

Trust Act

(Act No. 108 of December 15, 2006)

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Chapter I General Provisions

(Purpose)

Article 1 The requirements, effect, etc. of a trust are governed by the provisions of this Act in addition to the provisions of other laws and regulations.

(Definitions)

Article 2 (1) The term "Trust" as used in this Act means an arrangement in which a specific person, by employing any of the means listed in the items of the following Article, administers or disposes of property in accordance with a certain purpose (excluding the purpose of exclusively promoting the person's

own interests; the same applies in the following Article) and conducts any other acts that are necessary to achieve said purpose.

- (2) The term "Terms of Trust" as used in this Act means a juridical act as specified in each of the following items for the categories of Trusts listed in the respective items:
 - (i) a Trust created by the means set forth in item (i) of the following Article: a Trust Agreement as set forth in said item;
 - (ii) a Trust created by the means set forth in item (ii) of the following Article: a will as set forth in said item; and
 - (iii) a Trust created by the means set forth in item (iii) of the following Article: a manifestation of intention made by way of a document or electronic or magnetic record (meaning an electronic or magnetic record as prescribed in said item) as set forth in said item.
- (3) The term "Trust Property" as used in this Act means any and all property which belongs to a Trustee and which is to be administered or disposed of through a Trust.
- (4) The term "Settlor" as used in this Act means a person who creates a Trust by any of the means listed in the items of the following Article.
- (5) The term "Trustee" as used in this Act means a person who is under the obligation to administer or dispose of property that comes under Trust Property and to conduct any other acts that are necessary to achieve the purpose of a Trust as provided for by the Terms of Trust.
- (6) The term "Beneficiary" as used in this Act means a person who holds a beneficial interest in a Trust.
- (7) The term "Beneficial Interest" as used in this Act means a claim based on the Terms of Trust pertaining to the obligation of a Trustee to distribute property that comes under Trust Property to a Beneficiary or to make any other distribution involving the Trust Property (hereinafter referred to as the "Distribution Claim as a Beneficiary"), and the right to request a Trustee or any other person to carry out certain acts under the provisions of this Act in order to secure said claims.
- (8) The term "Trustee's Own Property" as used in this Act means any and all property which belongs to a Trustee and which is not the property that comes under Trust Property.
- (9) The term "Obligations Covered by the Trust Property" as used in this Act means obligations which a Trustee is liable to perform through the use of property that comes under Trust Property.
- (10) The term "Consolidation of Trusts" as used in this Act means the consolidation of all Trust Properties of two or more Trusts that have the same Trustee into the Trust Property of a single new Trust.
- (11) As used in this Act: the term "Absorption-Type Trust Split" means the

transfer of a part of a Trust's Trust Property into the Trust Property of another Trust that has the same Trustee; the term "Creation-Type Trust Split" means the transfer of a part of a Trust's Trust Property into the Trust Property of a new Trust that has the same Trustee; and the term "Split of a Trust" means an Absorption-Type Trust Split or Creation-Type Trust Split.

(12) The term "Limited Liability Trust" as used in this Act means a Trust in which a Trustee is only liable to perform all of the Obligations Covered by the Trust Property only by using property that comes under Trust Property.

(Means of Creating Trust)

Article 3 A Trust is created by any of the following means:

(i) by concluding an agreement with a specific person to the effect that the person will be assigned property, that the person will be granted a security interest in property, or that property will otherwise be disposed of to the person, and that said specific person must administer or dispose of said property in accordance with a certain purpose and carry out any other acts that are necessary for achieving said purpose (hereinafter referred to as the "Trust Agreement");

(ii) by making a will to the effect that a specific person will be assigned property, that the person will be granted a security interest in property, or that property will otherwise be disposed of to the person, and that said specific person must administer or dispose of said property in accordance with a certain purpose and carry out any other acts that are necessary for achieving said purpose; or

(iii) by a manifestation of intention of a specific person to administer or dispose of a certain portion of the property that the person holds in accordance with a certain purpose and for the person to conduct any other acts that are necessary for achieving said purpose by said person, with the manifestation of said intention being evidenced by a notarial deed or any other document or electronic or magnetic record (meaning a record used in computer data processing, which is created in electronic form, magnetic form, or any other form that cannot be perceived through the human senses alone, as specified by Ordinance of the Ministry of Justice; the same applies hereinafter) in which said purpose, the particulars necessary for specifying said property, and other particulars specified by Ordinance of the Ministry of Justice have been stated or recorded.

(Coming into Effect of Trust)

Article 4 (1) A Trust created by the means set forth in item (i) of the preceding Article comes into effect when a Trust Agreement is concluded between the person who is to be a Settlor and another person who is to be a Trustee.

- (2) A Trust created by the means set forth in item (ii) of the preceding Article comes into effect when the will takes effect.
- (3) A Trust created by the means set forth in item (iii) of the preceding Article come into effect when the events specified in the following items take place for the cases listed in the respective items:
 - (i) if the Trust is created by means of a notarial deed or any other document or electronic or magnetic record authenticated by a notary (hereinafter referred to as the "Notarial Deed, etc." in this item and the following item): when the Notarial Deed, etc. is executed; or
 - (ii) if the Trust is created by means of a document or electronic or magnetic record other than a Notarial Deed, etc.: when notice is given by means of an instrument bearing a fixed date to the third party designated as the person who is to be the Beneficiary (if there are two or more said third parties, to one of them), with regard to the fact that the Trust has been created and the contents thereof.
- (4) Notwithstanding the provisions of the preceding three paragraphs, when a Trust is subject to a condition precedent or a designated time of commencement by the Terms of Trust, said Trust comes into effect when the condition precedent is fulfilled or when the time of commencement arrives.

(Demand to Undertake Trust by Will)

- Article 5 (1) Where a Trust is created by the means set forth in Article 3, item (ii), if the will contains a provision designating a specific person to be the Trustee, any interested party may specify a reasonable period of time and demand the person designated as the one who is to be the Trustee to give a definite answer within that period of time with regard to whether the specific person will undertake the Trust; provided, however, that if said provision of the will is subject to a condition precedent or a designated time of commencement, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.
- (2) Where a demand for an answer is made under the provisions of the preceding paragraph, if the person designated as the one who is to be the Trustee fails to give a definite answer to the Settlor's heir within the period set forth in said paragraph, it is deemed that said person does not undertake the Trust.
 - (3) For the purpose of the application of the provisions of the preceding paragraph to cases where the Settlor has no heir at the time in question, the phrase "the Settlor's heir" in said paragraph is deemed to be replaced with "the Beneficiary (if there are two or more Beneficiaries at that time in question, to one of them, and if there is a Trust administrator at that time in question, to the Trust administrator)."

(Appointment of Trustee by Court in Case of Testamentary Trust)

- Article 6 (1) Where a Trust is created by the means set forth in Article 3, item (ii), if the will contains no provision concerning the designation of a Trustee or if the person designated as the one who is to be the Trustee does not undertake or is unable to undertake the Trust, the court may appoint a Trustee on the petition of an interested party.
- (2) The judicial decision on the petition set forth in the preceding paragraph must include the reasons for said decision.
- (3) Only a Beneficiary or the current Trustee may file an immediate appeal against the judicial decision on the appointment of a Trustee under the provisions of paragraph (1).
- (4) The immediate appeal set forth in the preceding paragraph has the effect of a stay of execution.

(Qualification of Trustee)

Article 7 No Trust is allowed to be created with a minor, an adult ward, or a person under curatorship serving as a Trustee.

(Prohibition on Trustee's Enjoyment of Benefit)

Article 8 No Trustee is allowed to benefit from the Trust under any name, except where the Trustee benefits from the Trust as its Beneficiary.

(Prohibition of Trusts for Evasion of the Law)

Article 9 A person who is not allowed to enjoy a certain property right under laws and regulations is not allowed to enjoy, as a Beneficiary, the same benefit as that derived from holding that right.

(Prohibition on Trust for Suit)

Article 10 No Trust is allowed to be created for the primary purpose of having another person conduct any procedural act.

(Cancellation of Fraudulent Trust)

Article 11 (1) If a Settlor has created a Trust with the knowledge that it would harm the Settlor's creditor, the creditor may, irrespective of whether or not the Trustee had knowledge of the fact that the creditor would be harmed, request of the court a rescission under the provisions of Article 424, paragraph (1) of the Civil Code (Act No. 89 of 1896), with the Trustee as the defendant; provided, however, that this does not apply if there are any Beneficiaries at the time in question, all or some of Beneficiaries who had no knowledge of the fact that the creditor would be harmed at the time when they became aware that they had been designated as Beneficiaries (meaning being designated as an

initial Beneficiary by means of the Terms of Trust or as a new Beneficiary after a change in the provisions of the Terms of Trust as a result of the exercise of the right to designate or change a Beneficiary prescribed in Article 89, paragraph (1); the same applies hereinafter) or when they acquired Beneficial Interest.

- (2) Where a judgment upholding a request under the provisions of the preceding paragraph has become final and binding, if a creditor (excluding the one who is a Settlor) who has a claim pertaining to an Obligation Covered by the Trust Property had no knowledge at the time when the creditor acquired the claim of the fact that the creditor would be harmed, the Settlor is liable to perform the Obligation Covered by the Trust Property to the creditor who holds said claim; provided, however, that said performance is limited to the value of the property to be transferred from the Trustee to the Settlor by reason of the rescission under the provisions of said paragraph.
- (3) For the purpose of the application of the provisions of the preceding paragraph, the right that the Trustee has pursuant to the provisions of Article 49, paragraph (1) (including cases where applied *mutatis mutandis* pursuant to Article 53, paragraph (2) and Article 54, paragraph (4)) is deemed to be a monetary claim.
- (4) Where a Settlor has created a Trust with the knowledge that it would harm the Settlor's creditor, if a Beneficiary has been distributed by the Trustee property that comes under Trust Property, the creditor may request the court for a rescission under the provisions of Article 424, paragraph (1) of the Civil Code, with the Beneficiary as the defendant; provided, however, that this does not apply if said Beneficiary had no knowledge of the fact that the creditor would be harmed at the time when the said Beneficiary became aware that said Beneficiary has been designated as a Beneficiary or when the said Beneficiary acquired a Beneficial Interest.
- (5) If a Settlor has created a Trust with the knowledge that it would harm the Settlor's creditor, the creditor may demand, by a suit designating a Beneficiary as a defendant, that the Beneficiary assign the Beneficiary's Beneficial Interest to the Settlor. In this case, the provisions of the proviso to the preceding paragraph apply *mutatis mutandis*.
- (6) The provisions of Article 426 of the Civil Code apply *mutatis mutandis* to the right to make a demand under the provisions of the preceding paragraph.
- (7) When designating a Beneficiary or assigning a Beneficial Interest, it is not allowed to designate a person who has no knowledge of the fact that any creditor could be harmed (hereinafter referred to as the "Person Without Knowledge" in this paragraph) as a Beneficiary without compensation (including cases where said designation is made with compensation that is deemed to be equal to be without compensation; the same applies in this

paragraph), or to assign Beneficial Interest to a Person Without Knowledge without compensation for the purpose of unjustly circumventing the application of the provisions of the main clause of paragraph (1), the main clause of paragraph (4) or the first sentence of paragraph (5).

- (8) With regard to a person who becomes a Beneficiary as a result of the designation of a Beneficiary or the assignment of a Beneficial Interest in violation of the provisions of the preceding paragraph, the provisions of the proviso to paragraph (1) and the proviso to paragraph (4) (including cases where applied *mutatis mutandis* pursuant to the second sentence of paragraph (5)) do not apply.

(Avoidance of Fraudulent Trusts)

Article 12 (1) For the purpose of the application of the provisions of Article 160, paragraph (1) of the Bankruptcy Act (Act No. 75 of 2004) to a Trust created with a bankrupt as a Settlor, the phrase "the person who has benefited from" in the items of said paragraph is deemed to be replaced with "all or part of the Beneficiaries who have benefited from."

- (2) If a bankrupt has created a Trust as a Settlor with the knowledge that it would harm the bankruptcy creditors, a bankruptcy trustee may demand, by filing an action against the Beneficiary, that the Beneficiary return the Beneficial Interest to the bankruptcy estate. In this case, the provisions of the proviso to paragraph (4) of the preceding Article apply *mutatis mutandis*.

(3) For the purpose of the application of the provisions of Article 127, paragraph (1) of the Civil Rehabilitation Act (Act No. 225 of 1999) to a Trust created with a debtor under rehabilitation procedure as a Settlor, the phrase "the person who has benefited from" in the items of said paragraph is deemed to be replaced with "all or part of the Beneficiaries who have benefited from."

- (4) If a rehabilitation debtor has created a Trust as a Settlor with the knowledge that it would harm the rehabilitation creditors, a supervisor with avoiding powers or a trustee in charge of rehabilitation proceedings may demand, by filing an action against a Beneficiary, that the Beneficiary return the Beneficial Interest to the assets of rehabilitation debtor (meaning the assets of rehabilitation debtor as prescribed in Article 12, paragraph (1), item (i) of the Civil Rehabilitation Act; the same applies to Article 25, paragraph (4)). In this case, the provisions of the proviso to paragraph (4) of the preceding Article apply *mutatis mutandis*.

(5) The provisions of the preceding two paragraphs apply *mutatis mutandis* to a company under reorganization (meaning a company under reorganization as prescribed in Article 2, paragraph (7) of the Corporate Reorganization Act (Act No. 154 of 2002) or a company under reorganization as prescribed in Article 169, paragraph (7) of the Act on Special Rules, etc. for Reorganization

Proceedings for Financial Institutions, etc. (Act No. 95 of 1996)) or a cooperative financial institution under reorganization (meaning a cooperative financial institution under reorganization as prescribed in Article 4, paragraph (7) of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc.). In this case, in paragraph (3), the phrase "the provisions of Article 127, paragraph (1) of the Civil Rehabilitation Act (Act No. 225 of 1999)" is deemed to be replaced with "the provisions of Article 86, paragraph (1) of the Corporate Reorganization Act (Act No. 154 of 2002) and Article 57, paragraph (1) and Article 223, paragraph (1) of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc. (Act No. 95 of 1996)," and the phrase "the items of said paragraph" is deemed to be replaced with "these provisions," and in the preceding paragraph, the term "rehabilitation creditors" is deemed to be replaced with "reorganization creditors or secured reorganization creditors," and the phrase "supervisor with avoidance powers or a trustee in charge of rehabilitation proceedings" is deemed to be replaced with "trustee in charge of reorganization proceedings," and the phrase "the assets of rehabilitation debtor (meaning the assets of rehabilitation debtor prescribed in Article 12, paragraph (1), item (i) of the Civil Rehabilitation Act; the same applies in Article 25, paragraph (4))" is deemed to be replaced with "the assets of the company under reorganization (meaning assets of a company under reorganization as prescribed in Article 2, paragraph (14) of the Corporate Reorganization Act or assets of a company under reorganization as prescribed in Article 169, paragraph (14) of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc.) or assets of a cooperative financial institution under reorganization (meaning assets of a cooperative financial institution under reorganization as prescribed in Article 4, paragraph (14) of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc.)"

(Accounting Principles)

Article 13 The accounting for a Trust must be subject to accounting practices that are generally accepted as fair and appropriate.

Chapter II Trust Property

(Requirements for Perfection Concerning Property that Belongs to Trust Property)

Article 14 With regard to any property for which the acquisition, loss, and modification of any right may not be duly asserted against a third party unless it is registered, the fact that said property belongs to the Trust Property may not be duly asserted against a third party unless the fact that the property is

under the Trust is registered.

(Succession of Defect in Possession of Property That Comes Under Trust Property)

Article 15 A Trustee succeeds to a Settlor's defect in possession of property that comes under Trust Property.

(Scope of Trust Property)

Article 16 In addition to property specified by the Terms of Trust as being among the Trust Property, the following property must belong to the Trust Property:

- (i) any property obtained by the Trustee as a result of the administration, disposition, loss or damage of, or any other events occurring to property that comes under Trust Property; and
- (ii) any property that has come to be among the Trust Property pursuant to the provisions of the following Article, Article 18, Article 19 (including cases where applied mutatis mutandis by replacing the relevant terms and phrases pursuant to the provisions of Article 84; hereinafter the same applies in this item), Article 226, paragraph (3), Article 228, paragraph (3), and Article 254, paragraph (2) (including any co-ownership interest that is deemed to be among the Trust Property pursuant to the provisions of Article 18, paragraph (1) (including cases where applied mutatis mutandis pursuant to paragraph (3) of said Article) and any property that is made to be among the Trust Property as a result of the division under the provisions of Article 19).

(Accession of Property That Comes under Trust Property)

Article 17 If property that comes under Trust Property is joined by accession to or commingled with the Trustee's Own Property or any property that comes under Trust Property of another Trust, or if processing is conducted using these properties as materials, those properties that come under Trust properties of the respective Trusts and the property that comes under Trustee's Own Property are deemed to belong to their respective owners, and the provisions of Article 242 to Article 248 of the Civil Code apply.

Article 18 (1) If property that comes under Trust Property becomes indistinguishable from property that comes under Trustee's Own Property (excluding the case prescribed in the preceding Article), it is deemed that a co-ownership interest in either of these properties is an interest in both the Trust Property and the Trustee's Own Property. In this case, the shares of said co-ownership interests must be in proportion to the prices of the respective properties as of the time when they became indistinguishable from each other.

- (2) The co-ownership interests set forth in the preceding paragraph are presumed to be equal.
- (3) The provisions of the preceding two paragraphs apply mutatis mutandis to cases where a Trustee of a Trust also serves as a Trustee of another Trust, and where properties that come under Trust Properties of these Trusts have become indistinguishable from each other (excluding the case prescribed in the preceding Article). In this case, the phrase "the Trust Property and the Trustee's Own Property" in paragraph (1) is deemed to be replaced with "the Trust Properties of these Trusts."

(Division of Properties in Co-ownership that Are Among Both the Trust Property and the Trustee's Own Property, etc.)

Article 19 (1) If a co-ownership interest in a specific property that belongs to a Trustee is an interest in both the Trust Property and the Trustee's Own Property, said property may be divided by the following means:

- (i) by the means specified by the Terms of Trust;
 - (ii) based on an agreement between the Trustee and the Beneficiary (if there is a Trust administrator at the time in question, the Trust administrator); and
 - (iii) based on a decision by the Trustee if the division of the property in question is considered to be necessary to a reasonable extent in order to achieve the purpose of the Trust and if it is clear that the division will not harm the interests of the Beneficiary, or if there are justifiable grounds for the division in light of the impact of the division on the Trust Property, the purpose and manner of the division, the status of substantial relationship between the Trustee and the Beneficiary as interested parties and other relevant circumstances.
- (2) In the case prescribed in the preceding paragraph, if the agreement set forth in item (ii) of said paragraph is not reached or if it is impossible to effect the division by any of the means listed in the items of said paragraph for other reasons, the Trustee or the Beneficiary (if there is a Trust administrator at the time in question, the Trust administrator) may submit a demand to the court for the division of the property in co-ownership set forth in said paragraph.
 - (3) If a co-ownership interest in a specific property that belongs to a Trustee is an interest in both the Trust Property and the Trust Property of another Trust, said property may be divided by the following means:
 - (i) by the means specified by the Terms of Trust of both Trusts;
 - (ii) based on an agreement between the Beneficiaries of both Trusts (if there is a Trust administrator for each Trust at the time in question, the Trust administrators); and
 - (iii) based on a decision by the Trustees of both Trusts if the division of the property in question is considered to be necessary to a reasonable extent in

order to achieve the purpose of each Trust and if it is clear that the division will not harm the interest of the Beneficiaries, or if there are justifiable grounds for the division in light of the impact of the division on the Trust Properties, the purpose and manner of the division, the status of substantial relationship between the Trustees and the Beneficiaries as interested parties, and other relevant circumstances.

- (4) In the case prescribed in the preceding paragraph, if the agreement set forth in item (ii) of said paragraph is not reached or if it is impossible to make the division by any of the means listed in the items of said paragraph for other reasons, the Beneficiary of each Trust (if there is a Trust administrator at the time in question, the Trust administrator) may submit a demand to the court for the division of the property in co-ownership set forth in said paragraph.

(Special Rules for the Confusion of Property That Belongs to Trust Property)

Article 20 (1) If ownership and any other real right existing on a single property have belonged to the Trust Property, the Trustee's Own Property or the Trust Property of another Trust respectively, said other real right is not extinguished, notwithstanding the provisions of the main clause of Article 179, paragraph (1) of the Civil Code.

(2) If any real right other than ownership and any other right for which said real right is the object have belonged to the Trust Property, the Trustee's Own Property or the Trust Property of another Trust respectively, said other right is not extinguished, notwithstanding the provisions of the first sentence of Article 179, paragraph (2) of the Civil Code.

(3) In the following cases, the claim set forth therein is not extinguished, notwithstanding the provisions of the main clause of Article 520 of the Civil Code:

(i) if an obligation pertaining to a claim belonging to the Trust Property has been vested in the Trustee (excluding the case where such obligation has become an Obligation Covered by the Trust Property);

(ii) if a claim pertaining to an Obligation Covered by the Trust Property has been vested in the Trustee (excluding the case where said claim has come to belong to the Trust Property);

(iii) if an obligation pertaining to a claim belonging to the Trustee's Own Property or the Trust Property of another Trust has been vested in the Trustee (limited to the case where said obligation has become an Obligation Covered by the Trust Property); and

(iv) if a claim pertaining to a Trustee's obligation (excluding an Obligation Covered by the Trust Property) has been vested in the Trustee (limited to the case where said claim has come to belong to the Trust Property).

(Scope of Obligations Covered by the Trust Property)

Article 21 (1) Obligations pertaining to the following claims are the Obligations Covered by the Trust Property:

- (i) a Distribution Claim as a Beneficiary;
 - (ii) a right arising with respect to property that comes under Trust Property from a cause that occurred prior to the creation of the Trust;
 - (iii) a claim arising against the Settlor prior to the creation of the Trust, for which it is provided by the Terms of Trust that the obligation pertaining to said claim is an Obligation Covered by the Trust Property;
 - (iv) a Beneficiary's right to demand that the Trustee acquire the Beneficial Interest under the provisions of Article 103, paragraph (1) or paragraph (2);
 - (v) a right arising from an act which is conducted in the interest of the Trust Property and which falls within the scope of the Trustee's powers;
 - (vi) a right arising from any of the following acts which is conducted in the interest of the Trust Property and which does not fall within the scope of the Trustee's powers:
 - (a) an act that may not be rescinded pursuant to the provisions of Article 27, paragraph (1) or paragraph (2) (including cases where these provisions are applied mutatis mutandis pursuant to Article 75, paragraph (4); the same applies in (b)) (excluding cases where the other party to said act did not know, at the time of said act, that said act was being conducted in the interest of the Trust Property (excluding the act of establishing or transferring a right with respect to property that comes under Trust Property));
 - (b) an act that may be rescinded pursuant to the provisions of Article 27, paragraph (1) or paragraph (2) but has not yet been rescinded;
 - (vii) a right arising from a disposition or any other act prescribed in Article 31, paragraph (6) or from an act prescribed in paragraph (7) of said Article, which may not be rescinded pursuant to these provisions or which may be rescinded pursuant to these provisions but has not yet been rescinded;
 - (viii) a right arising from a tort committed by the Trustee in the course of the administration of Trust affairs; and
 - (ix) in addition to what is listed in item (v) to the preceding item, a right arising in the course of the administration of Trust affairs.
- (2) With regard to obligations pertaining to the following rights which fall within the scope of Obligations Covered by the Trust Property, a Trustee is liable to perform said obligations only by using property that comes under Trust Property:
- (i) a Distribution Claim as a Beneficiary;
 - (ii) a Trust claim (meaning a claim pertaining to an Obligation Covered by the Trust Property, other than a Distribution Claim as a Beneficiary; the same

applies hereinafter) in cases where the Terms of Trust contain the provision set forth in Article 216, paragraph (1) and a registration has been made as provided for in Article 232;

- (iii) in addition to those listed in the preceding two items, a Trust claim in cases where the Trustee is deemed to be liable to satisfy said claim only by using property that comes under Trust Property pursuant to the provisions of this Act; and
- (iv) a Trust claim in cases where there is an agreement between the Trustee and the holder of the Trust claim (hereinafter referred to as the "Trust Creditor") to the effect that the Trustee is to be liable to satisfy said claim only by using property that comes under Trust Property.

(Restriction on Set-Off of Claims That Comes under Trust Property)

Article 22 (1) A person who holds a claim pertaining to an obligation which the Trustee is liable to satisfy said claim only by using property that comes under Trustee's Own Property or the Trust Property of another Trust (referred to as the "Trustee's Own Property, etc." in item (i)) (said obligations are referred to as "Obligations Covered by Trustee's Own Property Only, etc." in item (i) and item (ii)) is not allowed to use said claim to set off the said person's obligation pertaining to a claim belonging to the Trust Property; provided, however, that this does not apply in the following cases:

- (i) if, either at the time when a person acquired the claim or at the time when a person assumed the obligation pertaining to the claim belonging to the Trust Property, whichever occurred later, said person who holds the claim pertaining to the Obligation Covered by the Trustee's Own Property Only, etc. did not know and was not negligent in failing to know that the claim belonging to the Trust Property did not belong to the Trustee's Own Property, etc.; or
 - (ii) if, either at the time when a person acquired the claim or at the time when a person assumed the obligation pertaining to the claim belonging to the Trust Property, whichever occurred later, the person who holds the claim pertaining to the Obligation Covered by the Trustee's Own Property Only, etc. did not know and was not negligent in failing to know that said Obligations Covered by Trustee's Own Property Only, etc. was not an Obligation Covered by the Trust Property.
- (2) The provisions of the main clause of the preceding paragraph do not apply to the cases listed in the items of Article 31, paragraph (2) in which the Trustee has approved the set-off set forth in said paragraph.
- (3) A person who holds a claim pertaining to an Obligation Covered by the Trust Property (limited to an obligation that the Trustee is liable to perform only by using property that comes under Trust Property) is not allowed to use said

claim to set off against the person's obligation pertaining to a claim belonging to the Trustee's Own Property; provided, however, that this does not apply if, at the time when said person acquired the claim or when the person assumed the obligation pertaining to the claim belonging to the Trustee's Own Property, whichever occurred later, the person who holds the claim pertaining to the Obligation Covered by the Trust Property did not know and was not negligent in failing to know that the claim belonging to the Trustee's Own Property did not belong to the Trust Property.

- (4) The provisions of the main clause of the preceding paragraph do not apply if the Trustee has approved the set-off set forth in said paragraph.

(Restriction on Compulsory Execution against Property That Comes under Trust Property)

Article 23 (1) Except where based on a claim pertaining to an Obligation Covered by the Trust Property (including a right arising with respect to property that comes under Trust Property; the same applies in the following paragraph), compulsory execution, provisional seizure, provisional disposition or exercise of a security interest, or an auction (excluding an auction for the exercise of a security interest; the same applies hereinafter), or collection proceedings for delinquent national tax (including a procedure to be enforced pursuant to the provisions on collection proceedings for delinquent national tax; the same applies hereinafter) is not allowed to be enforced against property that comes under Trust Property.

- (2) In addition to a creditor who holds a claim pertaining to an Obligation Covered by the Trust Property, where a Trust has been created by the means set forth in Article 3, item (iii), if a Settlor has created the Trust with the knowledge that it would harm Settlor's creditor(s), notwithstanding the provisions of the preceding paragraph, a person who holds a claim against the Settlor (limited to cases where the Settlor is a Trustee) which has arisen prior to the creation of the Trust may commence compulsory execution, provisional seizure, provisional disposition or exercise of a security interest, or an auction, or collection proceedings for delinquent national tax against property that comes under Trust Property; provided, however, that this does not apply if there are Beneficiaries at the time in question, and if all or some of those Beneficiaries did not know, at the time when they became aware that they had been designated as Beneficiaries or when they acquired Beneficial Interest, of the fact that the creditor would be harmed.
- (3) The provisions of Article 11, paragraph (7) and paragraph (8) apply mutatis mutandis to the application of the provisions of the preceding paragraph.
- (4) The provisions of the preceding two paragraphs do not apply when two years have elapsed since the Trust set forth in paragraph (2) was created.

