Class Meeting;
- (xx) when the person fails to appoint enough Outside Company Auditors to constitute half or more of the company auditors in violation of the provisions of Article 335 (3);
- (xxi) when, in cases where a request under the provisions of Article 343 (2) (including the cases where it is applied mutatis mutandis by replacing terms pursuant to the provisions of Article 347 (2)) or Article 344 (2) has been filed, the person fails to include the matter pertaining to such request in the purpose of a shareholders meeting or Class Meeting or fails to submit the proposal pertaining to such request to a shareholders meeting or Class Meeting;
- (xxii) when, in cases where there is a shortfall in the number of directors, accounting advisors, company auditors, executive officers or accounting auditors prescribed in this Act or the articles of incorporation, the person fails to carry out the procedures for appointing a person(s) to assume such position (including the appointment of a person who is temporarily to perform the duties of an accounting auditor);
- (xxiii) when the person fails to make a report to a board of directors or board of liquidators or makes a false report in violation of the provisions of Article 365 (2) (including the cases where it is applied mutatis mutandis pursuant to Article 419 (2) and Article 489 (8));
- (xxiv) when the person fails to select a full-time company auditor in violation of the provisions of Article 390 (3);
- (xxv) when the person fails to record capital reserves or Reserves in violation of the provisions of Article 445 (3) or (4) or reduces the amount of Reserves in violation of the provisions of Article 448;
- (xxvi) when the person reduces the amount of stated capital or Reserves, refunds equity interest, disposes of property of a Membership Company, effects an Entity Conversion, Absorption-type Merger, Consolidation-type Merger, Absorption-type Company Split, Incorporation-type Company Split, Share Exchange or Share Transfer, or effects the resignation of all of a Foreign Company's representatives in Japan in violation of the provisions of Article 449 (2) or (5), Article 627 (2) or (5), Article 635 (2) or (5), Article 670 (2) or (5), Article 779 (2) or (5) (including the cases where they are applied mutatis mutandis pursuant to Article 781 (2)), Article 789 (2) or (5) (including the cases where they are applied mutatis mutandis pursuant to Article 793 (2)), Article 799 (2) or (5) (including the cases where they are applied mutatis mutandis pursuant to Article 802 (2)), Article 810 (2) or (5) (including the cases where they are applied mutatis mutandis pursuant to Article 813 (2)) or Article 820 (1) or (2);



- (xxvii) when the person fails to file a petition for the commencement of bankruptcy procedures in violation of the provisions of Article 484 (1) or Article 656 (1) or fails to file a petition for the commencement of special liquidation in violation of the provisions of Article 511 (2);
- (xxviii) when the person inappropriately prescribes the period set forth in Article 499 (1), Article 660 (1) or Article 670 (2) for the purpose of delaying the completion of liquidation;
- (xxix) when the person performs obligations in violation of the provisions of Article 500 (1), Article 537 (1) or Article 661 (1);
- (xxx) when the person distributes property of a Liquidating Stock Company or Liquidating Membership Company in violation of the provisions of Article 502 or Article 664;
- (xxxi) when the person violates the provisions of Article 535 (1) or Article 536 (1);
- (xxxii) when the person violates a temporary restraining order under the provisions of Article 540 (1) or (2) or Article 542 (1) or (2);
- (xxxiii) when the person issues Bonds in violation of the provisions of Article 702 or fails to specify a bond manager to succeed to the administration of the bonds in violation of the provisions of Article 714 (1);
- (xxxiv) when the person violates a court order under the provisions of Article 827 (1); or
- (xxxv) when the person fails to request an Electronic Public Notice Investigation in violation of the provisions of Article 941.

Article 977 A person who falls under any one of the following items shall be punished by a non-penal fine of not more than one million yen:

- (i) a person who fails to make a report or makes a false report in violation of the provisions of Article 946 (3);
- (ii) a person who, in violation of the provisions of Article 951 (1), fails to keep Financial Statements, etc. (meaning the Financial Statements, etc. prescribed in that paragraph; the same shall apply hereinafter) or fails to state or record matters to be stated or recorded in Financial Statements, etc. or states or records false matters; or
- (iii) a person who refuses any one of the requests listed in the items of Article 951 (2) or the items of Article 955 (2) without justifiable grounds.

Article 978 A person who falls under any one of the following items shall be punished by a non-penal fine of not more than one million yen:

- (i) a Company that uses in its trade name any word which makes it likely that the Company may be mistaken for a different form of Company in violation of the provisions of Article 6 (3);

- (ii) a person who uses in such person's own name or trade name any word which makes it likely that the person may be mistaken for a Company in violation of the provisions of Article 7; or
- (iii) a person who uses any name or trade name which makes it likely that the person may be mistaken for another Company (including a Foreign Company).

Article 979 (1) A person who engages in business by using the name of a Company prior to the formation of such Company shall be punished by a non-penal fine of an amount equivalent to the registration and license tax for the incorporation of the Company.

(2) The provisions of the preceding paragraph shall also apply to a person who carries out a transaction in violation of the provisions of Article 818 (1) or Article 821 (1).