- (5) A Trustee or a Beneficiary may assert an objection to compulsory execution, provisional seizure, provisional disposition or exercise of a security interest, or auction that is being commenced in violation of the provisions of paragraph (1) or paragraph (2). In this case, the provisions of Article 38 of the Civil Execution Act (Act No. 4 of 1979) and the provisions of Article 45 of the Civil Preservation Act (Act No. 91 of 1989) apply mutatis mutandis.
- (6) A Trustee or a Beneficiary may assert an objection to the collection proceeding for delinquent national tax that are being commenced in violation of the provisions of paragraph (1) or paragraph (2). In this case, the assertion of the objection is to be made by entering an appeal against the collection proceedings of delinquent national tax.

(Payment of Expenses, Costs or Remuneration)

Article 24 (1) Where a Beneficiary who has filed an action to assert an objection under the provisions of paragraph (5) or paragraph (6) of the preceding Article has won the Beneficiary's case (completely or partially), if the Beneficiary has paid any expenses or costs (excluding court costs) that were necessary in relation to the action or if the Beneficiary is liable for paying remuneration to an attorney-at-law, a legal professional corporation, a judicial scrivener, or a judicial scrivener corporation, said expenses, costs, or remuneration are to be paid from the Trust Property, up to the amount considered reasonable, not exceeding the actual amount thereof.

- (2) Even where the Beneficiary who filed the action set forth in the preceding paragraph has lost the Beneficiary's case, the Beneficiary is not liable to compensate the Trustee for any damage arising from the action, except where the Beneficiary was in bad faith.

(Relationship between Trust Property and Bankruptcy Proceedings against Trustee)

Article 25 (1) Even where an order for the commencement of bankruptcy is entered against a Trustee, no property that comes under Trust Property is included in the bankruptcy estate.

- (2) In the case referred to in the preceding paragraph, no Distribution Claim as a Beneficiary is dealt with as a bankruptcy claim. The same applies to a Trust claim that the Trustee is liable to satisfy only by using property that comes under Trust Property.
- (3) In the case referred to in paragraph (1), a discharge of an obligation pertaining to a Trust claim (excluding a Trust claim prescribed in the preceding paragraph) based on a discharge order as set forth in Article 252, paragraph (1) of the Bankruptcy Act may not be asserted to the Trust Property.
- (4) Even where an order for the commencement of rehabilitation proceedings is

entered against a Trustee, no Trust Property is included in the rehabilitation debtor's assets.

- (5) In the case referred to in the preceding paragraph, no Distribution Claim as a Beneficiary is dealt with as a rehabilitation claim. The same applies to a Trust claim that the Trustee is liable to satisfy only by using property that comes under Trust Property.
- (6) In the case referred to in paragraph (4), a discharge of or a modification to an obligation pertaining to a Trust claim (excluding a Trust claim as prescribed in the preceding paragraph) by a rehabilitation plan, an order for the confirmation of the rehabilitation plan, or a discharge order set forth in Article 235, paragraph (1) of the Civil Rehabilitation Act may not be asserted to the Trust Property.
- (7) The provisions of the preceding three paragraphs apply mutatis mutandis where an order for the commencement of reorganization is entered against a Trustee. In this case, the term "rehabilitation debtor's assets" in paragraph (4) is deemed to be replaced with "of reorganization company's assets (meaning the assets of a company under reorganization as prescribed in Article 2, paragraph (14) of the Corporate Reorganization Act or the assets of a company in reorganization as prescribed in Article 169, paragraph (14) of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc.) or the assets of a cooperative financial institution under reorganization (meaning the assets of a cooperative financial institution under reorganization as prescribed in Article 4, paragraph (14) of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc.)," the term "rehabilitation claims" in paragraph (5) is deemed to be replaced with "reorganization claims or secured reorganization claims," and the phrase "a rehabilitation plan, an order for the confirmation of the rehabilitation plan, or a discharge order set forth in Article 235, paragraph (1) of the Civil Rehabilitation Act" in the preceding paragraph is deemed to be replaced with "a reorganization plan or an order for the confirmation of the reorganization plan."

Chapter III Trustees

Section 1 Trustee's Powers

(Scope of Trustee's Powers)

Article 26 A Trustee has the power to administer or dispose of property that comes under Trust Property and to conduct any other acts that are necessary to achieve the purpose of the Trust; provided, however, that this does not preclude such power from being restricted by the Terms of Trust.

(Rescission of Acts Conducted by Trustee beyond Their Powers)

Article 27 (1) Where an act conducted by a Trustee for the Trust Property does not fall within the scope of the Trustee's powers, if all of the following conditions are met, a Beneficiary may rescind said act,:

- (i) that the other party to the act knew, at the time of said act, that said act was conducted for the Trust Property; and
- (ii) that the other party to the act knew or was grossly negligent in failing to know, at the time of said act, that said act did not fall within the scope of the Trustee's powers.

(2) Notwithstanding the provisions of the preceding paragraph, where an act conducted by a Trustee to establish or transfer a right for property that comes under Trust Property (limited to property for which a Trust registration as set forth in Article 14 may be made) does not fall within the scope of Trustee's powers, if all of the following conditions are met, a Beneficiary may rescind said act,:

- (i) that at the time of the act, the Trust registration as set forth in Article 14 existed with regard to the property that comes under Trust Property; and
- (ii) that the other party to the act knew or was grossly negligent in failing to know, at the time of said act, that said act did not fall within the scope of the Trustee's powers.

(3) When any one of the two or more Beneficiaries has exercised the right to rescind under the provisions of the preceding two paragraphs, the rescission has the same effect on other Beneficiaries.

(4) The right to rescind under the provisions of paragraph (1) or paragraph (2) is extinguished by prescription if it is not exercised within three months from the time when the Beneficiary (if there is a Trust administrator at the time in question, the Trust administrator) became aware of the existence of the grounds for rescission. The same applies when one year has elapsed from the time of the act.

(Delegation of Administration of Trust Affairs to a Third Party)

Article 28 In the following cases, a Trustee may delegate the administration of Trust affairs to a third party:

- (i) when it is provided by the Terms of Trust that the administration of Trust affairs is to be or may be delegated to a third party;
- (ii) when the Terms of Trust do not contain any provisions concerning the delegation of the administration of Trust affairs to a third party, but delegating the administration of Trust affairs to a third party is considered to be appropriate in light of the purpose of the Trust; and
- (iii) when it is provided by the Terms of Trust that the Trustee is not allowed to delegate the administration of Trust affairs to a third party, but

delegating the administration of Trust affairs to a third party is considered to be unavoidable in light of the purpose of the Trust.

Section 2 Trustee's Duties

(The Trustee's Duty of Care)

Article 29 (1) A Trustee must administer Trust affairs in line with the purpose of the Trust.

(2) A Trustee must administer Trust affairs with the due care of a prudent manager; provided, however, that if the Terms of Trust otherwise provide, the Trustee must administer Trust affairs with such care as provided for by the Terms of Trust.

(Duty of Loyalty)

Article 30 A Trustee must administer Trust affairs and conduct any other acts faithfully on behalf of a Beneficiary.

(Restriction on Acts that Create Conflict of Interest)

Article 31 (1) A Trustee is not allowed to carry out the following acts:

- (i) causing property that comes under Trust Property (including any right for such property) to be included in the Trustee's Own Property, or having property that is the Trustee's Own Property (including any right for such property) be included in the Trust Property;
- (ii) having property that comes under Trust Property (including any right for such property) be included in the Trust Property of another Trust;
- (iii) carrying out an act for the Trust Property with a third party while serving as the third party's agent; and
- (iv) establishing a security interest on property that comes under Trust Property in order to secure a claim pertaining to an obligation that the Trustee is liable to perform only by using property that comes under Trustee's Own Property, or carrying out any other act with a third party for the Trust Property which would create a conflict of interest between the Trustee or an interested party thereof and the Beneficiary.

(2) Notwithstanding the provisions of the preceding paragraph, in any of the following cases, a Trustee may carry out the acts listed in the items of said paragraph; provided, however, that this does not apply to the case set forth in item (ii) if it is provided for by the Terms of Trust that the Trustee is not allowed to carry out said acts even in the case set forth in said item:

- (i) when it is provided by the Terms of Trust that the Trustee is allowed to carry out said acts;
- (ii) when the Trustee has disclosed the material facts and obtained approval

- from the Beneficiary for carrying out said acts;
- (iii) when any right to property that comes under Trust Property has been included in the Trustee's Own Property by reason of inheritance or any other universal succession; or
 - (iv) where, in order to achieve the purpose of the Trust, it is considered reasonably necessary for the Trustee to carry out said acts, if it is clear that said acts conducted by the Trustee will not harm the interests of the Beneficiary, or if there are justifiable grounds for the Trustee to carry out said acts in light of the impact of said acts on the Trust Property, the purpose and manner of said acts, the status of substantial relationship between the Trustee and the Beneficiary as interested parties and other relevant circumstances.
- (3) The Trustee must, when having carried out any of the acts listed in the items of paragraph (1), give notice of the material facts concerning said act to the Beneficiary; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
 - (4) If the acts set forth in paragraph (1), item (i) or item (ii) are carried out in violation of the provisions of paragraph (1) or paragraph (2), said acts are null and void.
 - (5) The act set forth in the preceding paragraph comes into effect retroactively as of the time of said act, if it is ratified by the Beneficiary.
 - (6) In the case prescribed in paragraph (4), when the Trustee has disposed of or carried out any other act regarding the property set forth in paragraph (1), item (i) or item (ii) with a third party, the Beneficiary may rescind the disposition or other act only if the third party knew or was grossly negligent in failing to know that the act set forth in paragraph (1), item (i) or item (ii) was carried out in violation of the provisions of paragraph (1) or paragraph (2). In this case, the provisions of Article 27, paragraph (3) and paragraph (4) apply *mutatis mutandis*.
 - (7) Where an act set forth in paragraph (1), item (iii) or item (iv) has been carried out in violation of the provisions of paragraph (1) and paragraph (2), the Beneficiary may rescind the act only if the third party knew or was grossly negligent in failing to know that said act was conducted in violation of these provisions. In this case, the provisions of Article 27, paragraph (3) and paragraph (4) apply *mutatis mutandis*.

Article 32 (1) With regard to an act that a Trustee may carry out in the course of administering Trust affairs based on the Trustee's powers as Trustee, if the Trustee's failure to carry out said act would be contrary to the interests of a Beneficiary, the Trustee is not allowed to conduct said act on the account of the Trustee's Own Property or on the account of an interested party of the Trustee.

- (2) Notwithstanding the provisions of the preceding paragraph, in any of the following cases, the Trustee may carry out the act prescribed in said paragraph on the account of the Trustee's Own Property or on the account of the interested party of the Trustee; provided, however, that this does not apply to the case set forth in item (ii) if it is provided by the Terms of Trust that the Trustee is not allowed to carry out said act on the account of the Trustee's Own Property or on the account of an interested party of the Trustee even in the case set forth in said item:
- (i) when it is provided by the Terms of Trust that the Trustee is allowed to carry out said act on the account of the Trustee's Own Property or on the account of an interested party of the Trustee; or
 - (ii) when the Trustee has disclosed the material facts and obtained approval from the Beneficiary for carrying out said act on the account of the Trustee's Own Property or on the account of an interested party of the Trustee.
- (3) Trustees must, when the Trustee has carried out the act prescribed in paragraph (1) on the account of the Trustee's Own Property or on the account of an interested party of the Trustee, give notice to the Beneficiary of the material facts concerning said act; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (4) If the Trustee has carried out an act prescribed in paragraph (1) in violation of the provisions of paragraph (1) and paragraph (2), the Beneficiary may deem that said act has been conducted in the interests of the Trust Property; provided, however, that this may not harm rights of any third party.
- (5) The rights under the provisions of the preceding paragraph are extinguished when one year has elapsed from the time of said act.

(Duty of Equity)

Article 33 In the case of a Trust with two or more Beneficiaries, a Trustee must perform duties of Trustee equitably on behalf of these Beneficiaries.

(Duty to Separate Property)

Article 34 (1) A Trustee must separate property that comes under Trust Property from property that comes under Trustee's Own Property and that which comes under Trust Property of other Trusts by means specified in each of the following items for the categories of property listed in the respective items; provided, however, that if the terms of the Trust otherwise provides for the means of separation, such provisions prevail:

- (i) property for which a Trust registration set forth in Article 14 may be made (excluding the property set forth in item (iii)): by said Trust registration;
- (ii) property for which a Trust registration set forth in Article 14 may not be made (excluding the property set forth in the following item): either of the

means specified in (a) or (b) below for the categories of property listed in (a) or (b), respectively:

- (a) movables (excluding monies): by retaining property that comes under Trust Property separately from property that comes under Trustee's Own Property and property that comes under Trust Property of other Trusts in the manner whereby they can be distinguished from each other on sight; or
 - (b) monies and any property other than those set forth in (a): by clarifying the accounting thereof; or
 - (iii) property specified by Ordinance of the Ministry of Justice: by means specified by Ordinance of the Ministry of Justice for the appropriate separation of the property.
- (2) Notwithstanding the provisions of the proviso to the preceding paragraph, the Trustee is not exempted from the duty for Trust registration set forth in Article 14 for the property set forth in item (i) of said paragraph.

(Duty to Appoint and Supervise a Third Party when Delegating Administration of Trust Affairs)

- Article 35 (1) When delegating the administration of Trust affairs to a third party pursuant to the provisions of Article 28, a Trustee must delegate said administration to a suitable person in light of the purpose of a Trust.
- (2) The Trustee, when the Trustee has delegated the administration of Trust affairs to a third party pursuant to the provisions of Article 28, must conduct the necessary and appropriate supervision of the third party in order to achieve the purpose of the Trust.
- (3) When the Trustee has delegated the administration of Trust affairs to any of the following third parties, the provisions of the preceding two paragraphs do not apply; provided, however, that when the Trustee becomes aware that the third party is unsuitable or unfaithful or that the administration of Trust affairs by the third party is inappropriate, the Trustee must give notice to the Beneficiary to that effect, cancel the delegation to the third party, or take other necessary measures:
- (i) a third party designated by the Terms of Trust; or
 - (ii) if it is provided by the Terms of Trust that the administration of Trust affairs is delegated to a third party designated by the Settlor or the Beneficiary, the third party designated pursuant to said provisions.
- (4) Notwithstanding the provisions of the proviso to the preceding paragraph, if the Terms of Trust otherwise provide for, such provisions prevail.

(Duty to Report on Processing Status of Administration of Trust Affairs)

Article 36 A Settlor or a Beneficiary may request a Trustee to report on the processing status of administration of Trust affairs as well as the status of

property that comes under Trust Property and the Obligation Covered by the Trust Property.

(Duty to Prepare, Report On, and Retain Books)

- Article 37 (1) A Trustee must prepare books and other documents or electronic or magnetic records relating to the Trust Property, as provided for by Ordinance of the Ministry of Justice, in order to clarify the accounts on Trust affairs as well as the status of property that comes under Trust Property and the Obligation Covered by the Trust Property.
- (2) The Trustee must prepare a balance sheet, profit and loss statement, and any other documents or electronic or magnetic records specified by Ordinance of the Ministry of Justice, once each year, at a certain time, as provided for by Ordinance of the Ministry of Justice.
- (3) When the Trustee has prepared the documents or electronic or magnetic records set forth in the preceding paragraph, the Trustee must report to a Beneficiary (if there is a Trust administrator at the time in question, to the Trust administrator) on the content thereof; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (4) When the Trustee has prepared the documents or electronic or magnetic records set forth in paragraph (1), the Trustee must hold said documents (if electronic or magnetic records are prepared in lieu of said documents by the means specified by Ordinance of the Ministry of Justice, said electronic or magnetic records) or said electronic or magnetic records (if documents are prepared in lieu of said electronic or magnetic records, said documents) for ten years from the date of their preparation (or until the date of the completion of the liquidation of the Trust if this occurs within said ten-year period; the same applies in the following paragraph); provided, however, that this does not apply if the Trustee has delivered said documents or copies thereof to the Beneficiary (if there are two or more Beneficiaries at the time in question, to all Beneficiaries; if there is a Trust administrator at the time in question, to the Trust administrator; the same applies in the proviso to paragraph (6)), or has provided the Beneficiary with information on the particulars recorded in said electronic or magnetic records by the means specified by Ordinance of the Ministry of Justice.
- (5) When the Trustee has prepared or acquired a written contract relating to the disposition of property that comes under Trust Property or any other documents or electronic or magnetic records concerning the administration of Trust affairs, the Trustee must hold said documents (if electronic or magnetic records are prepared in lieu of said documents by the means specified by Ordinance of the Ministry of Justice, said electronic or magnetic records) or said electronic or magnetic records (if documents are prepared in lieu of said

electronic or magnetic records, said documents) for ten years from the date of the preparation or acquisition. In this case, the provisions of the proviso to the preceding paragraph apply mutatis mutandis.

- (6) When the Trustee has prepared the documents or electronic or magnetic records set forth in paragraph (2), the Trustee must retain said documents (if electronic or magnetic records are prepared in lieu of said documents by the means specified by Ordinance of the Ministry of Justice, said electronic or magnetic records) or said electronic or magnetic records (if documents are prepared in lieu of said electronic or magnetic records, said documents) until the date of the completion of the liquidation of the Trust; provided, however that this does not apply if the Trustee has, after ten years have elapsed from the date of their preparation, delivered said documents or copies thereof to the Beneficiary, or has provided the Beneficiary with information on the particulars recorded in said electronic or magnetic records by the means specified by Ordinance of the Ministry of Justice.

(Request to Inspect Books)

Article 38 (1) A Beneficiary may make the following requests to a Trustee. In this case, in making said request, the reasons therefor must be specified:

- (i) a request to inspect or copy the documents set forth in paragraph (1) or paragraph (5) of the preceding Article; and
 - (ii) a request to inspect or copy any object which shows the particulars recorded in the electronic or magnetic records set forth in paragraph (1) or paragraph (5) of the preceding Article by a means specified by Ordinance of the Ministry of Justice.
- (2) The Trustee is not allowed to refuse the request set forth in the preceding paragraph when said request has been received, except where it is found to fall under any of the following cases:
- (i) if the person making said request (hereinafter referred to as the "Requester" in this paragraph) has made the request for purposes other than an investigation related to the securement or exercise of the Requester's rights;
 - (ii) if the Requester has made the request at an inappropriate time;
 - (iii) if the Requester has made the request for the purpose of disturbing the administration of Trust affairs or harming the common interests of the Beneficiaries;
 - (iv) if the Requester operates or engages in the business which is effectively in competition with business pertaining to the Trust;
 - (v) if the Requester has made the request in order to inform a third party, for profit, of any fact that the Requester may learn by way of inspecting or copying documents or any other object under the provisions of the preceding paragraph; or

- (vi) if the Requester has informed a third party, for profit, of any fact that the Requester has learned by way of inspecting or copying documents or any other object under the provisions of the preceding paragraph within the past two years.
- (3) The provisions of the preceding paragraph (excluding item (i) and item (ii)) do not apply when the request set forth in paragraph (1) is made by all Beneficiaries of the Trust which has two or more Beneficiaries, or when the request set forth in said paragraph is made by a Beneficiary of the Trust which has sole Beneficiary.
- (4) Where it is provided by the Terms of Trust that a request to inspect or copy documents or any other object under the provisions of paragraph (1) is to be restricted with regard to any information other than the those listed below, if a Beneficiary gives consent for said restriction, the Beneficiary who has given said consent (including the Beneficiary's successor; hereinafter the same applies in this Article) is not allowed to revoke said consent:
- (i) information that is indispensable for preparing the documents or electronic or magnetic records set forth in paragraph (2) of the preceding Article or any other material information concerning the Trust; and
 - (ii) information that is unlikely to harm the interests of any person other than said Beneficiary.
- (5) Upon receiving a request to inspect or copy documents or any other object under the provisions of paragraph (1) from the Beneficiary who has given the consent as set forth in the preceding paragraph, the Trustee may refuse said request, except for the part that falls under the information listed in the items of the preceding paragraph.
- (6) An interested party may make the following requests to the Trustee:
- (i) a request to inspect or copy the documents set forth in paragraph (2) of the preceding Article; and
 - (ii) a request to inspect or copy any object which indicates the particulars recorded in the electronic or magnetic records set forth in paragraph (2) of the preceding Article by a means specified by Ordinance of the Ministry of Justice.

(Request for the Disclosure of Names of Other Beneficiaries)

- Article 39 (1) If the case of a Trust with two or more Beneficiaries, each Beneficiary may request that a Trustee disclose the following particulars by appropriate means. In this case, in making said request, the reasons therefor must be specified:
- (i) the names and addresses of the other Beneficiaries; and
 - (ii) the content of the Beneficial Interest held by other Beneficiaries.
- (2) The Trustee is not allowed to refuse the request set forth in the preceding

paragraph when said request has been received, except where it is found to fall under any of the following cases:

- (i) if the person making said request (hereinafter referred to as the "Requester" in this paragraph) has made the request for purposes other than an investigation related to the securement or exercise of the Requester's rights;
 - (ii) if the Requester has made the request at an inappropriate time;
 - (iii) if the Requester has made the request for the purpose of disturbing the administration of Trust affairs or harming the common interests of the Beneficiaries;
 - (iv) if the Requester operates or engages in business which is effectively in competition with business pertaining to the Trust;
 - (v) if the Requester has made the request in order to inform a third party, for profit, of any fact that the Requester may learn by way of the disclosure under the provisions of the preceding paragraph; or
 - (vi) if the Requester has informed a third party, for profit, of any fact that the Requester learned by way of the disclosure under the provisions of the preceding paragraph within the past two years.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if the Terms of Trust otherwise provide, such provisions prevail.

Section 3 Trustee's Liabilities

(Trustee Liability to Compensate for Losses)

Article 40 (1) When any of the cases listed in the following items has occurred due to a Trustee's breach of the duties, a Beneficiary may demand that the Trustee take the measures specified in the respective items; provided, however, that this does not apply to the measures specified in item (ii), if it is extremely difficult to restore the Trust Property, if the restoration would require excessive expense, or if there are other special circumstances where it is inappropriate to have the Trustee restore the Trust Property:

- (i) if any loss to the Trust Property has occurred: compensation for said loss;
and
 - (ii) if any change to the Trust Property has occurred: restoration of the Trust Property.
- (2) Where the Trustee has delegated the administration of Trust affairs to a third party in violation of the provisions of Article 28, if any loss or change to the Trust Property has occurred, the Trustee is not released from liability as set forth in the preceding paragraph unless the Trustee proves that said loss or change would have occurred even if the Trustee had not delegated the administration of Trust affairs to the third party.
- (3) If the Trustee has carried out any act in violation of the provisions of Article

30, Article 31, paragraph (1) and paragraph (2) or Article 32, paragraph (1) and paragraph (2), the Trustee is presumed to have caused a loss to the Trust Property in the same amount as the amount of the profit obtained by the Trustee or an interested party of the Trustee as a result of said act.

- (4) Where the Trustee has administered property that comes under Trust Property in violation of the provisions of Article 34, if any loss or change to the Trust Property has occurred, the Trustee is not released from the liability set forth in paragraph (1) unless the Trustee proves that said loss or change would have occurred even if the Trustee had separated the relevant property in accordance with the provisions of said Article.

(Joint and Several Liability of Officers of Trustee Who Is a Corporation)

Article 41 Where a Trustee that is a corporation has incurred liability under the provisions of the preceding Article, if the Trustee has committed willfully or gross-negligently violation of laws and regulations or the provisions of the Terms of Trust, the Trustee's director, executive officer, or any other person equivalent thereto must be liable jointly and severally with the corporation to compensate the Beneficiary for any loss incurred in the Trust Property or to restore the Trust Property.

(Release from Liability to Compensate for Losses)

Article 42 A Beneficiary may grant a Trustee a release from the following liabilities:

- (i) liability under the provisions of Article 40; and
- (ii) liability under the provisions of the preceding Article.

(Limitation to Term for Claims Pertaining to Liability to Compensate for Losses)

Article 43 (1) The extinctive prescription for a claim pertaining to liability under the provisions of Article 40 is governed by the provisions on extinctive prescription for claims pertaining to liability arising from the failure to perform an obligation.

- (2) The claim pertaining to liability under the provisions of Article 41 is extinguished by prescription if it is not exercised within ten years.
- (3) The period of the extinctive prescription for a Beneficiary's claim pertaining to liability under the provisions of Article 40 or Article 41 does not begin to run until the Beneficiary becomes aware that the Beneficiary has been designated as Beneficiary (if there is no Beneficiary at the time in question, until a Trust administrator is appointed).
- (4) The claim prescribed in the preceding paragraph is extinguished when 20 years have elapsed from the time when any loss or change occurred to the

Trust Property due to the Trustee's breach of the duties.

(Cessation of Trustee's Acts at Demand of Beneficiary)

Article 44 (1) Where a Trustee has acted or is likely to act in violation of laws and regulations or the provisions of the Terms of Trust, if said act is likely to cause substantial harm to the Trust Property, a Beneficiary may demand that the Trustee cease said act.

(2) Where the Trustee has acted or is likely to act in violation of the provisions of Article 33, if said act is likely to cause substantial harm to some of the Beneficiaries, those Beneficiaries may demand that the Trustee cease said act.

(Payment of Expenses, Costs, or Remuneration)

Article 45 (1) Where a Beneficiary who has filed an action pertaining to the demand under the provisions of Article 40, Article 41, or the preceding Article has won the Beneficiary's case (completely or partially), if the Beneficiary has paid any expenses or costs (excluding court costs) that were necessary in relation to the action or if the Beneficiary is liable for paying remunerations to an attorney-at-law, a legal professional corporation, a judicial scrivener, or a judicial scrivener corporation, said expenses, costs, or remuneration are to be paid from the Trust Property, up to the amount considered reasonable, not exceeding the actual amount thereof.

(2) Even where the Beneficiary who filed the action set forth in the preceding paragraph has lost the Beneficiary's case, the Beneficiary is not liable to compensate the Trustee for any damage arising from the action, except where the Beneficiary was in bad faith.

(Appointment of Inspector)

Article 46 (1) When there are sufficient grounds to suspect misconduct or material facts of violations of laws and regulations or the provisions of the Terms of Trust in connection with the administration of Trust affairs by a Trustee, a Beneficiary may file a petition with the court for the appointment of an inspector in order to have the inspector investigate the status of the administration of Trust affairs as well as the status of property that comes under Trust Property and the Obligation Covered by the Trust Property.

(2) When the petition set forth in the preceding paragraph is filed, the court must appoint the inspector, except where it dismisses the petition as unlawful.

(3) A judicial decision dismissing the petition set forth in paragraph (1) must include the reasons for said decision.

(4) No appeal may be entered against the judicial decision on the appointment of an inspector under the provisions of paragraph (1).

(5) The inspector set forth in paragraph (2) may receive remuneration as

determined by the court from the Trust Property.

- (6) The court, before making the judicial decision determining the remuneration for the inspector under the provisions of the preceding paragraph, must hear statements from the Trustee and the inspector set forth in paragraph (2).
- (7) Only a Trustee or an inspector set forth in paragraph (2) may file an immediate appeal against the judicial decision determining the remuneration for the inspector made under the provisions of paragraph (5).

Article 47 (1) The inspector set forth in paragraph (2) of the preceding Article may, when it is necessary in order for the inspector to perform the duties, request that a Trustee report on the status of the administration of Trust affairs as well as the status of the property that comes under Trust Property and the Obligation Covered by the Trust Property, and may investigate the books, documents, and any other objects pertaining to the Trust.

- (2) The inspector set forth in paragraph (2) of the preceding Article must conduct the necessary investigation, and must report to the court through the submission of documents or electronic or magnetic records (limited to such records as specified by Ordinance of the Ministry of Justice) in which the results of the investigation are stated or recorded.
- (3) When the court finds it necessary for clarifying the contents of or confirming the basis of the report set forth in the preceding paragraph, it may request that the inspector set forth in paragraph (2) of the preceding Article make a further report set forth in the preceding paragraph.
- (4) The inspector set forth in paragraph (2) of the preceding Article must, when the inspector has made the report set forth in paragraph (2), deliver to the Trustee and the Beneficiary who filed the petition set forth in paragraph (1) of said Article a copy of the documents set forth in paragraph (2), or must provide them with information on the particulars recorded in the electronic or magnetic records set forth in said paragraph by the means specified by Ordinance of the Ministry of Justice.
- (5) When the Trustee has received a copy of the documents or information on the particulars recorded in the electronic or magnetic records by the means specified by Ordinance of the Ministry of Justice under the provisions of the preceding paragraph, the Trustee must immediately give notice to the Beneficiaries (excluding the Beneficiary who filed the petition set forth in paragraph (1) of the preceding Article; the same applies in the following paragraph) to that effect; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (6) Where the report set forth in paragraph (2) has been made, the court, when it finds it necessary, must order the Trustee to give notice of the results of the investigation set forth in said paragraph to the Beneficiary or to take any other

appropriate measures to notify the content of the report.

Section 4 Expenses and Trust Fees for Trustee

(Reimbursement of Expenses from Trust Property)

Article 48 (1) If a Trustee has paid, from the Trustee's Own Property, expenses that are considered necessary for the administration of Trust affairs, the Trustee may receive reimbursement for said expenses and interest thereon accruing from the date of payment (hereinafter referred to as the "Expenses, etc.") from the Trust Property; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(2) When the Trustee needs expenses for the administration of Trust affairs, the Trustee may receive advance payment thereof from the Trust Property; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(3) In order to receive advance payment of expenses from the Trust Property pursuant to the provisions of the main clause of the preceding paragraph, the Trustee must give notice to a Beneficiary of the amount of advance payment to be received and the basis for the calculation of said amount; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(4) Notwithstanding the provisions of paragraph (1) or paragraph (2), if the Trustee has assumed obligations under the provisions of Article 40, the Trustee is not allowed to receive reimbursement for Expenses, etc. or advance payment of expenses until after the Trustee fulfills said obligations; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(5) In the case referred to in paragraph (1) or paragraph (2), the Trustee is not prevented from receiving reimbursement for Expenses, etc. or advance payment of expenses from the Beneficiary based on an agreement between the Trustee and the Beneficiary.

(Means of Reimbursement for Expenses, etc.)

Article 49 (1) If a Trustee may receive reimbursement for Expenses, etc. or advance payment of expenses from the Trust Property pursuant to the provisions of paragraph (1) or paragraph (2) of the preceding Article, the Trustee may transfer monies that belong to the Trust Property to the coffers of the Trustee's Own Property, up to the amount receivable.

(2) In the case prescribed in the preceding paragraph, when necessary, the Trustee may dispose of property that comes under Trust Property (excluding the case where said disposal would make it impossible to achieve the purpose of the Trust); provided, however, that if the Terms of Trust otherwise provide for them, such provisions prevail.

- (3) In the case prescribed in paragraph (1), if any of the items of Article 31, paragraph (2) apply, the Trustee may transfer property that comes under Trust Property other than monies, to the coffers of the Trustee's Own Property, instead of exercising the right under the provisions of paragraph (1); provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (4) When proceedings are commenced for compulsory execution against, or for the exercise of a security interest in, property that comes under Trust Property, the right that the Trustee has pursuant to the provisions of paragraph (1) is deemed to be a monetary claim in relation to said proceedings.
- (5) In the case referred to in the preceding paragraph, the Trustee who has proved to have the right prescribed in said paragraph by means of a document certifying the existence of said right, may also demand a distribution under the proceedings for compulsory execution or for the exercise of a security interest set forth in said paragraph.
- (6) The right that the Trustee has pursuant to the provisions of paragraph (1) with regard to Expenses, etc. for the preservation, liquidation, or distribution of property that comes under Trust Property, which has been conducted in the common interest of creditors (limited to creditors who hold claims pertaining to the Obligation Covered by the Trust Property; hereinafter the same applies in this paragraph and the following paragraph) prevails over the rights of other creditors (in cases where such Expenses, etc. were not beneficial to all creditors, those who did not benefit from such Expenses, etc. are excluded) in the proceedings for compulsory execution or for the exercise of a security interest set forth in paragraph (4). In this case, said right has the same rank in the order of priority as a statutory lien prescribed in Article 307, paragraph (1) of the Civil Code.
- (7) The right that the Trustee has pursuant to the provisions of paragraph (1) with regard to the Expenses, etc. which fall under the following items prevails over the rights of other creditors for the amount specified in the respective items in the proceedings for compulsory execution against or for the exercise of a security interest in the property set forth in the respective items, as set forth in paragraph (4),:
- (i) the amount of expenses paid for the preservation of property that comes under Trust Property or any other amount that is considered to be necessary for maintaining the value of said property: said amount; and
 - (ii) the amount of expenses paid for the improvement of property that comes under Trust Property or any other amount that is considered to be conducive to increasing the value of said property: said amount or the amount of the increase in value at the time in question, whichever is smaller.

(Subrogation of Trustee through Performance of Obligations Covered by the Trust Property)

Article 50 (1) Where a Trustee has performed an Obligation Covered by the Trust Property by using the Trustee's Own Property, if the Trustee acquires the right under the provisions of paragraph (1) of the preceding Article through said performance, the Trustee is subrogated to the creditor who holds the claim pertaining to said Obligation Covered by the Trust Property. In this case, the right that the Trustee has pursuant to the provisions of said paragraph is deemed to be a monetary claim in relation to said subrogation.

(2) When the Trustee is subrogated to the creditor set forth in the preceding paragraph pursuant to the provisions of said paragraph, the Trustee must give notice to the creditor, without delay, to the effect that the claim held by the creditor is a claim pertaining to an Obligation Covered by the Trust Property and that the Trustee has performed said obligation by using the Trustee's Own Property.

(Reimbursement of Expenses, etc. and Simultaneous Performance)

Article 51 A Trustee may, before the right that the Trustee has pursuant to the provisions of Article 49, paragraph (1) is extinguished, refuse to perform the obligation of distribution involving the Trust Property to a Beneficiary or to a holder of vested right prescribed in Article 182, paragraph (1), item (ii); provided, however, that if the Terms of Trust otherwise provide, such provisions prevail.

(Measures for Trust Property Insufficient for Reimbursement of Expenses, etc.)

Article 52 (1) Where a Trustee wishes to receive reimbursement for Expenses, etc. or advance payment of expenses from the Trust Property pursuant to the provisions of Article 48, paragraph (1) or paragraph (2) but the Trust Property (excluding any property that may not be disposed of pursuant to the provisions of Article 49, paragraph (2); the same applies in item (i) and paragraph (4)) is insufficient to provide such reimbursement or advance payment, the Trustee may terminate the Trust, if the Trustee has given notice of the following particulars to a Settlor and Beneficiary but has not received reimbursement of Expenses, etc. or advance payment of expenses from the Settlor or the Beneficiary even when a reasonable period of time set forth in item (ii) has elapsed:

- (i) a statement to the effect that the Trustee is unable to receive reimbursement of Expenses, etc. or advance payment of expenses due to insufficient Trust Property; and
- (ii) a statement to the effect that the Trustee will terminate the Trust if the Trustee is unable to receive reimbursement of Expenses, etc. or advance

payment of expenses from the Settlor or the Beneficiary within a reasonable period of time specified by the Trustee.

- (2) For the purpose of the application of the provisions of the preceding paragraph to cases where there is no Settlor at the time in question, the phrases "the Settlor and the Beneficiary" and "a Settlor or a Beneficiary" in said paragraph are deemed to be replaced with "the Beneficiary."
- (3) For the purpose of the application of the provisions of paragraph (1) in cases where there is no Beneficiary at the time in question, the phrases "a Settlor and a Beneficiary" and "the Settlor or the Beneficiary" in said paragraph are deemed to be replaced with "the Settlor."
- (4) Where the Trust Property is insufficient to provide for reimbursement of Expenses, etc. or advance payment of expenses pursuant to the provisions of Article 48, paragraph (1) or paragraph (2), if there is neither the Settlor nor the Beneficiary of the Trust at the time in question, the Trustee may terminate the Trust.

(Compensation for Damages out of Trust Property)

Article 53 (1) In the cases listed in the following items, a Trustee may receive compensation from the Trust Property for the amount of damages specified in the respective items; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail:

- (i) if the Trustee has suffered any damages in the course of administering Trust affairs without Trustee's own negligence: the amount of said damages; and
 - (ii) if the Trustee has suffered any damages in the course of administering Trust affairs due to an intentional or negligent act of a third party (excluding the case set forth in the preceding item): the amount of compensation that may be demanded from said third party.
- (2) The provisions of Article 48, paragraph (4) and paragraph (5), Article 49 (excluding paragraph (6) and paragraph (7)), and the preceding two Articles apply mutatis mutandis to the compensation for damages from the Trust Property under the provisions of the preceding paragraph.

(Trust Fees for Trustee)

Article 54 (1) In addition to the case where the provisions of Article 512 of the Commercial Code (Act No. 48 of 1899) apply to the undertaking of acceptance of a Trust, a Trustee may receive Trust fees (meaning a property benefit to be received by the Trustee as the consideration for the administration of Trust affairs; the same applies hereinafter) from the Trust Property only if it is provided by the Terms of Trust that the Trustee receives Trust fees from the Trust Property.

- (2) In the case referred to in the preceding paragraph, the amount of Trust fees is, if the Terms of Trust contain provisions concerning the amount of Trust fees or the means of calculation thereof, determined pursuant to said provisions, and if there are no said provisions, a reasonable amount.
- (3) In the absence of provisions of the Terms of Trust as set forth in the preceding paragraph, the Trustee must, in order to receive Trust fees from the Trust Property, give notice to a Beneficiary of the amount of Trust fees and the basis for the calculation of said amount.
- (4) The provisions of Article 48, paragraph (4) and paragraph (5), Article 49 (excluding paragraph (6) and paragraph (7)), Article 51, and Article 52, as well as the provisions of Article 648, paragraph (2) and paragraph (3) of the Civil Code, apply mutatis mutandis to the Trustee's Trust fees.

(Exercise of Security Interest by Trustee)

Article 55 In the case of a Trust created with a security interest as the Trust Property, if it is provided by the Terms of Trust that a Beneficiary is a creditor of the claim to be secured by said security interest, a Trustee may, as a holder of the security interest, file a petition for the enforcement of the security interest and have the proceeds of the sale distributed or payment monies delivered, within the scope of Trust affairs.

Section 5 Changing of Trustee

Subsection 1 Termination of Trustee's Duty as Trustee

(Grounds for Termination of Trustee's Duty as Trustee)

- Article 56 (1) A Trustee's duty as Trustee terminates on the following grounds, in addition to the completion of the liquidation of the Trust; provided, however, that in the case of termination on the grounds set forth in item (iii), if the Terms of Trust otherwise provide for, such provisions prevail:
- (i) the death of an individual who is the Trustee;
 - (ii) a ruling for commencement of guardianship or commencement of curatorship against an individual who is the Trustee;
 - (iii) an order for the commencement of bankruptcy proceedings against the Trustee (excluding cases of dissolution by an order for the commencement of bankruptcy proceedings);
 - (iv) the dissolution of a corporation who is the Trustee for reasons other than a merger;
 - (v) the resignation of the Trustee under the provisions of the following Article;
 - (vi) the dismissal of the Trustee under the provisions of Article 58; or
 - (vii) any grounds specified by the Terms of Trust.
- (2) If a corporation who is the Trustee has effected a merger, a judicial person

- that survives the merger or a judicial person that is incorporated through the merger must take over the Trustee's duty. If a corporation who is the Trustee has effected a company split, the same applies to the judicial person that succeeds to the rights and duties of the Trustee as a result of the company split.
- (3) Notwithstanding the provisions of the preceding paragraph, if the Terms of Trust otherwise provide for, such provisions prevail.
 - (4) Where the grounds set forth in paragraph (1), item (iii) occur, if the Trustee's duty as Trustee does not terminate pursuant to the provisions of the proviso to said paragraph, the bankrupt performs the duties of the Trustee.
 - (5) The Trustee's duty as Trustee does not terminate on the grounds that the Trustee has been handed an order for the commencement of rehabilitation proceedings; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
 - (6) In the case prescribed in the main clause of the preceding paragraph, if there is a rehabilitation trustee, the right of the Trustee to perform the Trustee's duties and administer and dispose of property that comes under Trust Property is vested exclusively in the rehabilitation trustee. The same applies to cases where there is a provisional administrator in charge of rehabilitation proceedings.
 - (7) The provisions of the preceding two paragraphs apply mutatis mutandis to cases where the Trustee is given an order for the commencement of reorganization proceedings. In this case, the phrase "there is a rehabilitation trustee" in the preceding paragraph is deemed to be replaced with "there is a reorganization trustee (excluding the period set forth in Article 74, paragraph (2) of the Corporate Reorganization Act (including cases where applied mutatis mutandis pursuant to Article 47 and Article 213 of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc.))."

(Resignation of Trustee)

- Article 57 (1) A Trustee may resign from the office as Trustee with the consent of a Settlor and a Beneficiary; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (2) The Trustee may resign from the office as Trustee with the permission of the court when there is a compelling reason for said resignation.
 - (3) When filing a petition for the permission set forth in the preceding paragraph, the Trustee must make a prima facie showing of the facts constituting the grounds for the petition.
 - (4) The judicial decision dismissing the petition for permission set forth in paragraph (2) must include the reasons for said decision.
 - (5) No appeal may be entered against the judicial decision on permission for resignation under the provisions of paragraph (2).

(6) The provisions of the main clause of paragraph (1) do not apply if there is no Settlor at the time in question.

(Dismissal of Trustee)

Article 58 (1) A Settlor and a Beneficiary may, based on an agreement between them, dismiss a Trustee at any time.

(2) When the Settlor and the Beneficiary have dismissed the Trustee at a time that is detrimental to the Trustee, the Settlor and the Beneficiary must compensate the Trustee for any damages; provided, however, that this does not apply if there was a compelling reason for said dismissal.

(3) Notwithstanding the provisions of the preceding two paragraphs, if the Terms of Trust otherwise provide for, such provisions prevail.

(4) When the Trustee has caused a substantial detriment to the Trust Property through a breach of the duties or where there are other material grounds, the court may, upon the petition of the Settlor or the Beneficiary, dismiss the Trustee.

(5) Before dismissing the Trustee pursuant to the provisions of the preceding paragraph, the court must hear statements from the Trustee.

(6) The judicial decision on the petition for permission set forth in paragraph (4) must include the reasons for said decision.

(7) Only the Settlor, the Trustee or the Beneficiary may file an immediate appeal against the judicial decision of dismissal under the provisions of paragraph (4).

(8) The provisions of paragraph (1) and paragraph (2) do not apply if there is no Settlor at the time in question.

Subsection 2 Duties of the Former Trustee

(Former Trustee's Duty to Give Notice and Retain Property)

Article 59 (1) If the Trustee's duty as Trustee has terminated on any of the grounds listed in Article 56, paragraph (1), item (iii) to item (vii), the person who was the Trustee (hereinafter referred to as the "Former Trustee") must give notice to that effect to the Beneficiary; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(2) If the Trustee's duty as Trustee has terminated on the grounds listed in Article 56, paragraph (1), item (iii), the Former Trustee must give notice to the bankruptcy trustee of the content and location of property that comes under Trust Property, the content of the Obligation Covered by the Trust Property, and other particulars specified by Ordinance of the Ministry of Justice.

(3) If the Trustee's duty as Trustee has terminated on any of the grounds listed in Article 56, paragraph (1), item (iv) to item (vii), the Former Trustee must continue to retain property that comes under Trust Property until a new

Trustee (if a Trust Property administrator is appointed pursuant to the provisions of Article 64, paragraph (1), the Trust Property administrator; hereinafter referred to as the "New Trustee, etc." in this Section) becomes able to administer Trust affairs, and must carry out the necessary actions for the transfer of Trust affairs; provided, however, that if the Terms of Trust otherwise provide for, duties of the Former Trustee may be expanded.

- (4) Notwithstanding the provisions of the preceding paragraph, if the Trustee's duty as Trustee has terminated on the grounds listed in Article 56, paragraph (1), item (v) (limited to the case under the provisions of Article 57, paragraph (1)), the Former Trustee continues to have the rights and duties as Trustee until the New Trustee, etc. becomes able to administer Trust affairs; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (5) In the cases referred to in paragraph (3) (excluding the case prescribed in the main clause of the preceding paragraph), if the Former Trustee attempts to dispose of property that comes under Trust Property, the Beneficiary may demand that the Former Trustee cease to dispose of the property; provided, however, that this does not apply after a New Trustee, etc. becomes able to administer Trust affairs.

(Duty of the Former Trustee's Heir to Give Notice and Retain Property)

Article 60 (1) Where the Trustee's duty as Trustee has terminated on any of the grounds listed in Article 56, paragraph (1), item (i) or item (ii), if the Former Trustee's heir (if there is a statutory agent at the time in question, the statutory agent) or a guardian or a curator of the adult Trustee (hereinafter collectively referred to as the "Former Trustee's Heir, etc." in this Section) knows such a fact, the Former Trustee's Heir, etc. must give notice of the fact to the known Beneficiaries; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

- (2) If the Trustee's duty as Trustee has terminated on any of the grounds listed in Article 56, paragraph (1), item (i) or item (ii), the Former Trustee's Heir, etc. must continue to retain property that comes under Trust Property until the New Trustee, etc. or the incorporated Trust Property administrator becomes able to administer Trust affairs, and must carry out the necessary actions for the transfer of Trust affairs.
- (3) In the case referred to in the preceding paragraph, if the Former Trustee's Heir, etc. attempts to dispose of property that comes under Trust Property, the Beneficiary may demand that the Former Trustee's Heir, etc. cease to dispose of the property; provided, however, that this does not apply after the New Trustee, etc. or the incorporated Trust Property administrator becomes able to administer Trust affairs.

- (4) If the Trustee's duty as Trustee has terminated on the grounds listed in Article 56, paragraph (1), item (iii), a bankruptcy trustee must continue to retain property that comes under Trust Property until the New Trustee, etc. becomes able to administer Trust affairs, and must carry out the necessary actions for the transition of Trust affairs.
- (5) In the case referred to in the preceding paragraph, if the bankruptcy trustee attempts to dispose of property that comes under Trust Property, the Beneficiary may demand that the bankruptcy trustee cease to dispose of the property; provided, however, that this does not apply after the New Trustee, etc. becomes able to administer Trust affairs.
- (6) The Former Trustee's Heir, etc. or the bankruptcy trustee may demand reimbursement, from the New Trustee, etc. or from the incorporated Trust Property administrator, of expenses paid for carrying out the actions under the provisions of paragraph (1), paragraph (2) or paragraph (4), and for interest thereon accruing from the date of payment.
- (7) The provisions of Article 49, paragraph (6) and paragraph (7) apply mutatis mutandis to the right that the Former Trustee's Heir, etc. or the bankruptcy trustee has pursuant to the provisions of the preceding paragraph.

(Payment of Expenses, Costs, or Remuneration)

- Article 61 (1) Where a Beneficiary who has filed an action pertaining to the demand under the provisions of Article 59, paragraph (5), or paragraph (3) or paragraph (5) of the preceding Article has won the Beneficiary's case (completely or partially), if the Beneficiary has paid any expenses or costs (excluding court costs) that were necessary in relation to the action or if the Beneficiary is liable to pay remuneration to an attorney-at-law, a legal professional corporation, a judicial scrivener, or a judicial scrivener corporation, said expenses, costs, or remunerations are to be paid from the Trust Property, up to the amount considered reasonable, not exceeding the actual amount thereof.
- (2) Even where the Beneficiary who filed the action set forth in the preceding paragraph has lost the Beneficiary's case, the Beneficiary is not be liable to compensate the Trustee for any damage arising from the action, except where the Beneficiary was in bad faith.

Subsection 3 Appointment of New Trustee

Article 62 (1) Where the Trustee's duty as Trustee has terminated on any of the grounds listed in the items of Article 56, paragraph (1), if the Terms of Trust contain no provisions concerning a new Trustee (hereinafter referred to as the "New Trustee"), or if the person designated by the provisions of the Terms of

Trust as a person who is to be the New Trustee does not undertake or is unable to undertake the Trust, the Settlor and the Beneficiary may, based on an agreement between them, appoint a New Trustee.

- (2) Where the Trustee's duty as Trustee has terminated on any of the grounds listed in the items of Article 56, paragraph (1), if the Terms of Trust contain provisions designating a particular person to be the New Trustee, any interested party may specify a reasonable period of time and call on the person designated as the one to be the New Trustee to give a definite answer within that period of time with regard to whether the person will accept the duty; provided, however, that if the Terms of Trust is subject to a condition precedent or a designated time of commencement for the provisions, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.
- (3) Where a call for an answer is made under the provisions of the preceding paragraph, if the person designated as the one who is to be the New Trustee fails to give a definite answer to the Settlor and the Beneficiary (if there are two or more Beneficiaries at the time in question, to one of them; if there is a Trust administrator at the time in question, to the Trust administrator) within the period set forth in said paragraph, it is deemed that the person does not accept said duty.
- (4) In the case referred to in paragraph (1), the court may, upon petition of an interested party, appoint a New Trustee when it finds it necessary in light of the status of discussions pertaining to the agreement set forth in said paragraph and any other circumstances.
- (5) The judicial decision on the petition set forth in the preceding paragraph must include the reasons for said decision.
- (6) Only a Settlor, a Beneficiary, or a current Trustee may file an immediate appeal against the judicial decision on the appointment of a New Trustee under the provisions of paragraph (4).
- (7) The immediate appeal set forth in the preceding paragraph has the effect of a stay of execution.
- (8) For the purpose of the application of the provisions of the preceding paragraphs to cases where there is no Settlor at the time in question, the phrase "the Settlor and the Beneficiary may, based on an agreement between them" in paragraph (1) is deemed to be replaced with "the Beneficiary may," the phrase "the Settlor and the Beneficiary" in paragraph (3) is deemed to be replaced with "the Beneficiary," and the phrase "status of discussions pertaining to the agreement set forth in said paragraph" in paragraph (4) is deemed to be replaced with "status of the Beneficiary."

Subsection 4 Trust Property Administrators

(Trust Property Administration Order)

- Article 63 (1) Where the Trustee's duty as Trustee has terminated on any of the grounds listed in the items of Article 56, paragraph (1), if a New Trustee has not yet been appointed and the court finds it necessary, the court may, upon petition of an interested party, make a disposition ordering administration by a Trust Property administrator (hereinafter referred to as the "Trust Property Administration Order" in this Subsection) until a New Trustee is appointed.
- (2) The judicial decision dismissing the petition set forth in the preceding paragraph must include the reasons for said decision.
- (3) The court may change or revoke the Trust Property Administration Order.
- (4) Only an interested party may file an immediate appeal against the Trust Property Administration Order and the order made under the provisions of the preceding paragraph.

(Appointment of Trust Property Administrators)

- Article 64 (1) When the court issues a Trust Property Administration Order, it must appoint a Trust Property administrator therein.
- (2) No appeal may be entered against the judicial decision on the appointment of the Trust Property administrator made under the provisions of the preceding paragraph.
- (3) When the court has made the judicial decision on the appointment of the Trust Property administrator under the provisions of paragraph (1), it must immediately give public notice of the following particulars:
- (i) a statement to the effect that the Trust Property administrator has been appointed; and
 - (ii) the name of the Trust Property administrator.
- (4) The provisions of item (ii) of the preceding paragraph apply mutatis mutandis to cases where there is a change to the particulars set forth in said item.
- (5) Where the Trust Property Administration Order is issued, if a court clerk becomes aware of the existence of any registered right that belongs to the Trust Property, the court clerk must, on the own authority of the court clerk and without delay, commission a registration of the Trust Property Administration Order.
- (6) When a judicial decision is made to revoke the Trust Property Administration Order or when a New Trustee who has been appointed after the Trust Property Administration Order was issued has filed a petition to commission the cancellation of the registration of the Trust Property Administration Order, a court clerk must, on the own authority of the court clerk and without delay, commission the cancellation of the registration of the Trust Property Administration Order.

(Effect of Juridical Acts by the Former Trustee)

Article 65 (1) After a judicial decision on the appointment of a Trust Property administrator has been made under the provisions of paragraph (1) of the preceding Article, no juridical act conducted by the Former Trustee with respect to property that comes under Trust Property may be asserted as effective in relation to the Trust Property.

(2) Any juridical act conducted by the Former Trustee on the day on which the judicial decision on the appointment of the Trust Property administrator is made under the provision of paragraph (1) of the preceding Article is presumed to have been conducted after said judicial decision was made.

(Trust Property Administrator's Powers)

Article 66 (1) If a Trust Property administrator is appointed pursuant to the provisions of Article 64, paragraph (1), a Trustee's right to perform the duties and administer and dispose of property that comes under Trust Property is vested exclusively in the Trust Property administrator.

(2) When there are two or more Trust Property administrators, they must act within the scope of their power jointly; provided, however, that with a permission of a court, they may perform their duties independently or divide their duties among themselves.

(3) When there are two or more Trust Property administrators, it is sufficient for a third party to make a manifestation of intention to any one of them.

(4) The Trust Property administrator must obtain the court's permission in order to carry out any actions beyond the scope of the following acts:

(i) an act of preservation; and

(ii) an act with the intent to use or improve property that comes under the Trust Property, to the extent that said act does not change the nature of said property.

(5) Any act conducted by the Trust Property administrator in violation of the provisions of the preceding paragraph is null and void; provided, however, that the Trust Property administrator may not duly assert this against a third party who has no knowledge of said violation.

(6) When filing a petition for the permission set forth in the proviso to paragraph (2) or paragraph (4), the Trust Property administrator must make a prima facie showing of the facts constituting the grounds for the petition.

(7) The judicial decision dismissing the petition for permission set forth in the proviso to paragraph (2) or paragraph (4) must include the reasons therefor.

(8) No appeal may be entered against the judicial decision on the permission under the provisions of the proviso to paragraph (2) or paragraph (4).

(Administration of Property That Comes under Trust Property)

Article 67 A Trust Property administrator must commence the administration of property that comes under Trust Property immediately after assuming the office.

(Standing to Sue or to Be Sued)

Article 68 In an action relating to the Trust Property, a Trust Property administrator is to be either a plaintiff or a defendant.

(Trust Property Administrator's Duties)

Article 69 A Trust Property administrator, when performing the duties, assumes the same duties and liabilities as Trustee.

(Resignation and Dismissal of Trust Property Administrator)

Article 70 The provisions of Article 57, paragraph (2) to paragraph (5) apply mutatis mutandis to the resignation of a Trust Property administrator, and the provisions of Article 58, paragraph (4) to paragraph (7) apply mutatis mutandis to the dismissal of a Trust Property administrator. In this case, the phrase "there is a compelling reason" in Article 57, paragraph (2) is deemed to be replaced with "there are justifiable grounds."

(Remuneration for Trust Property Administrator)

Article 71 (1) A Trust Property administrator may receive such amount for advance payment of expenses and remuneration as determined by the court from the Trust Property.

(2) The court, before it makes a judicial decision determining the amount of expenses or remuneration under the provisions of the preceding paragraph, must hear the statement of the Trust Property administrator.

(3) Only the Trust Property administrator may file an immediate appeal against the judicial decision determining the amount of expenses or remuneration under the provisions of paragraph (1).

(Transfer of Trust Affairs from Trust Property Administrator to New Trustee)

Article 72 The provisions of Article 77 apply mutatis mutandis to cases where a New Trustee assumes the office as Trustee after the appointment of a Trust Property administrator. In this case, the phrase "the Beneficiary (if there are two or more Beneficiaries at the time in question, from all of them, and if there is a Trust administrator at the time in question, from the Trust administrator)" in paragraph (1) of said Article, the phrase "Beneficiary (if there is a Trust administrator at the time in question, the Trust administrator; the same applies in the following paragraph)" in paragraph (2) of said Article,

and the term "the Beneficiary" in paragraph (3) of said Article are deemed to be replaced with "the New Trustee," and the term "the Beneficiary" in paragraph (2) of said Article is deemed to be replaced with "the New Trustee."

(Powers of Person Performing Trustee's Duties on Behalf of Trustee)

Article 73 The provisions of Article 66 apply mutatis mutandis to a person performing a Trustee's duties on behalf of a Trustee who has been appointed by an order of provisional disposition to appoint a person to perform the duties of a Trustee on behalf of a Trustee.

(Ownership of Trust Property upon Termination of Trustee's Duty as Trustee Due to Death of Trustee)

Article 74 (1) When a Trustee's duty as Trustee has terminated on the grounds set forth in Article 56, paragraph (1), item (i), a Trust Property is incorporated as a corporation.

(2) In the case prescribed in the preceding paragraph, when the court finds it necessary, the court may, upon petition of an interested party, make a disposition ordering administration of the Trust by an incorporated Trust Property administrator (hereinafter referred to as the "Incorporated Trust Property Administration Order" in paragraph (6)).

(3) The provisions of Article 63, paragraph (2) to paragraph (4) apply mutatis mutandis to a case pertaining to the petition set forth in the preceding paragraph.

(4) When a New Trustee assumes the office of Trustee, it is deemed that the corporation set forth in paragraph (1) was never incorporated; provided, however, that this does not preclude the effect of any acts conducted by the incorporated Trust Property administrator within the scope of the powers of said administrator.

(5) The incorporated Trust Property administrator's authority of representation is extinguished when the New Trustee becomes able to administer Trust affairs.

(6) The provisions of Article 64 apply mutatis mutandis to cases where an Incorporated Trust Property Administration Order is issued, and the provisions of Article 66 to Article 72 apply mutatis mutandis to an incorporated Trust Property administrator.

Subsection 5 Succession to Rights and Duties upon Change of Trustee

(Succession to Rights and Duties Concerning Trust)

Article 75 (1) Where a Trustee's duty as Trustee has terminated on any of the grounds listed in the items of Article 56, paragraph (1), if a New Trustee has assumed the office of Trustee, it is deemed that the New Trustee has succeeded

- to, at the time of the termination of the Former Trustee's duty, the Former Trustee's rights and duties concerning the Trust existing as of that time.
- (2) Notwithstanding the provisions of the preceding paragraph, where the Trustee's duty as Trustee has terminated (excluding the case referred to in the proviso to Article 59, paragraph (4)) on the grounds listed in Article 56, paragraph (1), item (v) (limited to the ones under the provision of Article 57, paragraph (1)), it is deemed that the New Trustee has succeeded to, at the time of assumption of the office by a New Trustee, etc., the Former Trustee's rights and duties concerning the Trust existing as of that time.
 - (3) The provisions of the preceding two paragraphs do not preclude the effect of any act carried out by the Former Trustee, the Trust Property administrator, or the incorporated Trust Property administrator within the scope of their powers before the New Trustee assumes the office of Trustee.
 - (4) The provisions of Article 27 apply mutatis mutandis to cases where the Former Trustee has carried out any act that does not fall within the scope of the powers of the Former Trustee before the New Trustee, etc. assumes the office of Trustee.
 - (5) If the Former Trustee (including the Former Trustee's heir; hereinafter the same applies in this Article) has incurred liability under the provision of Article 40, or if a director, executive officer, or any other person equivalent thereto (hereinafter referred to as the "Director, etc." in this paragraph) of the Former Trustee who is a corporation has incurred liability under the provision of Article 41, the New Trustee, etc. or the incorporated Trust Property administrator may make a claim against the Former Trustee or its Director, etc. under the provisions of Article 40 or Article 41.
 - (6) If the Former Trustee may receive reimbursement of Expenses, etc. or compensation for damages, or may receive Trust fees from the Trust Property, the Former Trustee may make a demand against the New Trustee, etc. or the incorporated Trust Property administrator for reimbursement of Expenses, etc., compensation for damages, or payment of Trust fees; provided, however, that the New Trustee, etc. or the incorporated Trust Property administrator is only liable for the performance of such obligation within the property that comes under Trust Property.
 - (7) The provisions of Article 48, paragraph (4) and Article 49, paragraph (6) and paragraph (7) apply mutatis mutandis to the right that the Former Trustee has under the provisions of the preceding paragraph.
 - (8) Compulsory execution, execution of a provisional seizure or provisional disposition, procedures for the exercise of a security right, or an auction which has already been commenced against property that comes under Trust Property before the New Trustee assumes the office of Trustee, may be continued against the New Trustee.

(9) The Former Trustee may retain property that comes under Trust Property until the Former Trustee receives payment of the claim pertaining to the demand under the provisions of paragraph (6).

(Liabilities of Former Trustee and New Trustee for Obligations Succeeded to)
Article 76 (1) Even where obligations pertaining to Trust claims are succeeded to by a New Trustee pursuant to the provisions of paragraph (1) or paragraph (2) of the preceding Article, the Former Trustee is liable to perform the obligations thus succeeded to using the Former Trustee's Own Property; provided, however, that this does not apply if the Former Trustee is only liable for using property that comes under Trust Property to perform said obligations.

(2) Where the New Trustee has succeeded to the obligations prescribed in the main clause of the preceding paragraph, the New Trustee is only liable for using property that comes under Trust Property to perform those obligations.

(Transfer of Trust Affairs from Former Trustee to New Trustee, etc.)
Article 77 (1) When the New Trustee, etc. assumes the office of Trustee, the Former Trustee must, without delay, settle the accounts on Trust affairs and request approval for the settlement of accounts from a Beneficiary (if there are two or more Beneficiaries at the time in question, from all of them; if there is a Trust administrator at the time in question, from the Trust administrator), and must transfer Trust affairs as required in order for the New Trustee, etc. to administer them.

(2) When the Beneficiary (if there is the Trust administrator at the time in question, the Trust administrator; the same applies in the following paragraph) has approved the settlement of accounts set forth in the preceding paragraph, the Former Trustee is deemed to have been released from the liability to the Beneficiary to transfer Trust affairs under the provisions of said paragraph; provided, however, that this does not apply if the Former Trustee has committed misconduct in the course of performing the duties.

(3) If the Beneficiary has not made any objection within one month from the time when the Beneficiary was requested by the Former Trustee to give an approval for the settlement of accounts set forth in paragraph (1), the Beneficiary is deemed to have approved the settlement of accounts set forth in said paragraph.

(Transfer of Trust Affairs from Former Trustee's Heir, etc. or Bankruptcy Trustee to New Trustee, etc.)
Article 78 The provisions of the preceding Article apply mutatis mutandis to the Former Trustee's Heir, etc. if the Trustee's duty as Trustee has terminated on the grounds set forth in Article 56, paragraph (1), item (i) or item (ii), and to

the bankruptcy trustee if the Trustee's duty as Trustee has terminated on the grounds set forth in Article 56, paragraph (1), item (iii).

Section 6 Special Rules for Trust with Two or More Trustees

(Joint Tenancy of Trust Property)

Article 79 In the case of a Trust with two or more Trustees, the Trust Property is deemed to be held under joint tenancy .

(Means of Administration of Trust Affairs)

Article 80 (1) In the case of a Trust with two or more Trustees, decisions on the Trust affairs are made by the majority of the Trustees.

(2) Notwithstanding the provisions of the preceding paragraph, decisions on an act of preservation may be made by each Trustee independently.

(3) Where a decision is made on the Trust affairs pursuant to the provisions of the preceding two paragraphs, each Trustee may execute Trust affairs based on said decision.

(4) Notwithstanding the provisions of the preceding three paragraphs, where Terms of Trust contain provisions concerning the division of duties among the Trustees, each Trustee makes decisions on the Trust affairs and executes those affairs pursuant to said provisions.

(5) With regard to an act to be conducted in the interests of the Trust Property based on the decision on the Trust affairs made under the provisions of the preceding two paragraphs, each Trustee has the authority to represent the other Trustee(s).

(6) Notwithstanding the provisions of the preceding paragraphs, if the Terms of Trust otherwise provide for, such provisions prevail.

(7) In the case of a Trust with two or more Trustees, it is sufficient for a third party to make a manifestation of intention to any one of them; provided, however, that if the Terms of Trust otherwise provide for a manifestation of intention by a Beneficiary, such provisions prevail.

(Standing of Trustees with Separated Duties)

Article 81 In the case prescribed in paragraph (4) of the preceding Article, each Trustee stands as a plaintiff or a defendant with respect to duties of the said Trustee in any action against the Trust Property on behalf of the other Trustee(s).

(Delegation to Other Trustees to Make Decisions on Trust Affairs)

Article 82 In the case of a Trust with two or more Trustees, no Trustee may delegate the other Trustee(s) to make decisions on the Trust affairs (excluding

those falling within the scope of the ordinary business), except where Terms of Trust otherwise provide for or there is a compelling reason to do so.

(Assumption of Obligations in Administering Trust Affairs)

Article 83 (1) In the case of a Trust with two or more Trustees, if each Trustee has assumed an obligation to a third party in the course of administering Trust affairs, these Trustees are liable jointly and severally.

(2) Notwithstanding the provisions of the preceding paragraph, where the Terms of Trust contain provisions concerning the division of duties among the Trustees, if either of these Trustees has assumed an obligation to a third party in the course of administering Trust affairs pursuant to said provisions in the Terms of Trust, the other Trustees are liable only by using property that comes under Trust Property to perform the obligation; provided, however, that if the third party knew, at the time of the act causing the assumption of the obligation, that said act was conducted in the course of administering Trust affairs and that there were two or more Trustees for the Trust, and did not know and was not negligent in failing to know that the Terms of Trust contained provisions concerning the division of duties among the Trustees, the other Trustee(s) may not duly assert said provisions on the division of duties against the third party.

(Special Rules for Division of Property in Co-ownership Which Is Both Trust Property and Trustee's Own Property, etc.)

Article 84 For the purpose of the application of the provisions of Article 19 in the case of a Trust with two or more Trustees, the phrase "If a co-ownership interest in a specific property that belongs to a Trustee is an interest in both the Trust Property and the Trustee's Own Property" in paragraph (1) of said Article is deemed to be replaced with "Where a co-ownership interest in a specific property that belongs to a Trustee is an interest in both the Trust Property and the Trustee's Own Property, if there are two or more Trustees for the Trust pertaining to said Trust Property"; the term "Trustee" in paragraph (1), item (ii) of said Article is deemed to be replaced with "Trustee whose Own Property includes the co-ownership interests"; the term "Trustee" in paragraph (1), item (iii) of said Article is deemed to be replaced with "Trustee whose Own Property includes the co-ownership interests"; the term "Trustee" in paragraph (2) of said Article is deemed to be replaced with "Trustee whose Own Property includes the co-ownership interests"; the phrase "If a co-ownership interest in a specific property that belongs to a Trustee is an interest in both the Trust Property and the Trust Property of another Trust" in paragraph (3) of said Article is deemed to be replaced with "Where a co-ownership interest in a specific property that belongs to a Trustee is an interest in both the Trust

Property and the Trust Property of another Trust, if there are two or more Trustees for the Trust or another Trust pertaining to said Trust Property"; in paragraph (3), item (iii) of the said Article, the term "Trustees" is deemed to be replaced with "Trustees to whom the co-ownership interests for each Trust Property belong" and the phrase "based on a decision by the Trustees" is deemed to be replaced with "based on an agreement between the Trustees"; and in paragraph (4) of said Article, the term "item (ii)" is deemed to be replaced with "item (ii) and item (iii)."

(Special Rules for Trustee Liability)

- Article 85 (1) In the case of a Trust with two or more Trustees, if two or more Trustees have incurred liability under the provisions of Article 40 for an act that they have committed in breach of their duties, these Trustees who have committed said act are liable jointly and severally.
- (2) For the purpose of the application of the provisions of Article 40, paragraph (1) and Article 41 in the case of a Trust with two or more Trustees, the term "Beneficiary" in these provisions is deemed to be replaced with "Beneficiary or the other Trustee(s)."
- (3) In the case of a Trust with two or more Trustees, if any of these Trustees is released from liability under the provisions of Article 40 or Article 41 pursuant to the provisions of Article 42, no other Trustee may file a claim to hold the person who would have incurred liability under the provisions of Article 40 or Article 41 liable; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (4) For the purpose of the application of the provisions of Article 44 in the case of a Trust with two or more Trustees, the term "Beneficiary" in paragraph (1) of said Article is deemed to be replaced with "Beneficiary or the other Trustee(s)" and the term "those Beneficiaries" in paragraph (2) of said Article is deemed to be replaced with "those Beneficiaries or the other Trustee(s)."

(Special Rules for Change of Trustees)

- Article 86 (1) For the purpose of the application of the provisions of Article 59 in the case of a Trust with two or more Trustees, the term "Beneficiary" in paragraph (1) of said Article is deemed to be replaced with "Beneficiary and the other Trustee(s)," and the phrase "a Trustee's duty as Trustee" in paragraph (3) and paragraph (4) of said Article is deemed to be replaced with "all Trustees' duties as Trustees."
- (2) For the purpose of the application of the provisions of Article 60 in the case of a Trust with two or more Trustees, the term "Beneficiary" in paragraph (1) of said Article is deemed to be replaced with "Beneficiary and the other Trustee(s)," and the phrase "a Trustee's duty as Trustee" in paragraph (2) and

paragraph (4) of said Article is deemed to be replaced with "all Trustees' duties as Trustees."

- (3) For the purpose of the application of the provisions of Article 74, paragraph (1) in the case of a Trust with two or more Trustees, the phrase "a Trustee's duty as Trustee" in said paragraph is deemed to be replaced with "all Trustees' duties as Trustees."
- (4) In the case of a Trust with two or more Trustees, when one of these Trustees' duty as Trustee has terminated on any of the grounds listed in the items of Article 56, paragraph (1), notwithstanding the provisions of Article 75, paragraph (1) and paragraph (2), the other Trustee(s) succeeds to the rights and duties concerning the Trust existing as of the time of termination of said duty, by operation of law, and performs the terminated duties of said Trustee; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(Special Rules for Termination of Trust)

- Article 87 (1) For the purpose of the application of the provisions of Article 163, item (iii) to the case of a Trust with two or more Trustees, the phrase "if the Trust lacks a Trustee" in said item is deemed to be replaced with "if the Trust lacks all of its Trustees."
- (2) In the case of a Trust with two or more Trustees, the Trust also terminates if the Trust lacks any of the Trustees and the duties of said Trustee are not performed by any other Trustee pursuant to the provisions of the proviso to paragraph (4) in the preceding Article and if the Trustee's office has not been filled by a New Trustee within one year.

Chapter IV Beneficiary

Section 1 Acquisition and Exercise of Rights by Beneficiary

(Acquisition of Beneficial Interest)

- Article 88 (1) A person designated by the provisions of the Terms of Trust as the one who is to be a Beneficiary (including a person designated as an initial Beneficiary or as a new Beneficiary after a change as a result of the exercise of the right to designate or change Beneficiaries as prescribed in paragraph (1) of the following Article) acquires a Beneficial Interest by operation of law; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (2) If a person designated as the one who is to be a Beneficiary as prescribed in the preceding paragraph does not know that the person has acquired the Beneficial Interest pursuant to the provisions of said paragraph, the Trustee must notify such person to that effect without delay; provided, however, that if

the Terms of Trust otherwise provide for, such provisions prevail.

(Right to Designate or Change Beneficiary)

Article 89 (1) In the case of a Trust with provisions on the persons who have the right to designate or change a Beneficiary (hereinafter referred to as the "Right to Designate or Change a Beneficiary" in this Article), the Right to Designate or Change a Beneficiary is exercised by a manifestation of intention to do so to the Trustee.

- (2) Notwithstanding the provisions of the preceding paragraph, the Right to Designate or Change a Beneficiary may be exercised through a will.
- (3) Where the Right to Designate or Change a Beneficiary is exercised through a will pursuant to the provisions of the preceding paragraph, if the Trustee does not know of said exercise, the acquisition of the status of a Beneficiary through the exercise of said Right may not be duly asserted against said Trustee.
- (4) When the person who was the Beneficiary has lost the Beneficial Interest as a result of the exercise of the right to change a Beneficiary, the Trustee must notify said person to that effect without delay; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (5) The Right to Designate or Change a Beneficiary is not succeeded to through inheritance; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (6) For the purpose of the application of the provisions of paragraph (1) to cases where the person who has the Right to Designate or Change a Beneficiary is a Trustee, the term "Trustee" in said paragraph is deemed to be replaced with "person who is to be a Beneficiary."

(Special Rules for Trust with Provisions on Acquisition of Beneficial Interest upon Settlor's Death)

Article 90 (1) In the case of the Trusts set forth in each of the following items, a Settlor under those items has the right to change a Beneficiary; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail:

- (i) a Trust with provisions that a person designated as the one who is to be a Beneficiary is to acquire a Beneficial Interest at the time of the Settlor's death; and
 - (ii) a Trust with provisions that a Beneficiary is to receive distribution involving the Trust Property at the time of the Settlor's death or thereafter.
- (2) The Beneficiary set forth in item (ii) of the preceding paragraph does not have the right of Beneficiary until the Settlor under said item dies; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(Special Rules for Trusts with Provisions on Acquisition of New Beneficial Interest by Another Party upon Beneficiary's Death)

Article 91 A Trust with provisions that upon a Beneficiary's death a Beneficial Interest held by said Beneficiary is extinguished and another person acquires a new Beneficial Interest (including provisions that upon the death of the predecessor Beneficiary, another person acquires a Beneficial Interest as the successor Beneficiary) is valid, if any Beneficiary who is alive when 30 years have elapsed since the creation of the Trust acquires a Beneficial Interest pursuant to said provisions, until said Beneficiary dies or until the Beneficial Interest of said Beneficiary is extinguished.

(Prohibition by Provisions in the Terms of Trust of Beneficiary's Exercise of Rights)

Article 92 No restriction is allowed to be imposed by the provisions of the Terms of Trust on the Beneficiary's exercise of the following rights:

- (i) the right to file a petition with the court under the provisions of this Act;
- (ii) the right to call for a definite answer under the provisions of Article 5, paragraph (1);
- (iii) the right to assert an objection under the provisions of Article 23, paragraph (5) or paragraph (6);
- (iv) the right to demand payment under the provisions of Article 24, paragraph (1);
- (v) the right to rescind under the provisions of Article 27, paragraph (1) or paragraph (2) (including cases where these provisions are applied mutatis mutandis pursuant to Article 75, paragraph (4));
- (vi) the right to rescind under the provisions of Article 31, paragraph (6) or paragraph (7);
- (vii) the right to request a report under the provisions of Article 36;
- (viii) the right to request to inspect or copy materials under the provisions of Article 38, paragraph (1) or paragraph (6);
- (ix) the right to demand compensation for a loss or restoration of the Trust Property under the provisions of Article 40;
- (x) the right to demand compensation for a loss or restoration of the Trust Property under the provisions of Article 41;
- (xi) the right to demand a cessation under the provisions of Article 44;
- (xii) the right to demand payment under the provisions of Article 45, paragraph (1);
- (xiii) the right to demand a cessation under the provisions of Article 59, paragraph (5);
- (xiv) the right to demand a cessation under the provisions of Article 60,

- paragraph (3) or paragraph (5);
- (xv) the right to demand payment under the provisions of Article 61, paragraph (1);
- (xvi) the right to call for a definite answer under the provisions of Article 62, paragraph (2);
- (xvii) the right to waive a Beneficial Interest under the provisions of Article 99, paragraph (1);
- (xviii) the Beneficiary's right to demand that the Trustee acquire the Beneficial Interest under the provisions of Article 103, paragraph (1) or paragraph (2);
- (xix) the right to call for a definite answer under the provisions of Article 131, paragraph (2);
- (xx) the right to call for a definite answer under the provisions of Article 138, paragraph (2);
- (xxi) the right to request the delivery of documents or provision of records under the provisions of Article 187, paragraph (1);
- (xxii) the right to request to inspect or copy materials under the provision of Article 190, paragraph (2);
- (xxiii) the right to request that a particular be stated or recorded in the register under the provisions of Article 198, paragraph (1)
- (xxiv) the right to demand compensation or payment of monies under the provisions of Article 226, paragraph (1);
- (xxv) the right to demand compensation or payment of monies under the provisions of Article 228, paragraph (1); and
- (xxvi) the right to demand compensation for a loss under the provisions of Article 254, paragraph (1).

Section 2 Beneficial Interest

Subsection 1 Assignment of Beneficial Interest

(Assignability of Beneficial Interest)

- Article 93 (1) A Beneficiary may assign a Beneficial Interest to another; provided, however, that this does not apply if the nature thereof does not permit said assignment.
- (2) The provisions of the preceding paragraph do not apply if the Terms of Trust otherwise provide for; provided, however, that said provisions of the Terms of Trust may not be duly asserted against a third party who has no knowledge of said provisions.

(Requirements for Perfection of Assignment of Beneficial Interest)

- Article 94 (1) Assignment of a Beneficial Interest may not be duly asserted against a Trustee or any other third party unless the assignor gives notice of

the assignment to the Trustee or the Trustee acknowledges the same.

- (2) The notice and acknowledgement set forth in the preceding paragraph may not be duly asserted against a third party other than a Trustee unless they are made by means of an instrument bearing a certified date.

(Trustee's Defense upon Assignment of Beneficial Interest)

Article 95 A Trustee may duly assert as a defense against the assignor any grounds that have arisen in relation to the assignor before the notice or acknowledgment set forth in paragraph (1) of the preceding Article is made.

(Pledges of Beneficial Interest)

Article 96 (1) A Beneficiary may create a pledge on a Beneficial Interest; provided, however, that this does not apply if the nature thereof does not permit the pledge.

- (2) The provisions of the preceding paragraph do not apply if the Terms of Trust otherwise provide for; provided, however, that said provisions of the Terms of Trust may not be duly asserted against a third party who has no knowledge of said provisions.

(Effect of Pledges of Beneficial Interest)

Article 97 A pledge on a Beneficial Interest exists on the following monies, etc. (meaning monies or other property; hereinafter the same applies in this Article and the following Article):

- (i) monies, etc. that the Beneficiary who holds the pledged Beneficial Interest has received from the Trustee as distribution involving the Trust Property;
- (ii) monies, etc. that the Beneficiary who holds the pledged Beneficial Interest receives by demanding that the Trustee acquire the Beneficial Interest as prescribed in Article 103, paragraph (6);
- (iii) monies, etc. that the Beneficiary who holds the pledged Beneficial Interest receives through the consolidation of Beneficial Interests or splitting of a Beneficial Interest as a result of a modification of the Trust;
- (iv) monies, etc. that the Beneficiary who holds the pledged Beneficial Interest receives through the consolidation or split of Trust(s) (meaning Consolidation of Trusts or Split of a Trust; the same applies hereinafter); and
- (v) in addition to what is listed in the preceding items, monies, etc. that the Beneficiary who holds the pledged Beneficial Interest receives in lieu of said Beneficial Interest.

Article 98 (1) A pledgee of Beneficial Interest may receive monies, etc. set forth in the preceding Article (limited to monies) and appropriate them for payment of the pledgee's claim prior to other creditors.

- (2) Before the claim set forth in the preceding paragraph becomes due, the pledgee of Beneficial Interest may have the Trustee deposit an amount equivalent to the monies, etc. prescribed in said paragraph. In this case, the pledge exists on said deposited monies.

Subsection 2 Waiver of Beneficial Interest

Article 99 (1) A Beneficiary may make a manifestation of intention to waive a Beneficial Interest to a Trustee; provided, however, that this does not apply if the Beneficiary is a party to the Terms of Trust.

- (2) When the Beneficiary has made the manifestation of intention under the provisions of the preceding paragraph, the Beneficiary is deemed to have never held the Beneficial Interest; provided, however, that this may not prejudice a third party's rights.

Subsection 3 Distribution Claims as a Beneficiary

(Trustee's Liability for Distribution Claims as a Beneficiary)

Article 100 A Trustee is only liable for using property that comes under Trust Property to perform obligations pertaining to Distribution Claims as a Beneficiary.

(Relationship between Distribution Claims as a Beneficiary and Trust Claims)

Article 101 Distribution Claim as a Beneficiary is subordinated to Trust claims.

(Limitation to Term of Distribution Claim as a Beneficiary)

Article 102 (1) Except for the particulars specified in the following paragraph and paragraph (3), the extinctive prescription for a Distribution Claim as a Beneficiary is governed by the provisions on the extinctive prescription for claims.

- (2) The extinctive prescription for a Distribution Claim as a Beneficiary does not begin to run until the Beneficiary becomes aware that the Beneficiary has been designated as a Beneficiary (if there is no Beneficiary at the time in question, until the Trust administrator is appointed).
- (3) The extinctive prescription for a Distribution Claim as a Beneficiary may be invoked only in the following cases:
- (i) if the Trustee, without delay after the expiration of the period of extinctive prescription, specified a reasonable period of time and notified the Beneficiary of the existence and content of the Distribution Claim as a Beneficiary, but did not receive the Beneficiary's request for performance within said period; or

- (ii) if, after the expiration of the period of extinctive prescription, the Beneficiary's whereabouts are unknown, or if there are justifiable grounds for not notifying the Beneficiary under the provisions of the preceding item, in light of the provisions of the Terms of Trust, the status of the Beneficiary, the loss of the relevant materials, or other relevant circumstances.
- (4) A Distribution Claim as a Beneficiary is extinguished when 20 years have elapsed since it became possible to exercise said claim.

Subsection 4 Beneficiary's Right to Demand that the Trustee Acquire the Beneficial Interest

(Beneficiary's Demand That the Trustee Acquire the Beneficial Interest)

- Article 103 (1) If a modification is to be made to a Trust regarding the following particulars (referred to as a "Material Modification to the Trust" in paragraph (3)), a Beneficiary who is likely to suffer damages from the modification may demand that the Trustee acquire the Beneficial Interest of the Beneficiary at a fair price; provided, however, that if a modification of a Trust is to be made regarding the particulars listed in item (i) or item (ii), there need not be any potential of suffering any damage from the modification:
- (i) a change in the purpose of the Trust;
 - (ii) restrictions on the assignment of a Beneficial Interest;
 - (iii) a reduction of Trustee's liability or release therefrom in whole or in part (excluding the case where the Terms of Trust contain provisions on the scope of said reduction or release and the means of making decisions thereon);
 - (iv) a change in the content of a Distribution Claim as a Beneficiary (excluding the case where the Terms of Trust contain provisions on the scope of said change to the content and the means of making decisions thereon); and
 - (v) any particular provided for by the Terms of Trust.
- (2) Where a Trust is to be consolidated or split, a Beneficiary who is likely to suffer any damage from the consolidation or split may demand that the Trustee acquire the Beneficial Interest of the Beneficiary at a fair price; provided, however, that where the consolidation or split of the Trust is to involve a modification of the Trust regarding the particulars listed in item (i) or item (ii) of the preceding paragraph, there need not be any potential of suffering any damages from the consolidation or split.
- (3) When the Beneficiary set forth in the preceding two paragraphs is engaged in the decision to make a Material Modification to the Trust or to consolidate or split the Trust (hereinafter referred to as the "Material Modification to the Trust, etc." in this Chapter), and has made a manifestation of intention in the decision-making process to approve said Material Modification of the Trust, etc., the provisions of the preceding two paragraphs do not apply to said

Beneficiary.

- (4) The Trustee must notify the Beneficiary of the following particulars within 20 days from the date of the decision to make the Material Modification to the Trust, etc.:
 - (i) a statement that the Material Modification to the Trust, etc. is to be made;
 - (ii) the day on which the Material Modification to the Trust, etc. becomes effective (referred to as the "Effective Day" in paragraph (1) of the following Article); and
 - (iii) conditions for cancellation of the Material Modification to the Trust, etc., if any said conditions are specified.
- (5) Public notice in the Official Gazette may be substituted for the notification under the provisions of the preceding paragraph.
- (6) A demand under the provisions of paragraph (1) or paragraph (2) (hereinafter referred to as the "(Beneficiary's) Demand That the Trustee Acquire the Beneficial Interest" in this Subsection) must be made within 20 days from the date of the notice under the provisions of paragraph (4) or the date of the public notice under the provisions of the preceding paragraph, and the contents of the Beneficial Interest for which the Beneficiary is making the Demand That the Trustee Acquire the Beneficial Interest must be specified.
- (7) The Beneficiary who has made the Demand That the Trustee Acquire the Beneficial Interest of the Beneficiary may revoke the Demand That the Trustee Acquire the Beneficial Interest only if the Beneficiary has obtained approval from the Trustee.
- (8) When the Material Modification of the Trust, etc. is cancelled, the Beneficiary's Demand That the Trustee Acquire the Beneficial Interest ceases to be effective.

(Determination of Price of Beneficial Interest)

- Article 104 (1) Where a Beneficiary's Demand That the Trustee Acquire the Beneficial Interest has been made, if an agreement is reached between the Trustee and the Beneficiary on the determination of the price of the Beneficial Interest, the Trustee must pay the price before 60 days have elapsed from the date of the Beneficiary's Demand That the Trustee Acquire the Beneficial Interest (or the Effective Day if it has not arrived by said date).
- (2) If no agreement is reached on the determination of the price of the Beneficial Interest within 30 days from the date of the Beneficiary's Demand That the Trustee Acquire the Beneficial Interest, the Trustee or the Beneficiary may file a petition with the court for the determination of the price within 30 days after said 30-day period has elapsed.
 - (3) The court, in making a judicial decision to determine the price under the provision of the preceding paragraph, must hear statements from the persons

- who are entitled to file the petition set forth in said paragraph.
- (4) The judicial decision on the petition set forth in paragraph (2) must include the reasons for said decision.
 - (5) Only the petitioner and any person who are entitled to file a petition set forth in said paragraph may file an immediate appeal against the judicial decision on the determination of the price under the provisions of paragraph (2).
 - (6) The immediate appeal set forth in the preceding paragraph has the effect of a stay of execution.
 - (7) Notwithstanding the provisions of paragraph (7) of the preceding Article, in the case prescribed in paragraph (2), if no petition set forth in said paragraph has been made within 60 days from the date of the Beneficiary's Demand That the Trustee Acquire the Beneficial Interest, the Beneficiary may revoke the Demand That the Trustee Acquire the Beneficial Interest at any time after the expiration of said period.
 - (8) The Trustee set forth in paragraph (1) must also pay interest on the price determined by the court for the period from the date on which the period set forth in said paragraph elapsed.
 - (9) The acquisition of the Beneficial Interest by the Trustee in response to a Beneficiary's Demand That the Trustee Acquire the Beneficial Interest comes into effect at the time of payment of the monies equivalent to the price of the Beneficial Interest.
 - (10) When a Beneficiary's Demand That the Trustee Acquire the Beneficial Interest is made with regard to a Beneficial Interest for which a Certificate of Beneficial Interest (meaning a Certificate of Beneficial Interest prescribed in Article 185, paragraph (1); hereinafter the same applies in this Chapter) is issued, monies equivalent to the price of the Beneficial Interest to be acquired in response to the Beneficiary's Demand That the Trustee Acquire the Beneficial Interest must be paid in exchange for the Certificate of Beneficial Interest.
 - (11) The Trustee is only liable for using property that comes under Trust Property to perform obligations pertaining to the Beneficiary's Demand That the Trustee Acquire the Beneficial Interest; provided, however, that if the Terms of Trust or the decision to make said Material Modification to the Trust, etc. has otherwise provided for, such provisions prevail.
 - (12) When the Trustee has acquired the Beneficial Interest pursuant to the provisions of paragraph (1) or paragraph (2) of the preceding Article, the Beneficial Interest is extinguished; provided, however, that if the Terms of Trust have, or the decision to make said Material Modification of the Trust, etc. otherwise provide for, such provisions prevail.

Section 3 Special Rules for Decision-Making Means Involving Two or

More Beneficiaries
Subsection 1 General Provisions

- Article 105 (1) In the case of a Trust with two or more Beneficiaries, the Beneficiaries' decisions (excluding decisions on the exercise of the rights listed in the items of Article 92) are to be made with the unanimous consent of all Beneficiaries; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (2) In the case referred to in the proviso to the preceding paragraph, if it is provided in the Terms of Trust that the Beneficiaries' decisions are to be made by majority vote at a Beneficiaries meeting, the provisions of the following Subsection apply; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (3) Notwithstanding the provisions of the proviso to paragraph (1) or the preceding paragraph, provisions of the Terms of Trust on the means of making decisions on release from liability under the provisions of Article 42 comes into effect only if they are the provisions to the effect that said decisions are to be made by majority vote at the Beneficiaries meeting as provided for in the following Subsection.
- (4) The provisions of the proviso to paragraph (1) and the preceding two paragraphs do not apply to exemptions from liability listed as follows:
- (i) a total exemption from liability under the provisions of Article 42;
 - (ii) a partial exemption from liability under the provisions of Article 42, item (i) (limited to liability arising from the Trustee's bad faith or gross negligence in the performance of the duties); and
 - (iii) a partial exemption from liability under the provisions of Article 42, item (ii).

Subsection 2 Beneficiaries Meetings

(Convocation of Beneficiaries Meeting)

- Article 106 (1) A Beneficiaries meeting may be convened at any time necessary.
- (2) A Beneficiaries meeting is convened by a Trustee (if there is a Trust supervisor at the time in question, the Trustee or the Trust supervisor).

(Beneficiary's Request for Convocation)

- Article 107 (1) A Beneficiary may request that a Trustee (if there is a Trust supervisor at the time in question, the Trustee or the Trust supervisor) convene a Beneficiaries meeting by pointing out the particulars which are the subject of the Beneficiaries meeting and showing the reasons for convocation.
- (2) In the following cases, when significant harm to the Trust Property is likely

to occur, the Beneficiary who has made the request under the provisions of the preceding paragraph may convene the Beneficiaries meeting:

- (i) if convocation procedures are not conducted without delay after the request was made under the provisions of the preceding paragraph; or
- (ii) if a notice of convocation of the Beneficiaries meeting which designates, as the date of the Beneficiaries meeting, any day falling within a period of eight weeks from the date of the request under the provisions of the preceding paragraph, is not issued.

(Decision to Convene Beneficiaries Meeting)

Article 108 A person who convenes a Beneficiaries meeting (hereinafter referred to as the "Convener" in this Subsection) must specify the following particulars when convening the Beneficiaries meeting:

- (i) the date and place of the Beneficiaries meeting;
- (ii) if there is any particular that is the subject of the Beneficiaries meeting, said particular;
- (iii) if there is an arrangement in which a Beneficiary who does not attend the Beneficiaries meeting is entitled to exercise its vote by electronic or magnetic means (meaning the means of using an electronic data processing system or any other means of using information and communications technology which is specified by Ordinance of the Ministry of Justice; hereinafter the same applies in this Subsection), a statement to that effect; and
- (iv) in addition to what is listed in the preceding three items, any particulars specified by Ordinance of the Ministry of Justice.

(Notice of Convocation of Beneficiaries Meeting)

Article 109 (1) In order to convene a Beneficiaries meeting, a Convener must issue a written notice to the known Beneficiaries and a Trustee (if there is a Trust supervisor at the time in question, to the known Beneficiaries, the Trustee and the Trust supervisor), no later than two weeks prior to the date of the Beneficiaries meeting.

- (2) In lieu of issuing the written notice set forth in the preceding paragraph, the Convener may issue the notice by electronic or magnetic means with the consent of those persons who are to receive the notice set forth in said paragraph, as provided for by Cabinet Order. In this case, the Convener is deemed to have issued the written notice set forth in said paragraph.
- (3) The particulars listed in the paragraphs of the preceding Article must be stated or recorded in the notice set forth in the preceding two paragraphs.
- (4) In order to convene the Beneficiaries meeting if bearer Certificates of Beneficial Interest are issued, the Convener must give public notice in the Official Gazette to the effect that the Beneficiaries meeting is being convened

and with regard to the particulars listed in the items of the preceding Article, no later than three weeks prior to the date of the Beneficiaries meeting.

(Delivery of Reference Documents for the Beneficiaries Meeting and Voting Card)

Article 110 (1) Upon issuing a notice set forth in paragraph (1) of the preceding Article, a Convener must deliver to the known Beneficiaries, as provided for by Ordinance of the Ministry of Justice, documents stating particulars which may be of reference for the exercise of voting rights (hereinafter referred to as the "Reference Documents for the Beneficiaries Meeting" in this Article) and documents by which the Beneficiaries are to exercise their voting rights (hereinafter referred to as the "Voting Card" in this Subsection).

(2) When the Convener issues the notice by electronic or magnetic means as set forth in paragraph (2) of the preceding Article to the Beneficiaries who have given their consent as set forth in said paragraph, the Convener may, in lieu of delivering the Reference Documents for the Beneficiaries Meeting and the Voting Card under the provisions of the preceding paragraph, provide information on the particulars that are to be stated in these documents by electronic or magnetic means; provided, however, that when requested by the Beneficiary, the Convener must deliver these documents to said Beneficiary.

(3) Where the Convener has given public notice under the provisions of paragraph (4) of the preceding Article, if the Convener is requested by a Beneficiary holding a bearer Beneficial Interest (meaning a Beneficial Interest for which a bearer Certificate of Beneficial Interest is issued; the same applies in Chapter VIII) by one week prior to the date of the Beneficiaries meeting, the Convener must immediately deliver the Reference Documents for the Beneficiaries Meeting and the Voting Card to said Beneficiary.

(4) In lieu of delivering the Reference Documents for the Beneficiaries Meeting and the Voting Card under the provisions of the preceding paragraph, the Convener may, with the consent of the Beneficiary, as provided for by Cabinet Order, provide information on the particulars that are to be stated in these documents by electronic or magnetic means. In this case, the Convener is deemed to have delivered these documents under the provisions of said paragraph.

Article 111 (1) Where the Convener has specified the particulars set forth in Article 108, item (iii), the Convener must, when giving the notice by electronic or magnetic means to the Beneficiaries who have given their consent as set forth in Article 109, paragraph (2), provide these Beneficiaries with the information on the particulars that are to be stated in the Voting Card by said electronic or magnetic means, as provided by Ordinance of the Ministry of

Justice.

- (2) Where the Convener has specified the particulars set forth in Article 108, item (iii), if the Convener is requested by any Beneficiary who has not given the consent as set forth in Article 109, paragraph (2), by no later than one week prior to the date of the Beneficiaries meeting, to provide said Beneficiary with the information on the particulars that are to be stated in the Voting Card by electronic or magnetic means, the Convener must immediately provide said Beneficiary with the information on said particulars by electronic or magnetic means.

(Beneficiary's Voting Rights)

Article 112 (1) At a Beneficiaries meeting, a Beneficiary has voting rights based on the particulars specified in the following items for the cases listed in the respective items:

- (i) if the content of the Beneficial Interests is equal: the number of Beneficial Interests: or
- (ii) in cases other than the case set forth in the preceding item: the value of each Beneficial Interest as of the time of the decision to convene the Beneficiaries meeting.

- (2) Notwithstanding the provisions of the preceding paragraph, if a Beneficial Interest belongs to the Trust Property of the Trust to which the Beneficial Interest pertains, the Trustee has no voting rights with regard to said Beneficial Interest.

(Resolutions at Beneficiaries Meeting)

Article 113 (1) A resolution at a Beneficiaries meeting is adopted by a majority of the votes of the Beneficiaries present, when the Beneficiaries who are present at the meeting hold a majority of the voting rights of all the Beneficiaries who are entitled to exercise their voting rights.

- (2) Notwithstanding the provisions of the preceding paragraph, a resolution at a Beneficiaries meeting regarding each of the following particulars must be adopted by at least a two-thirds majority of the votes of the Beneficiaries present, when the Beneficiaries who are present hold a majority of the voting rights of all the Beneficiaries who are entitled to exercise their voting rights at said Beneficiaries meeting:

- (i) a release from liability under the provisions of Article 42 (excluding a release set forth in the items of Article 105, paragraph (4));
- (ii) an agreement prescribed in Article 136, paragraph (1), item (i);
- (iii) an agreement prescribed in Article 143, paragraph (1), item (i);
- (iv) an agreement prescribed in Article 149, paragraph (1) or paragraph (2), item (i), or a manifestation of intention as prescribed in paragraph (3) of said

- Article;
- (v) an agreement prescribed in Article 151, paragraph (1) or paragraph (2), item (i);
 - (vi) an agreement prescribed in Article 155, paragraph (1) or paragraph (2), item (i);
 - (vii) an agreement prescribed in Article 159, paragraph (1) or paragraph (2), item (i); and
 - (viii) an agreement prescribed in Article 164, paragraph (1).
- (3) Notwithstanding the provisions of the preceding two paragraphs, with regard to the Material Modification to the Trust, etc. pertaining to the particulars listed in Article 103, paragraph (1), item (ii) to item (iv) (in case of the particulars set forth in item (iv), excluding such a particular that would change the balance among Beneficiaries), a resolution at a Beneficiaries meeting must be adopted by at least half of the Beneficiaries who are entitled to exercise their voting rights at said Beneficiaries meeting, and by at least a two-thirds majority of the votes of said Beneficiaries.
- (4) Notwithstanding the provisions of the preceding three paragraphs, with regard to the Material Modification to the Trust, etc. pertaining to the particulars listed in Article 103, paragraph (1), item (i) or item (iv) (in case of the particulars set forth in item (iv), limited to such a particular that would change the balance among Beneficiaries), a resolution at a Beneficiaries meeting must be adopted by at least half of all of the Beneficiaries, and by at least a three-fourths majority of the votes of all Beneficiaries.
- (5) A Beneficiaries meeting may adopt no resolution on any particulars other than the particulars set forth in Article 108, item (ii).

(Proxy Voting)

- Article 114 (1) A Beneficiary may exercise the voting rights by proxy. In this case, said Beneficiary or the proxy must submit a document to the Convener certifying the authority of representation.
- (2) The authority of representation set forth in the preceding paragraph must be granted for each Beneficiaries meeting.
- (3) In lieu of submitting the document certifying the authority of representation, the Beneficiary or the proxy as set forth in paragraph (1) may, with the approval of the Convener, provide the information on the particulars that are to be stated in said document by electronic or magnetic means, as provided for by Cabinet Order. In this case, said Beneficiary or the proxy is deemed to have submitted said document.
- (4) The Convener may not refuse to give approval as set forth in the preceding paragraph to the Beneficiary who has given the consent as set forth in Article 109, paragraph (2), without justifiable grounds.

(Voting in Writing)

Article 115 (1) A Beneficiary who does not attend a Beneficiaries meeting may exercise the voting rights in writing.

(2) The exercise of voting rights in writing is performed by stating the necessary particulars in the Voting Card and submitting the Voting Card containing those particulars to the Convener by the time specified by Ordinance of the Ministry of Justice.

(3) Voting rights exercised in writing pursuant to the provisions of the preceding paragraph are deemed to be voting rights exercised by voting right holders present at the meeting.

(Voting by Electronic or Magnetic Means)

Article 116 (1) The exercise of voting rights by electronic or magnetic means is performed as provided for by Cabinet Order, with the consent of the Convener, by providing the Convener with the information on the particulars that are to be stated in the Voting Card by electronic or magnetic means by the time specified by Ordinance of the Ministry of Justice.

(2) The Convener may not refuse to give the consent as set forth in the preceding paragraph to the Beneficiary who has given the consent as set forth in Article 109, paragraph (2), without justifiable grounds.

(3) Voting rights exercised by electronic or magnetic means pursuant to the provisions of paragraph (1) are deemed to be voting rights exercised by voting right holders present at the meeting.

(Diverse Voting)

Article 117 (1) A Beneficiary may exercise the voting rights differently. In this case, said Beneficiary must give notice to a Convener to that effect and of the reasons therefor no later than three days prior to the date of a Beneficiaries meeting.

(2) If the Beneficiary set forth in the preceding paragraph is not a person who holds a Beneficial Interest on behalf of others, the Convener may refuse to allow said Beneficiary to exercise the voting rights differently pursuant to the provisions of said paragraph.

(Attendance of Trustee)

Article 118 (1) A Trustee (in the case of a Trustee who is a corporation, its representative or agent; the same applies in the following paragraph) may attend a Beneficiaries meeting or state its opinion in writing.

(2) A Beneficiaries meeting or a Convener may, when it or the Convener finds it necessary, demand that the Trustee attend the meeting. If the Beneficiaries

meeting demands the Trustee's attendance, a resolution must be passed at the Beneficiaries meeting demanding said attendance.

(Resolution for Postponement or Continuation)

Article 119 If a resolution is adopted at a Beneficiaries meeting for the postponement or continuation thereof, the provisions of Articles 108 and 109 do not apply.

(Minutes of Meeting)

Article 120 A Convener must prepare the minutes with regard to the business of a Beneficiaries meeting as provided for by Ordinance of the Ministry of Justice.

(Effect of Resolutions at Beneficiaries Meeting)

Article 121 A resolution made at a Beneficiaries meeting binds all Beneficiaries of the Trust.

(Burden of Expenses for Beneficiaries Meeting)

Article 122 (1) A person who has paid the expenses necessary for a Beneficiaries meeting may demand reimbursement thereof from a Trustee.

(2) The Trustee is only liable for using property that comes under Trust Property to perform the obligation pertaining to the demand under the provisions of the preceding paragraph.

Section 4 Trust Administrator and Others

Subsection 1 Trust Administrator

(Appointment of Trust Administrator)

Article 123 (1) Provisions may be established in the Terms of Trust to designate a person who is to be the Trust administrator if there is no Beneficiary at the time in question.

(2) If the Terms of Trust contain provisions designating a particular person to be the Trust administrator, any interested party may specify a reasonable period of time and call on the person designated as the one who is to be the Trust administrator to give a definite answer within that period of time with regard to whether the person will accept the office; provided, however, that if the Terms of Trust designate a condition precedent or a time of commencement to said provisions, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.

(3) Where the call for an answer is made under the provisions of the preceding paragraph, if the person designated as the one who is to be the Trust administrator fails to give a definite answer to a Settlor (if there is no Settlor

at the time in question, to a Trustee) within the period set forth in said paragraph, it is deemed that the person does not accept the office.

- (4) Where there is no Beneficiary at the time in question, if the Terms of Trust contain no provisions concerning a Trust administrator or if the person designated by the provisions of the Terms of Trust as the one who is to be the Trust administrator does not accept or is unable to accept the office, the court may appoint a Trust administrator upon petition of an interested party.
- (5) When a judicial decision on the appointment of a Trust administrator has been made under the provisions of the preceding paragraph, it is deemed that the provisions set forth in paragraph (1) were established in the Terms of Trust with regard to the appointed Trust administrator.
- (6) The judicial decision on the petition set forth in paragraph (4) must include the reasons for said decision.
- (7) Only the Settlor or the Trustee, or the Trust administrator already existing at the time in question, may file an immediate appeal against the judicial decision on the appointment of a Trust administrator under the provisions of paragraph (4).
- (8) The immediate appeal set forth in the preceding paragraph has the effect of a stay of execution.

(Qualification of Trust Administrator)

Article 124 None of the following persons may serve as a Trust administrator:

- (i) a minor or an adult ward or a person under curatorship; and
- (ii) a person who is the Trustee of the Trust in question.

(Trust Administrator's Powers)

Article 125 (1) A Trust administrator has the power to conduct any and all acts in or out of court in the Trust administrator's own name on behalf of a Beneficiary in connection with the Beneficiary's rights; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

- (2) When there are two or more Trust administrators, they must carry out acts within the scope of their power jointly; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (3) When there is a Trust administrator, any notice to be given to a Beneficiary pursuant to the provisions of this Act must be given to the Trust administrator.

(Trust Administrator's Duties)

Article 126 (1) A Trust administrator must exercise the power set forth in paragraph (1) of the preceding Article with the due care of a prudent manager.

- (2) The Trust administrator must exercise the power set forth in paragraph (1) of the preceding Article sincerely and equitably on behalf of the Beneficiary.

(Expenses and Remuneration of Trust Administrator)

- Article 127 (1) A Trust administrator may demand from a Trustee the expenses that are considered to be necessary for the administration of the relevant affairs and interest thereon accruing from the date of payment.
- (2) In the following cases, the Trust administrator may demand compensation from the Trustee for the amount of damages specified in the respective items:
- (i) if the Trust administrator has suffered any damages in the course of administering the relevant affairs, absent the Trust administrator's own negligence: the amount of said damages; or
 - (ii) if the Trust administrator has suffered any damages in the course of administering the relevant affairs through the intentional or negligent act of a third party (excluding the case set forth in the preceding item): the amount of compensation that may be demanded from the third party.
- (3) In addition to the case where the provisions of Article 512 of the Commercial Code apply, the Trust administrator may demand remuneration from the Trustee only if it is provided by the Terms of Trust that the Trust administrator is entitled to receive remuneration.
- (4) The Trustee is only liable for using property that comes under Trust Property to perform an obligation pertaining to the demands under the provisions of the preceding three paragraphs.
- (5) In the case referred to in paragraph (3), if the Terms of Trust contain provisions concerning the amount of remuneration or the calculation means thereof, the amount of remuneration is to be determined pursuant to such provisions, and if there are no such provisions, the amount of remuneration is to be a reasonable amount.
- (6) When the court has appointed a Trust administrator pursuant to the provisions of Article 123, paragraph (4), it may determine the remuneration for the Trust administrator.
- (7) When a judicial decision concerning the remuneration for the Trust administrator is made under the provisions of the preceding paragraph, it is deemed that the provisions set forth in paragraph (3) and the provisions on the amount of remuneration set forth in paragraph (5) were included in the Terms of Trust with regard to said Trust administrator.
- (8) Before the court makes the judicial decision on the remuneration for the Trust administrator under the provisions of paragraph (6), it must hear the statements of the Trustee and the Trust administrator.
- (9) Only the Trustee or the Trust administrator may file an immediate appeal against the judicial decision on the remuneration for the Trust administrator under the provisions of paragraph (6).

(Termination of Trust Administrator's Duty as Trust Administrator)

Article 128 (1) The provisions of Article 56 apply mutatis mutandis to the termination of a Trust administrator's duty as Trust administrator. In this case, the term "following Article" in paragraph (1), item (v) of said Article is deemed to be replaced with "following Article as applied mutatis mutandis pursuant Article 128, paragraph (2)," and the term "Article 58" in item (vi) of said paragraph is deemed to be replaced with "Article 58 as applied mutatis mutandis pursuant to Article 128, paragraph (2)."

(2) The provisions of Article 57 apply mutatis mutandis to the resignation of a Trust administrator, and the provisions of Article 58 apply mutatis mutandis to the dismissal of a Trust administrator.

(Appointment of New Trust Administrator)

Article 129 (1) The provisions of Article 62 apply mutatis mutandis to the appointment of a new Trust administrator (referred to as the "New Trust Administrator" in the following paragraph) in cases where a Trust administrator's duty as Trust administrator has terminated pursuant to the provisions of the items of Article 56, paragraph (1) as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article.

(2) When the New Trust Administrator assumes the office, the person who has been the Trust administrator must, without delay, transfer affairs to the New Trust Administrator as required in order for the New Trust Administrator to administer the relevant affairs.

(3) When a Beneficiary comes into existence and the person who has been the Trust administrator as set forth in the preceding paragraph then learns of said person who has become the Beneficiary, the person who has been the Trust administrator must report to said person who has become the Beneficiary on the process and results of the relevant affairs without delay.

(Termination of Administration of Affairs by Trust Administrator)

Article 130 (1) Administration of affairs by a Trust administrator terminates on the following grounds; provided, however, that in the case of termination on the grounds set forth in item (ii), if the Terms of Trust otherwise provide for, such provisions prevail:

(i) a Beneficiary has come into existence;

(ii) a Settlor has manifested to the Trust administrator an intent to terminate the administration of affairs by the Trust administrator; or

(iii) any grounds specified by the Terms of Trust.

(2) If the administration of affairs by the Trust administrator has terminated pursuant to the provisions of the preceding paragraph, the person who has been the Trust administrator must, without delay, report to the Beneficiary on

the process and results of the relevant affairs; provided, however, that this applies only if a Beneficiary comes into existence and the person who has been the Trust administrator then learns of said person who has become the Beneficiary.

Subsection 2 Trust Supervisor

(Appointment of Trust Supervisor)

Article 131 (1) Provisions may be established in the Terms of Trust to designate a person who is to be a Trust supervisor when there is a Beneficiary at the time in question.

(2) If the Terms of Trust contain provisions designating a particular person to be a Trust supervisor, any interested party may specify a reasonable period of time and call on the person designated as the one who is to be the Trust supervisor to give a definite answer within that period of time with regard to whether the person will accept the office; provided, however, that if the Terms of Trust designate a condition precedent or a time of commencement to the provisions, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.

(3) Where the call for an answer is made under the provisions of the preceding paragraph, if the person designated as the one who is to be the Trust supervisor fails to give a definite answer to a Settlor (if there is no Settlor at the time in question, to a Trustee) within the period set forth in said paragraph, it is deemed that the person not accept the office.

(4) Where there are special circumstances wherein a Beneficiary is unable to supervise a Trustee appropriately, if the Terms of Trust contain no provisions concerning a Trust supervisor or if the person designated by provisions of the Terms of Trust as the one who is to be the Trust supervisor does not accept or is unable to accept the office, the court may appoint a Trust supervisor upon petition of an interested party.

(5) When a judicial decision on the appointment of a Trust supervisor has been made under the provisions of the preceding paragraph, it is deemed that the provisions set forth in paragraph (1) were established in the Terms of Trust with regard to the appointed Trust supervisor.

(6) The judicial decision on the petition set forth in paragraph (4) must include the reasons for said decision.

(7) Only the Settlor, the Trustee or the Beneficiary, or the Trust supervisor at the time in question may file an immediate appeal against the judicial decision on the appointment of the Trust supervisor under the provisions of paragraph (4).

(8) The immediate appeal set forth in the preceding paragraph has the effect of a

stay of execution.

(Trust Supervisor's Powers)

Article 132 (1) A Trust supervisor has the power to carry out any and all acts in or out of court in the Trust supervisor's own name on behalf of a Beneficiary in connection with the rights listed in the items of Article 92 (excluding item (xvii), item (xviii), item (xxi) and item (xxiii)); provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(2) When there are two or more Trust supervisors, they must carry out acts within the scope of their power jointly; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(Trust Supervisor's Duties)

Article 133 (1) A Trust supervisor must exercise the power set forth in paragraph (1) of the preceding Article with the due care of a prudent manager.

(2) A Trust supervisor must exercise the powers set forth in paragraph (1) of the preceding Article sincerely and equitably on behalf of the Beneficiary.

(Termination of Trust Supervisor's Duty as Trust Supervisor)

Article 134 (1) The provisions of Article 56 apply mutatis mutandis to the termination of a Trust supervisor's duty as Trust supervisor. In this case, the term "following Article" in paragraph (1), item (v) of said Article is deemed to be replaced with "following Article as applied mutatis mutandis pursuant Article 134, paragraph (2)," and the term "Article 58" in item (vi) of said paragraph is deemed to be replaced with "Article 58 as applied mutatis mutandis pursuant to Article 134, paragraph (2)."

(2) The provisions of Article 57 apply mutatis mutandis to the resignation of a Trust supervisor, and the provisions of Article 58 apply mutatis mutandis to the dismissal of a Trust supervisor.

(Appointment of New Trust Supervisor)

Article 135 (1) The provisions of Article 62 apply mutatis mutandis to the appointment of a new Trust supervisor (hereinafter referred to as the "New Trust Supervisor" in the following paragraph) in cases where a Trust supervisor's duty as Trust supervisor has terminated pursuant to the provisions of the items of Article 56, paragraph (1) as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article.

(2) When the New Trust Supervisor assumes the office, the person who has been the Trust supervisor must, without delay, report to the Beneficiary on the process and results of the relevant affairs, and transfer affairs to the New Trust Supervisor as required in order for the New Trust Supervisor to

administer the relevant affairs.

(Termination of Administration of Affairs by Trust Supervisor)

Article 136 (1) Administration of affairs by a Trust supervisor terminates on the following grounds, in addition to the completion of the liquidation of the Trust; provided, however, that in the case of the termination on the grounds set forth in item (i), if the Terms of Trust otherwise provide for, such provisions prevail:

(i) a Settlor and a Beneficiary have agreed to terminate the administration of affairs by the Trust supervisor; or

(ii) any grounds specified by the Terms of Trust.

(2) If the administration of affairs by the Trust supervisor has terminated pursuant to the provisions of the preceding paragraph, the person who has been the Trust supervisor must, without delay, report to the Beneficiary on the process and results of the relevant affairs.

(3) The provisions of paragraph (1), item (i) do not apply if there is no Settlor at the time in question.

(Application Mutatis Mutandis of Provisions on Trust Administrator)

Article 137 The provisions of Article 124 and Article 127 apply mutatis mutandis to a Trust supervisor. In this case, the phrase "Article 123, paragraph (4)" in paragraph (6) of Article 127 is deemed to be replaced with "Article 131, paragraph (4)."

Subsection 3 Beneficiary's Agent

(Appointment of Beneficiary's Agent)

Article 138 (1) Provisions may be established in the Terms of Trust to designate a person who is to be a Beneficiary's agent, while specifying the Beneficiary or Beneficiaries whom the person is to represent.

(2) If the Terms of Trust contain provisions designating a particular person to be a Beneficiary's agent, any interested party may specify a reasonable period of time and call on the person designated as the one who is to be the Beneficiary's agent to give a definite answer within that period of time with regard to whether the person will accept the office; provided, however, that if the Terms of Trust designate a condition precedent or a time of commencement to said provisions, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.

(3) Where the call for an answer is made under the provisions of the preceding paragraph, if the person designated as the one who is to be the Beneficiary's agent fails to give a definite answer to a Settlor (if there is no Settlor at the time in question, to a Trustee) within the period set forth in said paragraph, it

is deemed that the person does not accept the office.

(Powers of the Beneficiary's Agent)

Article 139 (1) A Beneficiary's agent has the power to conduct any and all acts in or out of court on behalf of a Beneficiary or Beneficiaries whom the agent represents in connection with their rights (excluding the rights pertaining to a release from the liability under the provisions of Article 42); provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(2) When the Beneficiary's agent conducts any act in or out of court on behalf of the Beneficiary or Beneficiaries whom the agent represents, it is sufficient for the agent to indicate the scope of the Beneficiaries whom the agent represents.

(3) When there are two or more Beneficiary's agents for a single Beneficiary, they must carry out acts within the scope of their power jointly; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(4) When there is the Beneficiary's agent, the Beneficiary or Beneficiaries represented by the Beneficiary's agent may not exercise their rights, except for the rights listed in the items of Article 92 and the rights specified by the Terms of Trust.

(Duties of Beneficiary's Agent)

Article 140 (1) A Beneficiary's agent must exercise the power set forth in paragraph (1) of the preceding Article with the due care of a prudent manager.

(2) A Beneficiary's agent must exercise the power set forth in paragraph (1) of the preceding Article sincerely and equitably on behalf of the Beneficiary or Beneficiaries whom the agent represents.

(Termination of Beneficiary's Agent's Duty as Beneficiary's Agent)

Article 141 (1) The provisions of Article 56 apply mutatis mutandis to the termination of a Beneficiary's agent's duty as Beneficiary's agent. In this case, the term the "following Article" in paragraph (1), item (v) of said Article is deemed to be replaced with "following Article as applied mutatis mutandis pursuant Article 141, paragraph (2)," and the term "Article 58" in item (vi) of said paragraph is deemed to be replaced with "Article 58 as applied mutatis mutandis pursuant to Article 141, paragraph (2)."

(2) The provisions of Article 57 apply mutatis mutandis to the resignation of a Beneficiary's agent, and the provisions of Article 58 apply mutatis mutandis to the dismissal of a Beneficiary's agent.

(Appointment of a New Beneficiary's Agent)

Article 142 (1) The provisions of Article 62 apply mutatis mutandis to the appointment of a new Beneficiary's agent (hereinafter referred to as the "New

Beneficiary's Agent" in the following paragraph) in cases where a Beneficiary's agent's duty as Beneficiary's agent has terminated pursuant to the provisions of the items of Article 56, paragraph (1) as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article. In this case, the term "an interested party" in Article 62, paragraph (2) and paragraph (4) is deemed to be replaced with "the Settlor or any Beneficiary represented by the Beneficiary's agent."

- (2) When the New Beneficiary's Agent assumes the office, the person who has been the Beneficiary's agent must, without delay, make a report to the Beneficiary or Beneficiaries whom the person who has been the Beneficiary's agent represents on the process and results of the relevant affairs, and must transfer affairs to the New Beneficiary's Agent as required in order for the New Beneficiary's Agent to administer the relevant affairs.

(Termination of Administration of Affairs by Beneficiary's Agent)

Article 143 (1) Administration of affairs by a Beneficiary's agent terminates on the following grounds, in addition to the completion of the liquidation of the Trust; provided, however, that in case of termination on the grounds set forth in item (i), if the Terms of Trust otherwise provide for, such provisions prevail:

- (i) a Settlor and a Beneficiary or Beneficiaries represented by the Beneficiary's agent have agreed to terminate the administration of affairs by a Beneficiary's agent; or
(ii) any grounds specified by the Terms of Trust.

- (2) If the administration of affairs by the Beneficiary's agent has terminated pursuant to the provisions of the preceding paragraph, the person who has been the Beneficiary's agent must, without delay, report to the Beneficiary or Beneficiaries whom the agent has represented on the process and results of the relevant affairs.

- (3) The provisions of paragraph (1), item (i) do not apply where there is no Settlor at the time in question.

(Application Mutatis Mutandis of Provisions on Trust Administrators)

Article 144 The provisions of Article 124 and Article 127, paragraph (1) to paragraph (5) apply mutatis mutandis to a Beneficiary's agent.

Chapter V Settlor

(Settlor's Rights)

Article 145 (1) Terms of Trust may provide for a Settlor not to have all or part of the rights under the provisions of this Act.

- (2) Terms of Trust may also provide for the Settlor to have all or part of the following rights:

- (i) the right to assert an objection under the provisions of Article 23, paragraph (5) or paragraph (6);
 - (ii) the right to rescind under the provisions of Article 27, paragraph (1) or paragraph (2) (including cases where these provisions are applied mutatis mutandis pursuant to Article 75, paragraph (4));
 - (iii) the right to rescind under the provisions of Article 31, paragraph (6) or paragraph (7);
 - (iv) the right under the provisions of Article 32, paragraph (4);
 - (v) the right to request to inspect or copy materials under the provisions of Article 38, paragraph (1);
 - (vi) the right to request the disclosure under the provisions of Article 39, paragraph (1);
 - (vii) the right to demand compensation for a loss or restoration of the Trust Property under the provisions of Article 40;
 - (viii) the right to demand compensation for a loss or restoration of the Trust Property under the provisions of Article 41;
 - (ix) the right to demand a cessation under the provisions of Article 44;
 - (x) the right to file a petition for the appointment of an inspector under the provisions of Article 46, paragraph (1);
 - (xi) the right to demand a cessation under the provisions of Article 59, paragraph (5);
 - (xii) the right to demand a cessation under the provisions of Article 60, paragraph (3) or paragraph (5);
 - (xiii) the right to demand compensation or payment of monies under the provisions of Article 226, paragraph (1);
 - (xiv) the right to demand compensation or payment of monies under the provisions of Article 228, paragraph (1); and
 - (xv) the right to demand compensation for a loss under the provisions of Article 254, paragraph (1).
- (3) For the purpose of the application of the provisions of Article 24, Article 45 (including cases where applied mutatis mutandis pursuant to Article 226, paragraph (6), Article 228, paragraph (6), and Article 254, paragraph (3)), or Article 61 to cases where the provisions of the Terms of Trust are established as set forth in the preceding paragraph with regard to the rights listed in item (i), item (vii) to item (ix), or item (xi) to item (xv) of said paragraph, the term "Beneficiary" is deemed to be replaced with "Settlor or Beneficiary."
- (4) Terms of Trust may provide for a Trustee to have the following duties:
- (i) the duty to notify the Settlor of the particulars of which the Trustee must notify the Beneficiary (if there is a Trust administrator at the time in question, the particulars of which the Trustee must notify the Trust administrator; the same applies in the following item) pursuant to the

provisions of this Act;

(ii) the duty to report to the Settlor the particulars which the Trustee must report to the Beneficiary pursuant to the provisions of this Act; and

(iii) the duty to request that the Settlor give an approval for the settlement of accounts for which the Trustee must request the Beneficiary to give approval pursuant to the provisions of Article 77, paragraph (1) or Article 184, paragraph (1).

(5) For the purpose of the application of the provisions of paragraph (1), paragraph (2) and the preceding paragraph to the case of a Trust with two or more Settlers, the term "Settlor" in these provisions is deemed to be replaced with "all or some of the Settlers."

(Transfer of Status as Settlor)

Article 146 (1) The status of Settlor may be transferred to a third party with the consent of a Trustee and a Beneficiary or by the means specified by the Terms of Trust.

(2) For the purpose of the application of the provisions of the preceding paragraph to the case of a Trust with two or more Settlers, the phrase "a Trustee and a Beneficiary" is deemed to be replaced with "other Settlor(s), a Trustee and a Beneficiary."

(Settlor's Heir in Testamentary Trust)

Article 147 If a Trust is created by the means set forth in Article 3, item (ii), the Settlor's heir does not succeed to the status of Settlor by inheritance; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(Special Rules for Trusts with Provisions on Acquisition of Beneficial Interest upon Death of Settlor)

Article 148 In the case of a Trust set forth in each of the items of Article 90, paragraph (1), when there is no Beneficiary for the Trust or no Beneficiary has any right as Beneficiary at the time in question pursuant to the provisions of Article 90, paragraph (2), the Settlor has the rights listed in each of the items of Article 145, paragraph (2), and the Trustee has the duties listed in each of the items of Article 145, paragraph (4); provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

Chapter VI Modification, Consolidation, and Split of Trusts

Section 1 Modification of Trust

(Agreement among Relevant Parties)

Article 149 (1) A Trust may be modified by the agreement of a Settlor, a Trustee, and a Beneficiary. In this case, in making such a modification, the contents of the Terms of Trust after modification must be specified:

(2) Notwithstanding the provisions of the preceding paragraph, in the cases listed in the following items, a Trust may be modified by the means specified in the respective items. In this case, the Trustee must, without delay, give notice of the contents of the Terms of Trust after modification, to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii):

(i) if it is clear that the modification is not contrary to the purpose of the Trust: an agreement between the Trustee and the Beneficiary; or

(ii) if it is clear that the modification is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary: the Trustee's manifestation of intention in a document or electronic or magnetic record.

(3) Notwithstanding the provisions of the preceding two paragraphs, in the cases listed in the following items, a Trust may be modified by the persons specified in the respective items manifesting their intention to do so to the Trustee. In this case, in the case set forth in item (ii), the Trustee must, without delay, notify the Settlor of the contents of the Terms of Trust after modification:

(i) if it is clear that the modification will not harm the interests of the Trustee: the Settlor and the Beneficiary; or

(ii) if it is clear that the modification is not contrary to the purpose of the Trust and that it will not harm the interests of the Trustee: the Beneficiary.

(4) Notwithstanding the provisions of the preceding three paragraphs, if the Terms of Trust otherwise provides for, such provisions prevail.

(5) If there is no Settlor at the time in question, the provisions of paragraph (1) and paragraph (3), item (i) do not apply, and the phrase "to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii)" in paragraph (2) is deemed to be replaced with "to the Beneficiary in the case set forth in item (ii)."

(Judicial Decision Ordering Modification of Trust due to Special Circumstances)

Article 150 (1) When, due to the special circumstances that were unforeseeable at the time of the Terms of Trust, the provisions of the Terms of Trust concerning the means of administration of Trust affairs no longer conforms to the interests of a Beneficiary in light of the purpose of a Trust, the status of Trust Property, and any other relevant circumstances, the court may order a modification of the Trust upon petition of a Settlor, a Trustee or a Beneficiary.

(2) In filing the petition set forth in the preceding paragraph, the provisions of the Terms of Trust after modification to which the petition pertains must be

specified.

- (3) Before the court makes the judicial decision on the petition set forth in paragraph (1), it must hear the statements of the Trustee; provided, however, that this does not apply when the court makes the judicial decision to dismiss the petition as unlawful or clearly groundless.
- (4) The judicial decision on the petition set forth in paragraph (1) must include a summary of the reasons for said decision.
- (5) Only the Settlor, the Trustee, or the Beneficiary may file an immediate appeal against the judicial decision on the petition set forth in paragraph (1).
- (6) The immediate appeal set forth in the preceding paragraph has the effect of a stay of execution.

Section 2 Consolidation of Trusts

(Agreement among Relevant Parties)

- Article 151 (1) Trusts may be consolidated by the agreement of Settlers, Trustees, and Beneficiaries of each of the previous Trusts. In this case, in effecting such a consolidation, the following particulars must be specified:
- (i) the contents of the Terms of Trust after the Consolidation of Trusts;
 - (ii) if there is any change in the contents of the Beneficial Interest provided for by the Terms of Trust, said contents and the reasons for the change;
 - (iii) if monies or any other property is delivered to a Beneficiary in the Consolidation of Trusts, the contents and value of said property;
 - (iv) the day on which the Consolidation of Trusts comes into effect; and
 - (v) other particulars specified by Ordinance of the Ministry of Justice.
- (2) Notwithstanding the provisions of the preceding paragraph, in the cases listed in the following items, Trusts may be consolidated by the means specified in the respective items. In this case, the Trustee must, without delay, give notice of the particulars listed in the items of said paragraph, to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii):
- (i) if it is clear that the consolidation is not contrary to the purpose of the Trust: an agreement between the Trustee and the Beneficiary; or
 - (ii) if it is clear that the consolidation is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary: the Trustee's manifestation of intention in a document or electronic or magnetic record.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if each of the Terms of Trusts otherwise provides for, such provisions prevail.
- (4) If there is no Settlor at the time in question, the provisions of paragraph (1) do not apply, and the phrase "to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii)" in

paragraph (2) is deemed to be replaced with "to the Beneficiary in the case set forth in item (ii)."

(Objections by Creditors)

- Article 152 (1) If Trusts are to be consolidated, creditors who hold claims pertaining to Obligations Covered by the Trust Property of the previous Trusts may state their objections to the Trustees with regard to the Consolidation of Trusts; provided, however, that this does not apply if there is no risk of said creditors being harmed by the Consolidation of Trusts.
- (2) If all or some of the creditors set forth in the preceding paragraph may state their objections pursuant to the provisions of said paragraph, the Trustee must give public notice of the following particulars in the Official Gazette, and must give notice of this to each of the known creditors set forth in said paragraph separately; provided, however, that the period set forth in item (ii) may not be less than one month:
- (i) a statement to the effect that the Trusts are to be consolidated;
 - (ii) a statement to the effect that the creditors set forth in the preceding paragraph may state their objections within a certain period of time; and
 - (iii) other particulars specified by Ordinance of the Ministry of Justice.
- (3) Notwithstanding the provisions of the preceding paragraph, the Trustee who is a corporation may substitute public notice (limited to public notice given by the following means) for the separate notice to each creditor under the provisions of said paragraph:
- (i) publication in a major daily newspaper which publishes particulars on current events; or
 - (ii) electronic public notice (meaning, among means of public notice, a means wherein measures are taken to make the information that must be given in a public notice available to many and unspecified persons by electronic or magnetic means (meaning an electronic or magnetic means prescribed in Article 2, item (xxxiv) of the Companies Act (Act No. 86 of 2005), which is prescribed in said item; the same applies in the following Section)).
- (4) If any creditors set forth in paragraph (1) do not state any objections within the period set forth in paragraph (2), item (ii), said creditors are deemed to have accepted the Consolidation of Trusts.
- (5) When any creditors set forth in paragraph (1) state their objections within the period set forth in paragraph (2), item (ii), the Trustee must make payment or provide reasonable security to such creditors, or must entrust adequate property to a Trust company, etc. (meaning a Trust company or a financial institution engaging in the Trust business (meaning a financial institution authorized under Article 1, paragraph (1) of the Act on the Concurrent Undertaking of Trust Business by Financial Institutions (Act No. 43 of 1943));

the same applies in the following Section) for the purpose of having said creditors receive payment; provided, however, that this does not apply if there is no risk of said creditors being harmed by the Consolidation of Trusts.

(Scope of Obligations Covered by the Trust Property after Consolidation of Trusts)

Article 153 Where Trusts are consolidated, the Obligations Covered by the Trust Property of the previous Trusts becomes Obligations Covered by Trust Property after the Consolidation of Trusts.

Article 154 Where Trusts are consolidated, the obligations covered only by the Trust Property (meaning Obligations Covered by the Trust Property which may be paid only out of property that comes under Trust Property, hereinafter the same applies in this Chapter) among Obligations Covered by the Trust Property with regard to the previous Trusts referred to in the preceding Article, becomes obligations covered only by the Trust Property after the Consolidation of Trusts.

Section 3 Split of a Trust

Subsection 1 Absorption-Type Trust Splits

(Agreement among Relevant Parties)

Article 155 (1) An Absorption-Type Trust Split may be effected by an agreement of a Settlor, a Trustee, and a Beneficiary. In this case, the following particulars must be specified:

- (i) the contents of the Terms of Trust after the Absorption-Type Trust Split;
- (ii) if there is any change in the contents of the Beneficial Interest provided for by the Terms of Trust, said contents and the reasons for the change;
- (iii) if monies or any other property is delivered to a Beneficiary in the Absorption-Type Trust Split, the contents and value of said property;
- (iv) the day on which the Absorption-Type Trust Split comes into effect;
- (v) the contents of any property to be transferred;
- (vi) if there is any obligation which will, as a result of the Absorption-Type Trust Split, cease to be an Obligation Covered by the Trust Property of the Trust that transfers a part of its Trust Property to another Trust (hereinafter referred to as the "Split Trust" in this Subsection), and will become an Obligation Covered by the Trust Property of the other Trust to which said part of the Trust Property is transferred (hereinafter referred to as the "Succeeding Trust"), the particulars concerning said obligation; and
- (vii) other particulars specified by Ordinance of the Ministry of Justice.

(2) Notwithstanding the provisions of the preceding paragraph, in the cases

listed in the following items, an Absorption-Type Trust Split may be effected by the means specified in the respective items. In this case, the Trustee must, without delay, give notice of the particulars listed in the items of said paragraph, to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii):

- (i) if it is clear that the split is not contrary to the purpose of the Trust: an agreement between the Trustee and the Beneficiary; or
 - (ii) if it is clear that the split is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary: the Trustee's manifestation of intention in a document or electronic or magnetic record.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if each of the Terms of Trusts otherwise provides for, such provisions prevail.
- (4) If there is no Settlor at the time in question, the provisions of paragraph (1) do not apply, and the phrase "to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii)" in paragraph (2) is deemed to be replaced with "to the Beneficiary in the case set forth in item (ii)."

(Objections by Creditors)

Article 156 (1) If an Absorption-Type Trust Split is to be effected, creditors who hold claims pertaining to Obligations Covered by the Trust Property of the Split Trust or the Succeeding Trust may state their objections to the Trustee with regard to the Absorption-Type Trust Split; provided, however, that this does not apply if there is no risk of said creditors being harmed by the Absorption-Type Trust Split.

- (2) If all or some of the creditors set forth in the preceding paragraph may state their objections pursuant to the provisions of said paragraph, the Trustee must give public notice of the following particulars in the Official Gazette, and must give notice of this to each of the known creditors set forth in said paragraph separately; provided, however, that the period set forth in item (ii) may not be less than one month:
- (i) a statement to the effect that the Absorption-Type Trust Split is to be effected;
 - (ii) a statement to the effect that the creditors set forth in the preceding paragraph may state their objections within a certain period of time; and
 - (iii) other particulars specified by Ordinance of the Ministry of Justice.
- (3) Notwithstanding the provisions of the preceding paragraph, the Trustee who is a corporation may substitute public notice (limited to public notice given by the following means) for the separate notice to each creditor under the provisions of said paragraph:
- (i) publication in a major daily newspaper which publishes particulars on

- current events; or
- (ii) electronic public notice.
- (4) If any creditors set forth in paragraph (1) do not state any objections within the period set forth in paragraph (2), item (ii), said creditors are deemed to have accepted the Absorption-Type Trust Split.
- (5) When any creditors set forth in paragraph (1) state their objections within the period set forth in paragraph (2), item (ii), the Trustee must make payment or provide reasonable security to such creditors, or must entrust adequate property to a Trust company, etc. for the purpose of having said creditors receive payment; provided, however, that this does not apply if there is no risk of said creditors being harmed by the Absorption-Type Trust Split.

(Scope of Obligations Covered by the Trust Property of Split Trust and That of Succeeding Trust after Absorption-Type Trust Split)

Article 157 Where an Absorption-Type Trust Split is effected, the obligation set forth in Article 155, paragraph (1), item (vi) ceases to be an Obligation Covered by the Trust Property of the Split Trust after the Absorption-Type Trust Split, and becomes an Obligation Covered by the Trust Property of the Succeeding Trust after the Absorption-Type Trust Split. In this case, any obligation which was an obligation covered only by the Trust Property of the Split Trust becomes an obligation covered only by the Trust Property of the Succeeding Trust.

Article 158 Where a creditor who may state objections pursuant to the provisions of Article 156, paragraph (1) (limited to creditors to whom separate notice must be given pursuant to the provisions of paragraph (2) of said Article) has not been given notice as set forth in paragraph (2) of said Article, the creditor may also demand, based on the claim which the creditor has held since before the Absorption-Type Trust Split and which falls under any of the following items, that the Trustee perform the obligation pertaining to said claim by using the property specified in the respective items; provided, however, that said performance is limited, in the case of the property set forth in item (i), to the value of the property to be transferred to the Succeeding Trust as of the day on which the Absorption-Type Trust Split comes into effect, and in the case of the property set forth in item (ii), to the value of the Trust Property of the Split Trust as of said day:

(i) a claim pertaining to an Obligation Covered by the Trust Property of the Split Trust (excluding claims pertaining to the obligation set forth in Article 155, paragraph (1), item (vi)): property that comes under Trust Property of the Succeeding Trust after the Absorption-Type Trust Split; or

(ii) a claim pertaining to an Obligation Covered by the Trust Property of the

Succeeding Trust (limited to claims pertaining to the obligation set forth in Article 155, paragraph (1), item (vi)): property that comes under Trust Property of the Split Trust after the Absorption-Type Trust Split.

Subsection 2 Creation-Type Trust Splits

(Agreement among the Relevant Parties)

Article 159 (1) A Creation-Type Trust Split may be effected by an agreement of a Settlor, a Trustee, and a Beneficiary of a Trust. In this case, in effecting such a split, the following particulars must be specified:

- (i) the contents of the Terms of Trust after the Creation-Type Trust Split;
- (ii) if there is a change in the contents of the Beneficial Interest provided for by the Terms of Trust, said contents and the reasons for the change;
- (iii) if monies or any other property is delivered to a Beneficiary in the Creation-Type Trust Split, the contents and value of said property;
- (iv) the day on which the Creation-Type Trust Split comes into effect;
- (v) the contents of any property to be transferred;
- (vi) if there is any obligation which will, as a result of the Creation-Type Trust Split, cease to be an Obligation Covered by the Trust Property of the previous Trust and become an Obligation Covered by the Trust Property of the new Trust, particulars concerning said obligation; and
- (vii) other particulars specified by Ordinance of the Ministry of Justice.

(2) Notwithstanding the provisions of the preceding paragraph, in the cases listed in the following items, a Creation-Type Trust Split may be effected by the means specified in the respective items. In this case, the Trustee must, without delay, give notice of the particulars listed in the items of said paragraph, to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii):

- (i) if it is clear that the split is not contrary to the purpose of the Trust: an agreement between the Trustee and the Beneficiary; or
- (ii) if it is clear that the split is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary: the Trustee's manifestation of intention in a document or electronic or magnetic record.

(3) Notwithstanding the provisions of the preceding two paragraphs, if each of the Terms of Trusts otherwise provides for, such provisions prevail.

(4) If there is no Settlor at the time in question, the provision of paragraph (1) do not apply, and the phrase "to the Settlor in the case set forth in item (i), or to the Settlor and the Beneficiary in the case set forth in item (ii)" in paragraph (2) is deemed to be replaced with "to the Beneficiary in the case set forth in item (ii)."

(Objections by Creditors)

Article 160 (1) If a Creation-Type Trust Split is to be effected, creditors who hold claims pertaining to Obligations Covered by the Trust Property of the previous Trust may state their objections to the Trustee with regard to the Creation-Type Trust Split; provided, however, that this does not apply if there is no risk of said creditors being harmed by the Creation-Type Trust Split.

(2) Where all or some of the creditors set forth in the preceding paragraph may state their objections pursuant to the provisions of said paragraph, the Trustee must give public notice of the following particulars in the Official Gazette, and must give notice of this to each of the known creditors set forth in said paragraph separately; provided, however, that the period set forth in item (ii) may not be less than one month:

(i) a statement to the effect that the Creation-Type Trust Split is to be effected;

(ii) a statement to the effect that the creditors set forth in the preceding paragraph may state their objections within a certain period of time; and

(iii) other particulars specified by Ordinance of the Ministry of Justice.

(3) Notwithstanding the provisions of the preceding paragraph, the Trustee who is a corporation may substitute public notice (limited to public notice given by the following means) for the separate notice to each creditor under the provisions of said paragraph:

(i) publication in a major daily newspaper which publishes particulars on current events; or

(ii) electronic public notice.

(4) If creditors set forth in paragraph (1) do not state any objections within the period set forth in paragraph (2), item (ii), said creditors are deemed to have accepted the Creation-Type Trust Split.

(5) When any creditors set forth in paragraph (1) state their objections within the period set forth in paragraph (2), item (ii), the Trustee must make payment or provide reasonable security to such creditors, or must entrust adequate property to a Trust company, etc. for the purpose of having said creditors receive payment; provided, however, that this does not apply if there is no risk of said creditors being harmed by the Creation-Type Trust Split.

(Scope of Obligations Covered by the Trust Property of Previous Trust and That of New Trust after Creation-Type Trust Split)

Article 161 Where a Creation-Type Trust Split is effected, the obligation set forth in Article 159, paragraph (1), item (vi) ceases to be an Obligation Covered by the Trust Property of the previous Trust after the Creation-Type Trust Split, and becomes an Obligation Covered by the Trust Property of the new Trust after the Creation-Type Trust Split. In this case, any obligation which was an obligation covered only by the Trust Property of the previous Trust becomes an

obligation covered only by the Trust Property of the new Trust.

Article 162 Where a creditor who may state an objection pursuant to the provisions of Article 160, paragraph (1) (limited to creditors to whom separate notice must be given pursuant to the provisions of paragraph (2) of said Article) has not been given notice as set forth in paragraph (2) of said Article, the creditor may also demand, based on a claim which the creditor has held since before the Creation-Type Trust Split and which falls under any of the following items, that the Trustee perform the obligation pertaining to said claim by using the property specified in the respective items; provided, however, that said performance is limited, in the case of the property set forth in item (i), to the value of the Trust Property of the new Trust as of the day on which the Creation-Type Trust Split comes into effect, and in the case of the property set forth in item (ii), to the value of the Trust Property of the previous Trust as of said day:

- (i) a claim pertaining to an Obligation Covered by the Trust Property of the previous Trust (excluding a claim pertaining to the obligation set forth in Article 159, paragraph (1), item (vi)): property that comes under Trust Property of the new Trust after the Creation-Type Trust Split; or
- (ii) a claim which has become a claim pertaining to an Obligation Covered by the Trust Property of the new Trust (limited to a claim pertaining to the obligation set forth in Article 159, paragraph (1), item (vi)): property that comes under Trust Property of the previous Trust after the Creation-Type Trust Split.

Chapter VII Termination and Liquidation of Trust

Section 1 Termination of Trust

(Grounds for Termination of Trust)

Article 163 In addition to cases under the provisions of the following Article, a Trust terminates in the following cases:

- (i) if the purpose of the Trust has been achieved or if it has become impossible to achieve the purpose of the Trust;
- (ii) if the Trustee has continuously held all Beneficial Interests in the form of the Trustee's Own Property for one year;
- (iii) if the Trust lacks a Trustee and the office has not been filled with a New Trustee for one year;
- (iv) if the Trustee has terminated the Trust pursuant to the provisions of Article 52 (including cases where applied mutatis mutandis pursuant to Article 53, paragraph (2) and Article 54, paragraph (4));
- (v) if the Trust is consolidated with another Trust;

- (vi) if a judicial decision ordering the termination of the Trust has been rendered pursuant to the provisions of Article 165 or Article 166;
- (vii) if an order for the commencement of bankruptcy proceedings has been entered against the Trust Property;
- (viii) where the Settlor is given an order for the commencement of bankruptcy proceedings, an order for the commencement of rehabilitation proceedings, or an order for the commencement of reorganization proceedings, if the Trust Agreement is cancelled under the provisions of Article 53, paragraph (1) of the Bankruptcy Act, Article 49, paragraph (1) of the Civil Rehabilitation Act or Article 61, paragraph (1) of the Corporate Reorganization Act (including cases where applied mutatis mutandis pursuant to Article 41, paragraph (1) and Article 206, paragraph (1) of the Act on Special Rules, etc. for Reorganization Proceedings for Financial Institutions, etc.); or
- (ix) if any grounds specified by the Terms of Trust occur.

(Termination of Trust by Agreement between Settlor and Beneficiary)

Article 164 (1) A Settlor and a Beneficiary may terminate a Trust at any time by an agreement between them.

- (2) When the Settlor and the Beneficiary have terminated the Trust at a time that is detrimental to the Trustee, the Settlor and the Beneficiary must compensate the Trustee for any damages; provided, however, that this does not apply if there was a compelling reason for the Trust to be terminated at that time.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if the Terms of Trust otherwise provide for, such provisions prevail.
- (4) The provisions of paragraph (1) and paragraph (2) do not apply if there is no Settlor at the time in question.

(Judicial Decision Ordering Termination of Trust due to Special Circumstances)

Article 165 (1) When it has become clear that, due to the special circumstances that were unforeseeable at the time of the Terms of Trust, the termination of a Trust has come to be in the best interest of the Beneficiary in light of the purpose of the Trust, the status of the Trust Property, and any other relevant circumstances, the court may order the termination of the Trust upon petition of the Settlor, the Trustee, or the Beneficiary,.

- (2) Before the court makes the judicial decision on the petition set forth in the preceding paragraph, it must hear the statements of the Trustee; provided, however, that this does not apply when the court makes the judicial decision to dismiss the petition as unlawful or clearly groundless.
- (3) The judicial decision on the petition set forth in paragraph (1) must include

the reasons for said decision.

- (4) Only the Settlor, the Trustee, or the Beneficiary may file an immediate appeal against the judicial decision on the petition set forth in paragraph (1).
- (5) The immediate appeal set forth in the preceding paragraph has the effect of a stay of execution.

(Judicial Decision Ordering Termination of Trust to Ensure Public Interest)

Article 166 (1) In the following cases, when the court finds the existence of a Trust to be impermissible from the perspective of ensuring the public interest, it may, upon petition of the Minister of Justice, a Settlor, a Beneficiary, a Trust Creditor, or any other interested party, order the termination of the Trust:

- (i) if the Trust was created for an unlawful purpose; or
 - (ii) where the Trustee has committed an act that goes beyond or abuses the Trustee's power as prescribed by laws and regulations or the Terms of Trust or has committed an act in violation of criminal laws and regulations, if the Trustee continuously or repeatedly commits said act despite having received a written warning from the Minister of Justice.
- (2) Before the court makes the judicial decision on the petition set forth in the preceding paragraph, it must hear the statements of the Trustee; provided, however, that this does not apply when the court makes the judicial decision to dismiss the petition as unlawful or clearly groundless.
 - (3) The judicial decision on the petition set forth in paragraph (1) must include the reasons for said decision.
 - (4) Only the person who has filed the petition set forth in paragraph (1), or the Settlor, the Trustee or the Beneficiary may file an immediate appeal against the judicial decision on the petition set forth in said paragraph.
 - (5) The immediate appeal set forth in the preceding paragraph has the effect of a stay of execution.
 - (6) When the Settlor, the Beneficiary, the Trust Creditor, or any other interested party has filed the petition set forth in paragraph (1), the court may, upon petition of the Trustee, order the person who has filed the petition set forth in said paragraph to provide reasonable security.
 - (7) When filing the petition under the provisions of the preceding paragraph, the Trustee must make a prima facie showing of the fact that the petition set forth in paragraph (1) was filed in bad faith.
 - (8) The provisions of Article 75, paragraph (5) and paragraph (7) and Article 76 to Article 80 of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to the security to be provided upon the filing of the petition set forth in paragraph (1) pursuant to the provisions of paragraph (6).

(Duty of Government Agencies to Notify the Minister of Justice)

Article 167 If a court or any other government agency, a public prosecutor, or an official comes to know in the course of performing their duties that there are grounds for filing the petition set forth in paragraph (1) of the preceding Article or for giving the warning set forth in item (ii) of said paragraph, said entity or person must notify the Minister of Justice to that effect.

(Participation by the Minister of Justice)

Article 168 (1) Before the court makes a judicial decision on a petition set forth in Article 166, paragraph (1), it must seek the opinion of the Minister of Justice.

(2) When the court conducts a hearing on a case based on the petition set forth in the preceding paragraph, the Minister of Justice may attend said hearing.

(3) The court must notify the Minister of Justice of the fact that a case based on the petition set forth in paragraph (1) is pending at the court and of the date of the hearing set forth in the preceding paragraph.

(4) In addition to the persons prescribed in Article 166, paragraph (4), the Minister of Justice may file an immediate appeal against the judicial decision to dismiss the petition set forth in paragraph (1).

(Provisional Order on Trust Property)

Article 169 (1) When a petition set forth in Article 166, paragraph (1) has been filed, the court may, upon petition of the Minister of Justice, a Settlor, a Beneficiary, a Trust Creditor, or any other interested party or on its own authority, render a disposition ordering administration by an administrator (referred to as an "Administration Order" in the following Article) or may issue any other provisional order that is necessary with regard to the Trust Property, which is valid until a court decision is given to the petition set forth in said paragraph..

(2) The court may change or revoke the provisional order issued under the provisions of the preceding paragraph.

(3) Only an interested party may file an immediate appeal against the provisional order under the provisions of paragraph (1) and against an order under the provisions of the preceding paragraph.

Article 170 (1) When the court issues an Administration Order, it must appoint an administrator therein.

(2) The administrator set forth in the preceding paragraph is supervised by the court.

(3) The court may order the administrator set forth in paragraph (1) to make a report on the status of property that comes under Trust Property and

Obligations Covered by the Trust Property, and to settle the administrative accounts thereof.

- (4) The provisions of Article 64 to Article 72 apply mutatis mutandis to the administrator set forth in paragraph (1). In this case, the term "Former Trustee" in Article 65 is deemed to be replaced with "Trustee."
- (5) When the provisional order under the provisions of paragraph (1) of the preceding Article (excluding an Administration Order) is issued against any registered right that belongs to the Trust Property, the court clerk must, on the clerk's own authority and without delay, commission a registration of said provisional order.
- (6) The provisions of the preceding paragraph apply mutatis mutandis to the cases where the provisional order prescribed in said paragraph is changed or revoked or where said provisional order has ceased to be effective.

(Burden of Expenses or Costs for Provisional Order)

Article 171 (1) If the court has issued a provisional order under the provisions of Article 169, paragraph (1), the expenses for a procedure of a non-contentious case are borne by a Trustee. The same applies to any expenses necessary for said provisional order.

- (2) Where an immediate appeal is filed against the provisional order set forth in the preceding paragraph or a judicial decision to dismiss the petition set forth in Article 169, paragraph (1), if the court in charge of the appeal finds for said immediate appeal and revokes the judicial decision of prior instance, the court costs required for the proceedings in said instance of appeal, as well as the court costs required for the proceedings in the prior instance that had been borne by the appellant, are borne by the Trustee.

(Inspection of Materials Related to Provisional Order)

Article 172 (1) An interested party may make a request to the court clerk to inspect materials relating to the report or settlement of accounts set forth in Article 170, paragraph (3).

- (2) The interested party may make a request to the court clerk to copy the materials set forth in the preceding paragraph or to issue an authenticated copy, transcript, or extract thereof.
- (3) The provisions of the preceding paragraph do not apply with respect to materials set forth in paragraph (1) which have been prepared in the form of audiotapes or videotapes (including objects on which certain particulars are recorded by any means equivalent thereto). In this case, the court clerk must permit the reproduction of these objects at the request of the interested party.
- (4) The Minister of Justice may make a request to the court clerk to inspect the materials set forth in paragraph (1).

(5) The provisions of Article 91, paragraph (5) of the Code of Civil Procedure apply mutatis mutandis to the materials set forth in paragraph (1).

(Appointment of New Trustee)

Article 173 (1) If the court has ordered the termination of a Trust pursuant to the provisions of Article 166, paragraph (1), it must, upon petition of the Minister of Justice, a Settlor, a Beneficiary, a Trust Creditor, or any other interested party or on its own authority, appoint a New Trustee for the liquidation of the Trust.

(2) No appeal may be entered against the judicial decision on the appointment of the New Trustee under the provisions of the preceding paragraph.

(3) When the New Trustee is appointed pursuant to the provisions of paragraph (1), the Former Trustee's duty as Trustee is terminated.

(4) The New Trustee set forth in paragraph (1) may receive amounts of advance payment for expenses and remuneration determined by the court from the Trust Property.

(5) Before the court makes the judicial decision determining the amount of advance payment for expenses or remuneration under the provisions of the preceding paragraph, it must hear the statements of the New Trustee set forth in paragraph (1).

(6) Only the New Trustee set forth in paragraph (1) may file an immediate appeal against the judicial decision determining the amount of advance payment for expenses or remuneration under the provisions of paragraph (4).

(Restriction on Absorption-Type Trust Split of Terminated Trust)

Article 174 If a Trust has terminated, it cannot effect an Absorption-Type Trust Split in which said Trust will be a Succeeding Trust.

Section 2 Liquidation of Trust

(Grounds for Commencement of Liquidation)

Article 175 A Trust must go into liquidation as provided for in this Section when the Trust has terminated (excluding cases where the Trust has terminated on the grounds set forth in Article 163, item (v) and cases where the Trust has terminated due to an order for the commencement of bankruptcy proceedings against the Trust Property and said bankruptcy proceedings have not yet been closed).

(Constructive Existence of Trust)

Article 176 Even if a Trust has terminated, said Trust is deemed to continue to exist until the liquidation is completed.

(Duties of Liquidation Trustee)

Article 177 A Trustee after the termination of a Trust (hereinafter referred to as the "Liquidation Trustee") performs the following duties:

- (i) conclusion of pending duties;
- (ii) collection of claims which belongs to the Trust Property and performance of obligations pertaining to Trust claims;
- (iii) performance of obligations pertaining to Distribution Claims as a Beneficiary (excluding those for the distribution of residual assets); and
- (iv) distribution of residual assets.

(Powers of Liquidation Trustee)

Article 178 (1) A Liquidation Trustee has the power to conduct any and all acts necessary for the liquidation of a Trust; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

- (2) In the following cases, the Liquidation Trustee may put property that comes under Trust Property up for auction:
 - (i) if the Beneficiary or the holder of vested right as prescribed in Article 182, paragraph (1), item (ii) (hereinafter collectively referred to as a "Beneficiary, etc." in this Article) refused or is unable to receive property that comes under Trust Property, and the Liquidation Trustee has made a demand that said person receive said property within a reasonable period specified therein; or
 - (ii) if the whereabouts of a Beneficiary, etc. are unknown.
- (3) When the Liquidation Trustee has put property that comes under Trust Property up for auction pursuant to the provisions of item (i) of the preceding paragraph, the Liquidation Trustee must, without delay, give notice to that effect to the Beneficiary, etc.
- (4) If the value of a property is likely to decline due to damage or any other reason, the Liquidation Trustee may put said property up for auction without making the demand set forth in paragraph (2), item (i).

(Commencement of Bankruptcy Proceedings against Trust Property in Liquidation)

Article 179 (1) When it becomes clear, with regard to a Trust in liquidation, that property that comes under Trust Property is insufficient for the payment of its obligations in full, a Liquidation Trustee must immediately file a petition for the commencement of bankruptcy proceedings against the Trust Property.

- (2) Where an order for the commencement of bankruptcy proceedings has been entered against the Trust Property, if the Liquidation Trustee has already made any payments to a creditor who holds a claim pertaining to an Obligation Covered by the Trust Property, the bankruptcy trustee may reclaim said

payment.

(Performance of Obligations pertaining to Conditional Claims)

- Article 180 (1) A Liquidation Trustee may perform obligations pertaining to conditional claims, claims with indefinite durations, or any other unliquidated claims. In this case, the Liquidation Trustee must file a petition with the court for the appointment of an appraiser in order to have these claims appraised.
- (2) In the case referred to in the preceding paragraph, the Liquidation Trustee must perform obligations pertaining to any of the claims set forth in said paragraph according to the appraisal by the appraiser set forth in said paragraph.
- (3) Expenses for the procedures for the appointment of the appraiser as set forth in paragraph (1) are borne by the Liquidation Trustee. The same applies to expenses for inquiries made and questions asked by said appraiser for the sake of the appraisal.
- (4) A judicial decision dismissing the petition set forth in paragraph (1) must include the reasons therefor.
- (5) No appeal may be entered against the judicial decision on the appointment of appraiser under the provisions of paragraph (1).
- (6) The provisions of the preceding paragraphs do not apply if the Liquidation Trustee, the Beneficiary, the Trust Creditors, and the holders of vested rights as prescribed in Article 182, paragraph (1), item (ii) have otherwise agreed.

(Restriction on Distribution of Residual Assets prior to Performance of Obligations)

Article 181 A Liquidation Trustee is not allowed to distribute property that comes under Trust Property to a Beneficiary for residual assets, etc. prescribed in paragraph (2) of the following Article until after the Liquidation Trustee has performed the obligations set forth in Article 177, item (ii) and item (iii); provided, however, that this does not apply if the Liquidation Trustee has reserved assets that are considered to be necessary for performing said obligations.

(Vesting of Residual Assets)

Article 182 (1) Residual assets are vested in the following persons:

- (i) a person designated by the Terms of Trust as a person who is to be the Beneficiary in relation to Distribution Claim as a Beneficiary involving the distribution of residual assets (referred to as the "Beneficiary for Residual Assets" in the following paragraph); and
- (ii) a person designated by the Terms of Trust as a person in whom residual assets must be vested (hereinafter referred to as the "Holder of Vested Right")

in this Section).

- (2) If the Terms of Trust contain no provisions concerning the designation of a Beneficiary for Residual Assets or a Holder of Vested Right (hereinafter collectively referred to as a "Beneficiary, etc. for Residual Assets" in this paragraph) or where all persons designated by the provisions of the Terms of Trust as Beneficiaries, etc. for Residual Assets have waived their rights, it is deemed as having been provided by the Terms of Trust that the Settlor or Settlor's heir or other general successor is to be designated as the Holder of Vested Right.
- (3) When it cannot be determined pursuant to the provisions of the preceding two paragraphs to whom the residual assets belong, residual assets are vested in the Liquidation Trustee.

(Holder of Vested Right)

Article 183 (1) A person designated by the provisions of the Terms of Trust as the one who is to be a Holder of Vested Right acquires a claim pertaining to an obligation to distribute residual assets by operation of law; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

- (2) The provisions of Article 88, paragraph (2) apply mutatis mutandis to a person designated as the one who is to be a Holder of Vested Right as prescribed in the preceding paragraph.
- (3) A person who has become a Holder of Vested Right pursuant to the provisions of the Terms of Trust may make a manifestation of intention to the Trustee to waive the said right; provided, however, that this does not apply if the person who has become the Holder of Vested Right pursuant to the provisions of the Terms of Trust is the party to the Terms of Trust.
- (4) When a person who has become the Holder of Vested Right as prescribed in the main clause of the preceding paragraph has made a manifestation of intention under the provisions of said paragraph, the person is deemed to have never held rights as the Holder of Vested Right; provided, however, that this may not harm the rights of a third party.
- (5) The provisions of Article 100 and Article 102 apply mutatis mutandis to the claim held by the Holder of Vested Right pertaining to an obligation to distribute residual assets.
- (6) The Holder of Vested Right is deemed to be a Beneficiary during the liquidation of the Trust.

(Completion of Duties of Liquidation Trustee)

Article 184 (1) When a Liquidation Trustee has completed the duties, the Liquidation Trustee must, without delay, settle the final accounts related to Trust affairs and request approval for the settlement of accounts from all of the

Beneficiaries (if there is a Trust administrator at the time in question, from the Trust administrator) and Holders of Vested Right as of the time of the termination of the Trust (hereinafter collectively referred to as the "Beneficiaries, etc." in this Article).

- (2) When the Beneficiaries, etc. has approved the settlement of accounts set forth in the preceding paragraph, the Liquidation Trustee is deemed to have been released from liability in relation to said Beneficiaries, etc.; provided, however, that this does not apply if there has been any misconduct in the Liquidation Trustee's performance of the duties.
- (3) If any of the Beneficiaries, etc. has stated no objections within one month from the time when the Beneficiaries, etc. was requested by the Liquidation Trustee to give approval for the settlement of accounts set forth in paragraph (1), said Beneficiaries, etc. are deemed to have approved of the settlement of accounts set forth in said paragraph.

Chapter VIII Special Rules for Trust with Certificates of Beneficial Interest
Section 1 General Provisions

(Provisions of the Terms of Trust on Issuance of Certificate of Beneficial Interest)

- Article 185 (1) The Terms of Trust may provide for a certificate indicating a single Beneficial Interest or two or more Beneficial Interests (hereinafter referred to as the "Certificate of Beneficial Interest") to be issued as provided for in this Chapter.
- (2) The provisions of the preceding paragraph do not preclude the Terms of Trust from providing that no Certificate of Beneficial Interest is issued for a Beneficial Interest of specific content.
 - (3) In the case of the Trust with the provisions as set forth in paragraph (1) (hereinafter referred to as the "Trust with Certificates of Beneficial Interest"), the provisions set forth in the preceding two paragraphs may not be changed by making a modification to the Trust.
 - (4) In the case of the Trust with no provisions as set forth in paragraph (1), the provisions set forth in said paragraph or paragraph (2) may not be established by making a modification to the Trust.

(Beneficial Interest Register)

- Article 186 A Trustee of a Trust with Certificates of Beneficial Interest must, without delay, prepare a Beneficial Interest register, and state or record therein the following particulars (hereinafter referred to as the "Particulars to be Stated in the Beneficial Interest Register" in this Chapter):

- (i) the content of the Distribution Claim as a Beneficiary pertaining to each Beneficial Interest, and other particulars specified by Ordinance of the Ministry of Justice as particulars that specify the content of the Beneficial Interest;
- (ii) the serial number of the Certificate of Beneficial Interest pertaining to each Beneficial Interest, the date of issue, whether each Certificate of Beneficial Interest is a registered certificate or a bearer certificate, and the number of bearer Certificates of Beneficial Interest;
- (iii) the name and address of the Beneficiary pertaining to each Beneficial Interest (excluding Beneficiaries of bearer Beneficial Interest);
- (iv) the day on which the Beneficiary set forth in the preceding item acquired each Beneficial Interest; and
- (v) in addition to what is listed in the preceding items, the particulars specified by Ordinance of the Ministry of Justice.

(Delivery of Documents Stating the Particulars to Be Stated in the Beneficial Interest Register)

Article 187 (1) A Beneficiary of a Beneficial Interest for which there are the provisions as set forth in Article 185, paragraph (2) may request that a Trustee of a Trust with Certificates of Beneficial Interest deliver to the Beneficiary a document stating the Particulars to be Stated in the Beneficial Interest Register, which are stated or recorded in the Beneficial Interest register about said Beneficiary, or that said Trustee provide the Beneficiary with an electronic or magnetic record containing said Particulars to be Stated in the Beneficial Interest Register.

(2) The Trustee of the Trust with Certificates of Beneficial Interest (in the case of a Trustee who is a corporation, its representative; the same applies in the following paragraph) must sign or affix the Trustee's name and seal to the document set forth in the preceding paragraph.

(3) With respect to the electronic or magnetic record set forth in paragraph (1), the Trustee of the Trust with Certificates of Beneficial Interest must take the measures specified by Ordinance of the Ministry of Justice as an alternative to signing or affixing Trustee's name and seal.

(4) For the purpose of the application of the provisions of the preceding two paragraphs if there are two or more Trustees for the Trust with Certificates of Beneficial Interest, the phrase "Trustee of the Trust with Certificates of Beneficial Interest" in these provisions is deemed to be replaced with "all Trustees of the Trust with Certificates of Beneficial Interest."

(Beneficial Interest Register Administrator)

Article 188 A Trustee of a Trust with Certificates of Beneficial Interest may

appoint a Beneficial Interest register administrator (meaning a person who prepares and keeps a Beneficial Interest register and executes other affairs concerning the Beneficial Interest register on behalf of the Trustee of the Trust with Certificates of Beneficial Interest; the same applies hereinafter), and may delegate the administration of said affairs to the same.

(Record Date)

- Article 189 (1) A Trustee of a Trust with Certificates of Beneficial Interest may specify a certain date (hereinafter referred to as the "Record Date" in this Article), and designate the Beneficiaries who have been stated or recorded in the Beneficial Interest register as of the Record Date (hereinafter referred to as the "Beneficiaries as of the Record Date" in this Article) as the persons who are entitled to exercise their rights.
- (2) The provisions of the preceding paragraph do not apply to any Beneficiaries of bearer Beneficial Interest.
- (3) When designating the Record Date, the Trustee of the Trust with Certificates of Beneficial Interest must specify the content of the rights that the Beneficiaries as of the Record Date are entitled to exercise (limited to such rights to be exercised within three months from the Record Date).
- (4) When the Trustee of the Trust with Certificates of Beneficial Interest has designated the Record Date, the Trustee must give public notice in the Official Gazette, no later than two weeks prior to said Record Date, with regard to said Record Date and the particulars specified pursuant to the provisions of the preceding paragraph; provided, however, that this does not apply if the Terms of Trust contain provisions on the Record Date and the content of the rights that the Beneficiaries as of the Record Date are entitled to exercise.
- (5) Notwithstanding the provisions of paragraph (1), paragraph (3), and the main clause of the preceding paragraph, if the Terms of Trust otherwise provide for, such provisions prevail.

(Keeping and Inspection of Beneficial Interest Register)

- Article 190 (1) A Trustee of a Trust with Certificates of Beneficial Interest must keep a Beneficial Interest register at the Trustee's address (if the Trustee is a corporation (excluding cases where there is a Beneficial Interest register administrator at the time in question), its principal office; if there is a Beneficial Interest register administrator at the time in question, the administrator's business office).
- (2) A Settlor, a Beneficiary, and any other interested party may make the following requests of the Trustee of the Trust with Certificates of Beneficial Interest. In this case, in making said request, the reasons therefor must be specified:

- (i) If the Beneficial Interest register has been prepared in the form of a document, a request to inspect or copy said document; and
 - (ii) if the Beneficial Interest register has been prepared in the form of an electronic or magnetic record, a request to inspect or copy any object which shows the particulars recorded in the electronic or magnetic record by means specified by Ordinance of the Ministry of Justice.
- (3) The Trustee of the Trust with Certificates of Beneficial Interest is not allowed to refuse the request set forth in the preceding paragraph when said request has been received, except where it is found to fall under any of the following cases:
- (i) if the person making said request (hereinafter referred to as the "Requester" in this paragraph) has made the request for purposes other than an investigation related to the securement or exercise of Requester's rights;
 - (ii) if the Requester has made the request at an inappropriate time;
 - (iii) if the Requester has made the request for the purpose of disturbing the administration of Trust affairs or harming the common interests of the Beneficiaries;
 - (iv) if the Requester operates or engages in business which is effectively in competition with business pertaining to the Trust;
 - (v) if the Requester has made the request in order to inform a third party, for profit, of any fact that the Requester may learn by way of inspecting or copying documents or any other object under the provisions of the preceding paragraph; or
 - (vi) if the Requester has informed a third party, for profit, of any fact that the Requester has learned by way of inspecting or copying documents or any other object under the provisions of the preceding paragraph within the past two years.
- (4) Where any of the requests set forth in paragraph (2) is made with regard to the particulars listed in Article 186, item (iii) or item (iv) (limited to the particulars concerning a Beneficial Interest not subject to the provisions set forth in Article 185, paragraph (2)), if the Terms of Trust otherwise provide for, such provisions prevail.

(Notices Given to Beneficiaries)

- Article 191 (1) It is sufficient for a Trustee of a Trust with Certificates of Beneficial Interest to send any notice that the Trustee gives to a Beneficiary or demand that the Trustee makes to a Beneficiary, to the Beneficiary's address as stated or recorded in the Beneficial Interest register (if a Beneficiary has notified the Trustee of a different place or a contact address for receiving notices or demands, to said place or contact address).
- (2) The notice or demand set forth in the preceding paragraph is deemed to have

reached the addressee at the time when the notice or demand must have normally arrived.

- (3) If the Beneficial Interest in the Trust with Certificates of Beneficial Interest is co-owned by two or more persons, the co-owners must designate one person who is to receive any notice or demand sent by the Trustee of the Trust with Certificates of Beneficial Interest to the Beneficiaries, and must notify the Trustee of that person's name. In this case, said person is deemed to be a Beneficiary and the provisions of the preceding two paragraphs apply thereto.
- (4) If there has been no notification from the co-owners under the provisions of the preceding paragraph, it is sufficient for the Trustee of the Trust with Certificates of Beneficial Interest to send any notice that the Trustee is to give to the co-owners of the Beneficial Interest or any demand that the Trustee is to make to the co-owners of the Beneficial Interest, to any one of them.
- (5) When the Trustee of the Trust with Certificates of Beneficial Interest is required to give notice to the Beneficiaries of bearer Beneficial Interest under the provisions of this Act, it is sufficient for the Trustee to send notices only to such Beneficiaries whose names and addresses are known to the Trustee. In this case, the Trustee must give public notice in the Official Gazette of the particulars of which to notify them.

(Exercise of Rights by Beneficiaries with Bearer Beneficial Interest)

Article 192 (1) When a Beneficiary with bearer Beneficial Interest wishes to exercise the right against a Trustee of a Trust with Certificates of Beneficial Interest or any other person, the Beneficiary must present the Certificate of Beneficial Interest to the Trustee or said other person.

- (2) When the Beneficiary with bearer Beneficial Interest wishes to exercise the voting right at a Beneficiaries meeting, the Beneficiary must present the Certificate of Beneficial Interest to the convener prescribed in Article 108 no later than one week prior to the date of the Beneficiaries meeting.

(Exercise of Right by Co-owners)

Article 193 If a Beneficial Interest in a Trust with Certificates of Beneficial Interest is co-owned by two or more persons, the co-owners are not allowed to exercise the rights of their Beneficial Interest unless they designate one person who is to exercise the rights of said Beneficial Interest and notify the Trustee of the Trust with Certificates of Beneficial Interest of that person's name; provided, however, that this does not apply if the Trustee has consented to the exercise of said rights.

Section 2 Special Rules for Assignment of Beneficial Interest

(Assignment of Beneficial Interest for Which Certificate of Beneficial Interest Has Been Issued)

Article 194 Assignment of a Beneficial Interest in a Trust with Certificates of Beneficial Interest (excluding a Beneficial Interest subject to the provisions set forth in Article 185, paragraph (2)) is not valid unless the Certificate of Beneficial Interest pertaining to said assigned Beneficial Interest is delivered.

(Requirements for Perfection of Assignment of Beneficial Interest in Trust with Certificates of Beneficial Interest)

Article 195 (1) Assignment of a Beneficial Interest in a Trust with Certificates of Beneficial Interest may not be duly asserted against the Trustee of the Trust with Certificates of Beneficial Interest unless the name and address of the person who has acquired the Beneficial Interest has been stated or recorded in the Beneficial Interest register.

(2) For the purpose of the application of the provisions of the preceding paragraph with regard to the Beneficial Interest subject to the provisions set forth in Article 185, paragraph (2), the phrase "Trustee" of the same paragraph is deemed to be replaced with "Trustee or any third party."

(3) The provisions of paragraph (1) do not apply to bearer Beneficial Interest.

(Presumption of Rights)

Article 196 (1) A possessor of a Certificate of Beneficial Interest is presumed to be the lawful owner of the Beneficial Interest pertaining to said Certificate of Beneficial Interest.

(2) A person who has received the delivery of a Certificate of Beneficial Interest acquires the rights of the Beneficial Interest pertaining to said Certificate of Beneficial Interest; provided, however, that this does not apply if the person acted in bad faith or with gross negligence.

(Stating or Recording Particulars to Be Stated in the Beneficial Interest Register without Request of Beneficiary)

Article 197 (1) In the cases listed in the following items, a Trustee of a Trust with Certificates of Beneficial Interest must, as provided for by Ordinance of the Ministry of Justice, state or record in the Beneficial Interest register the Particulars to be Stated in the Beneficial Interest Register which pertain to the Beneficiary of the Beneficial Interest specified in the respective items:

(i) if the Beneficiary has acquired the Beneficial Interest in the Trust with Certificates of Beneficial Interest and said Beneficial Interest has not been extinguished; or

(ii) if the Beneficiary has disposed of the Beneficial Interest in the Trust with Certificates of Beneficial Interest set forth in the preceding item.

- (2) The Trustee of the Trust with Certificates of Beneficial Interest must, if the consolidation of Beneficial Interests is effected by making a modification to the Trust, state or record in the Beneficial Interest register the Particulars to be Stated in the Beneficial Interest Register which pertain to the Beneficiary of said Beneficial Interests.
- (3) The Trustee of the Trust with Certificates of Beneficial Interest must, if the splitting of a Beneficial Interest is effected by making a modification to the Trust, state or record in the Beneficial Interest register the Particulars to be Stated in the Beneficial Interest Register which pertain to the Beneficiary of said Beneficial Interest.
- (4) The provisions of the preceding three paragraphs do not apply to bearer Beneficial Interest.

(Stating or Recording Particulars to Be Stated in the Beneficial Interest Register at Beneficiary's Request)

- Article 198 (1) A person (excluding a Trustee) who has acquired a Beneficial Interest in a Trust with Certificates of Beneficial Interest from a person other than the Trustee of the Trust with Certificates of Beneficial Interest may request that the Trustee of the Trust with Certificates of Beneficial Interest state or record in the Beneficial Interest register the Particulars to be Stated in the Beneficial Interest Register which pertain to said Beneficial Interest.
- (2) The request under the provisions of the preceding paragraph is made jointly with the person who is stated or recorded in the Beneficial Interest register as the Beneficiary of the Beneficial Interest thus acquired or the person's heir or any other general successor, except in cases specified by Ordinance of the Ministry of Justice where there is no risk of harm to the interest of any interested party.
 - (3) The provisions of the preceding two paragraphs do not apply to bearer Beneficial Interest.

(Pledge of Beneficial Interest for Which a Certificate of Beneficial Interest Has Been Issued)

- Article 199 A pledge of a Beneficial Interest for a Trust with Certificates of Beneficial Interest (excluding a Beneficial Interest subject to the provisions set forth in Article 185, paragraph (2)) is not valid unless the Certificate of Beneficial Interest pertaining to said pledged Beneficial Interest is delivered.

(Requirements for Perfection of Pledge of Beneficial Interest in Trust with Certificates of Beneficial Interest)

- Article 200 (1) A pledgee of a Beneficial Interest in a Trust with Certificates of Beneficial Interest (excluding a Beneficial Interest subject to the provisions set

forth in Article 185, paragraph (2)) may not duly assert the right of pledge against the Trustee of the Trust with Certificates of Beneficial Interest or against any other third party unless the pledgee continues to possess the Certificate of Beneficial Interest pertaining to said pledged Beneficial Interest.

- (2) Pledge of a Beneficial Interest subject to the provisions set forth in Article 185, paragraph (2) may not be duly asserted against the Trustee of the Trust with Certificates of Beneficial Interest or against any other third party unless the name and address of the pledgee has been stated or recorded in the Beneficial Interest register.

(Stating Particulars Related to Pledge in the Beneficial Interest Register)

Article 201 (1) A person who has created a pledge on a Beneficial Interest for a Trust with Certificates of Beneficial Interest may request a Trustee of the Trust with Certificates of Beneficial Interest to state or record the following particulars in the Beneficial Interest register:

- (i) the name and address of the pledgee; and
- (ii) the Beneficial Interest that is subject to the pledge.

- (2) The provisions of the preceding paragraph do not apply to bearer Beneficial Interest.

(Delivery of Document Stating Particulars Stated in the Beneficial Interest Register Which Relate to Pledge)

Article 202 (1) A pledgee for whom the particulars listed in the items of paragraph (1) of the preceding Article have been stated or recorded in the Beneficial Interest register (hereinafter referred to as the "Registered Pledgee of a Beneficial Interest" in this Section) may request that a Trustee of a Trust with Certificates of Beneficial Interest deliver a document to the Registered Pledgee of a Beneficial Interest, stating the particulars listed in the respective items of said paragraph, which are stated or recorded in the Beneficial Interest register of said Registered Pledgee of a Beneficial Interest, or may request that the Trustee provide the Registered Pledgee of a Beneficial Interest with an electronic or magnetic record containing said particulars.

- (2) The Trustee (in the case of the Trustee who is a corporation, its representative; the same applies in the following paragraph) of the Trust with Certificates of Beneficial Interest must sign or affix Trustee's (or the representative's) name and seal to the document set forth in the preceding paragraph.
- (3) With respect to the electronic or magnetic record set forth in paragraph (1), the Trustee of the Trust with Certificates of Beneficial Interest must take the measures specified by Ordinance of the Ministry of Justice as an alternative to signing or affixing Trustee's name and seal.

- (4) For the purpose of the application of the provisions of the preceding two paragraphs if there are two or more Trustees for the Trust with Certificates of Beneficial Interest, the phrase "Trustee of the Trust with Certificates of Beneficial Interest" in these provisions is deemed to be replaced with "all Trustees of the Trust with Certificates of Beneficial Interest."

(Notice Given to Registered Pledgee of a Beneficial Interest)

- Article 203 (1) It is sufficient for a Trustee of a Trust with Certificates of Beneficial Interest to send any notice that the Trustee gives to a Registered Pledgee of a Beneficial Interest or demand that the Trustee makes to a Registered Pledgee of a Beneficial Interest, to the address of the Registered Pledgee of a Beneficial Interest that is stated or recorded in the Beneficial Interest register (if the Registered Pledgee of a Beneficial Interest has notified the Trustee of a different place or contact address for receiving notices or demands, to such place or contact address).
- (2) The notice or demand set forth in the preceding paragraph is deemed to have reached the addressee at the time when the notice or demand must have normally arrived.

(Stating Particulars in the Beneficial Interest Register Concerning Consolidation or Split of Beneficial Interest)

- Article 204 (1) A Trustee of a Trust with Certificates of Beneficial Interest must, if the consolidation of Beneficial Interests is effected by making a modification to the Trust and if the pledgee of the pledge on any of said Beneficial Interests is the Registered Pledgee of a Beneficial Interest, state or record in the Beneficial Interest register the name and address of said pledgee with regard to said consolidated Beneficial Interest.
- (2) The Trustee of the Trust with Certificates of Beneficial Interest must, if the splitting of a Beneficial Interest is effected by making a modification to the Trust and if the pledgee of the pledge on said Beneficial Interest is the Registered Pledgee of a Beneficial Interest, state or record in the Beneficial Interest register the name and address of said pledgee with regard to said split Beneficial Interest.

Article 205 (1) In the case prescribed in paragraph (1) of the preceding Article, the Trustee of the Trust with Certificates of Beneficial Interest must deliver the Certificate of Beneficial Interest for the consolidated Beneficial Interest to the Registered Pledgee of a Beneficial Interest.

- (2) In the case prescribed in paragraph (2) of the preceding Article, the Trustee of the Trust with Certificates of Beneficial Interest must deliver the Certificates of Beneficial Interest for the split Beneficial Interest to the Registered Pledgee

of a Beneficial Interest.

(Requirements for Perfection Regarding Beneficial Interest for Which No Certificate of Beneficial Interest Has Been Issued)

- Article 206 (1) With regard to a Beneficial Interest that is subject to the provisions set forth in Article 185, paragraph (2) which belongs to the Trust Property of another Trust, the fact that said Beneficial Interest belongs to the Trust Property of said other Trust may not be duly asserted against a Trustee of a Trust with Certificates of Beneficial Interest or against any other third party unless the fact that said Beneficial Interest belongs to the Trust Property of the other Trust is stated or recorded in the Beneficial Interest register.
- (2) The Trustee of the other Trust to which the Beneficial Interest set forth in the preceding paragraph belongs may request that the Trustee of the Trust with Certificates of Beneficial Interest state or record in the Beneficial Interest register the fact that said Beneficial Interest belongs to the Trust Property of the other Trust.
- (3) For the purpose of the application of the provisions of Article 187 when the relevant facts have been stated or recorded in the Beneficial Interest register under the provisions of the preceding paragraph, in paragraph (1) of said Article, the phrase "a Beneficiary of a Beneficial Interest for which there are provisions as set forth in Article 185, paragraph (2)" is deemed to be replaced with "the Trustee of another Trust to which a Beneficial Interest set forth in Article 206, paragraph (1) belongs," the term "said Beneficiary" is deemed to be replaced with "said Beneficial Interest," and the phrase "the Particulars to be Stated in the Beneficial Interest Register, which are stated or recorded in the Beneficial Interest register about said Beneficiary" is deemed to be replaced with "the Particulars to be Stated in the Beneficial Interest Register, which are stated or recorded in the Beneficial Interest register about said Beneficiary (including the fact that said Beneficial Interest belongs to the Trust Property of the other Trust)."

Section 3 Certificate of Beneficial Interest

(Issuance of Certificate of Beneficial Interest)

Article 207 A Trustee of a Trust with Certificates of Beneficial Interest must, as provided for by the Terms of Trust, issue Certificates of Beneficial Interest pertaining to the Beneficial Interests concerned without delay.

(Notification of Desire Not to Possess Certificate of Beneficial Interest)

Article 208 (1) A Beneficiary of a Trust with Certificates of Beneficial Interest may notify a Trustee of the Trust with Certificates of Beneficial Interest to the

effect that said Beneficiary does not desire to possess a Certificate of Beneficial Interest pertaining to the Beneficial Interest that said Beneficiary holds; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

- (2) In notifying the Trustee under the provisions of the preceding paragraph, the Beneficiary must specify the content of the Beneficial Interest to which the notification pertains. In this case, if the Certificate of Beneficial Interest pertaining to said Beneficial Interest has already been issued, the Beneficiary must return said Certificate of Beneficial Interest to the Trustee of the Trust with Certificates of Beneficial Interest.
- (3) The Trustee of the Trust with Certificates of Beneficial Interest who has received notification under the provisions of paragraph (1) must, without delay, state or record in the Beneficial Interest register a statement to the effect that the Trustee will not issue the Certificate of Beneficial Interest pertaining to the Beneficial Interest set forth in the first sentence of the preceding paragraph.
- (4) When the Trustee of the Trust with Certificates of Beneficial Interest has stated or recorded the relevant statements under the provisions of the preceding paragraph, the Trustee is not allowed to issue the Certificate of Beneficial Interest pertaining to the Beneficial Interest set forth in the first sentence of paragraph (2).
- (5) The Certificate of Beneficial Interest submitted under the provisions of the second sentence of paragraph (2) becomes invalid at the time when the relevant statement is stated or recorded under the provisions of paragraph (3).
- (6) The Beneficiary who has notified the Trustee under the provisions of paragraph (1) may at any time demand that the Trustee of the Trust with Certificates of Beneficial Interest issue a Certificate of Beneficial Interest pertaining to the Beneficial Interest set forth in the first sentence of paragraph (2). In this case, if any Certificate of Beneficial Interest was returned under the provisions of the second sentence of said paragraph, the expenses for issuing a Certificate of Beneficial Interest are borne by said Beneficiary.
- (7) The provisions of the preceding paragraphs do not apply to bearer Beneficial Interest.

(Particulars to Be Stated on Certificate of Beneficial Interest)

Article 209 (1) The serial number and the following particulars must be stated on a Certificate of Beneficial Interest, and a Trustee of a Trust with Certificates of Beneficial Interest (in the case of a Trustee who is a corporation, its representative) must sign or affix the Trustee's (or the representative's) name and seal to it:

- (i) a statement to the effect that the Certificate of Beneficial Interest is a

- Certificate of Beneficial Interest of the Trust with Certificates of Beneficial Interest;
- (ii) the names and addresses of the initial Settlor and the Trustee of the Trust with Certificates of Beneficial Interest;
 - (iii) if the Certificate of Beneficial Interest is a registered certificate, the name of the Beneficiary;
 - (iv) the content of the Distribution Claim as a Beneficiary pertaining to each Beneficial Interest, and other particulars specified by Ordinance of the Ministry of Justice as particulars that specify the content of the Beneficial Interest;
 - (v) any provisions of the Terms of Trust concerning reimbursement of Expenses, etc. and compensation for damages to the Trustee of the Trust with Certificates of Beneficial Interest;
 - (vi) the means of calculation for Trust fees, and the means and time of payment of said fees;
 - (vii) if there are restrictions on the assignment of the Beneficial Interest indicated by the registered Certificate of Beneficial Interest, a statement to that effect and the content of said restrictions;
 - (viii) any provisions of the Terms of Trust concerning the exercise of rights by the Beneficiary (including particulars concerning a Trust supervisor and a Beneficiary's agent); and
 - (ix) other particulars specified by Ordinance of the Ministry of Justice.
- (2) For the purpose of the application of the provisions of the preceding paragraph if there are two or more Trustees for the Trust with Certificates of Beneficial Interest, the phrase "a Trustee of a Trust with Certificates of Beneficial Interest " in these provisions is deemed to be replaced with "all Trustees of a Trust with Certificates of Beneficial Interest."

(Conversion of Registered Certificate and Bearer Certificate)

Article 210 A Beneficiary of a Beneficial Interest for which a Certificate of Beneficial Interest has been issued, may at any time demand that the said Beneficiary's registered Certificate of Beneficial Interest be converted into a bearer certificate, or that the said Beneficiary's bearer Certificate of Beneficial Interest be converted into a registered certificate; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.

(Loss of Certificate of Beneficial Interest)

Article 211 (1) A Certificate of Beneficial Interest may be invalidated through the public notification procedure prescribed in Article 100 of the Non-Contentious Cases Procedures Act (Act No. 51 of 2011).

(2) A person who has lost the Certificate of Beneficial Interest may not request

the re-issuance thereof until after the person obtains an order of nullification as prescribed in Article 106, paragraph (1) of the Non-Contentious Cases Procedures Act.

- (3) When a person who has lost the Certificate of Beneficial Interest has filed a petition for public notification as prescribed in Article 114 of the Non-Contentious Cases Procedures Act, said person who has lost the Certificate of Beneficial Interest may provide reasonable deposit and have the Trustee of the Trust with Certificates of Beneficial Interest perform the obligations pertaining to the Certificate of Beneficial Interest.

Section 4 Special Rules for Rights and Duties of Relevant Parties

(Special Rules for Duties of Trustee of Trust with Certificates of Beneficial Interest)

Article 212 (1) In the case of a Trust with Certificates of Beneficial Interest, notwithstanding the provisions of the proviso to Article 29, paragraph (2), no provision of the Terms of Trust may mitigate the duty set forth in the main clause of said paragraph.

- (2) The provisions of Article 35, paragraph (4) do not apply to a Trust with Certificates of Beneficial Interest.

(Special Rules for the Terms of Trust Providing for Restrictions on Exercise of Rights by Beneficiary)

Article 213 (1) In the case of a Trust with Certificates of Beneficial Interest, notwithstanding the provisions of Article 92, item (i), item (v), item (vi), and item (viii), provisions may be established in the Terms of Trust to the effect that, with regard to all or part of the following rights, said rights may be exercised only by a Beneficiary who holds a Beneficial Interest which represents not less than three-hundredths of the voting rights of all Beneficiaries (or any smaller proportion provided for by the Terms of Trust; hereinafter the same applies in this paragraph) or a Beneficiary who holds Beneficial Interest which represents not less than three-hundredths of the total number of existing Beneficial Interests:

- (i) the right to rescind under the provisions of Article 27, paragraph (1) or paragraph (2) (including cases where these provisions are applied *mutatis mutandis* pursuant to Article 75, paragraph (4));
- (ii) the right to rescind under the provisions of Article 31, paragraph (6) or paragraph (7);
- (iii) the right to request to inspect or copy materials under the provisions of Article 38, paragraph (1); and
- (iv) the right to file a petition for the appointment of an inspector under the

- provisions of Article 46, paragraph (1).
- (2) In the case of a Trust with Certificates of Beneficial Interest, notwithstanding the provisions of Article 92, item (i), provisions may be established in the Terms of Trust to the effect that, with regard to all or part of the following rights, said rights may be exercised only by a Beneficiary who holds a Beneficial Interest which represents not less than one-tenth of the voting rights of all Beneficiaries (or any smaller proportion provided for by the Terms of Trust; hereinafter the same applies in this paragraph) or a Beneficiary who holds a Beneficial Interest which represents not less than one-tenth of the total number of existing Beneficial Interests:
- (i) the right to file a petition for a judicial decision to order the modification of the Trust under the provisions of Article 150, paragraph (1); and
 - (ii) the right to file a petition for a judicial decision to order the termination of the Trust under the provisions of Article 165, paragraph (1).
- (3) The provisions of the preceding two paragraphs do not apply to a Trust with Certificates of Beneficial Interest if disclosure under the provisions of Article 39, paragraph (1) is restricted by the provisions of the Terms of Trust as set forth in paragraph (3) of said Article.
- (4) In the case of a Trust with Certificates of Beneficial Interest, notwithstanding the provisions of Article 92, item (xi), provisions may be established in the Terms of Trust to the effect that the right to demand a cessation under the provisions of Article 44, paragraph (1) may be exercised only by a Beneficiary who has continually held a Beneficial Interest during the preceding six months (or any shorter period provided for by the Terms of Trust).

(Special Rules for Decision-Making Means Involving Two or More Beneficiaries)

Article 214 In the case of a Trust with Certificates of Beneficial Interest that has two or more Beneficiaries, unless otherwise provided for by the Terms of Trust, it is deemed as having been provided for by the Terms of Trust that a Beneficiaries' decision (excluding a decision on the exercise of the rights listed in the items of Article 92) is made by a majority vote at a Beneficiaries meeting pursuant to the provisions of Chapter IV, Section 3, Subsection 2.

(Special Rules for Settlor's Right)

Article 215 In the case of a Trust with Certificates of Beneficial Interest, among the rights granted to a Settlor under the provisions of this Act, the following rights are exercised by a Beneficiary:

- (i) the right to request a report under the provisions of Article 36;
- (ii) the right to file a petition under the provisions of Article 58, paragraph (4) (including cases where applied mutatis mutandis pursuant to Article 134,

- paragraph (2), and Article 141, paragraph (2)), Article 62, paragraph (4) (including cases where applied mutatis mutandis pursuant to Article 135, paragraph (1) and Article 142, paragraph (1)), Article 63, paragraph (1), Article 74, paragraph (2), Article 131, paragraph (4), Article 150, paragraph (1), Article 165, paragraph (1), Article 166, paragraph (1), Article 169, paragraph (1), or Article 173, paragraph (1);
- (iii) the right to call for a definite answer under the provisions of Article 62, paragraph (2), Article 131, paragraph (2), or Article 138, paragraph (2);
- (iv) the right to request to inspect, copy, be delivered, or have reproduced materials under the provisions of Article 172, paragraph (1) or paragraph (2) or the second sentence of paragraph (3) of said Article; and
- (v) the right to request to inspect or copy materials under the provisions of Article 190, paragraph (2).

Chapter IX Special Rules for Limited Liability Trust

Section 1 General Provisions

(Requirements for Limited Liability Trust)

Article 216 (1) A Limited Liability Trust comes into effect as a Limited Liability Trust when it is provided by the Terms of Trust that the Trustee is liable to perform all Obligations Covered by the Trust Property only by using property that comes under Trust Property, and when a registration of said provisions is made as provided for in Article 232.

- (2) The Terms of Trust set forth in the preceding paragraph must provide for the following particulars:
- (i) the purpose of the Limited Liability Trust;
 - (ii) the name of the Limited Liability Trust;
 - (iii) the names and addresses of the Settlor(s) and the Trustee(s);
 - (iv) the place where the principal Trust affairs for the Limited Liability Trust are to be administered (referred to as the "place of administration of affairs" in Section 3);
 - (v) the means of administration or disposition of property that comes under Trust Property; and
 - (vi) other particulars specified by Ordinance of the Ministry of Justice.

(Restrictions on Compulsory Execution against Property That Comes under Trustee's Own Property)

Article 217 (1) In the case of a Limited Liability Trust, compulsory execution, provisional seizure, provisional disposition, exercise of a security interest, auction, or proceedings for collection of delinquent national taxes may not be carried out against property that comes under Trustee's Own Property, based

on a claim pertaining to any Obligation Covered by the Trust Property (excluding obligations pertaining to the right set forth in Article 21, paragraph (1), item (viii)).

- (2) The Trustee may assert an objection to compulsory execution, provisional seizure, provisional disposition, exercise of a security interest, or an auction that was carried out in violation of the provisions of the preceding paragraph. In this case, the provisions of Article 38 of the Civil Execution Act and the provisions of Article 45 of the Civil Preservation Act apply mutatis mutandis.
- (3) The Trustee may assert an objection to proceedings for collection of delinquent national taxes that were carried out in violation of the provision of paragraph (1). In this case, the assertion of the objection is to be made by entering an appeal against the proceedings for collection of delinquent national taxes.

(Name of Limited Liability Trust)

- Article 218 (1) In the name of a Limited Liability Trust, the characters representing the term "Limited Liability Trust" must be used.
- (2) No person is allowed to use, in its name or trade name, any characters which make it likely that a Trust that is not a Limited Liability Trust, will be mistaken for a Limited Liability Trust.
 - (3) No person is allowed to use, with wrongful intent, any name or trade name which makes it likely that a Limited Liability Trust will be mistaken for another Limited Liability Trust.
 - (4) Any Trustee of a Limited Liability Trust whose business interests have been, or are likely to be, infringed by the use of any name or trade name in violation of the provisions of the preceding paragraph may seek an injunction to suspend or prevent the infringement against the person who has or is likely to infringe those business interests.

(Duty of Clear Indication to Counterparty)

Article 219 A Trustee may not, in conducting a transaction as the Trustee of a Limited Liability Trust, duly assert against the other party to the transaction as such unless the Trustee has clearly indicated to that effect to the other party.

(Effect of Registration)

Article 220 (1) The particulars to be registered pursuant to the provisions of this Chapter may not be duly asserted against a third party who has no knowledge of said particulars until after the registration. The same applies after the registration if a third party did not know that said particulars were registered, based on justifiable grounds.

- (2) A person who has registered false particulars willfully or negligently with regard to the particulars to be registered pursuant to the provisions of this Chapter may not duly assert the falsity of said particulars against a third party who has no knowledge of said falsity.

(Modification of Trust to Abolish Provisions on Limited Liability Trust Status)

Article 221 If a modification is made to a Trust to abolish the provision set forth in Article 216, paragraph (1) and a registration of termination set forth in Article 235 is made, the provisions of this Chapter do not apply to the Trust after the modification.

Section 2 Special Rules for Accounting

(Special Rules for Duty to Prepare, Report on, and Retain Books)

Article 222 (1) Notwithstanding the provisions of Article 37 and Article 38, the preparation of books and other documents or electronic or magnetic records pertaining to a Limited Liability Trust, reporting on their content, and preservation of these materials, as well as the inspection and copying of the same are governed by the provisions of the following paragraph to paragraph (9).

- (2) The Trustee must prepare the accounting books for the Limited Liability Trust as provided for by Ordinance of the Ministry of Justice.
- (3) The Trustee must, promptly after the Limited Liability Trust has come into effect, prepare a balance sheet as of the day on which it came into effect, as provided for by Ordinance of the Ministry of Justice.
- (4) Once each year at a certain time as provided for by Ordinance of the Ministry of Justice, the Trustee must prepare, in accordance with the provisions of Ordinance of the Ministry of Justice, a balance sheet and profit and loss statement for the Limited Liability Trust as well as annexed detailed statements of these and other documents specified by Ordinance of the Ministry of Justice or electronic or magnetic records of these documents.
- (5) When the Trustee has prepared the documents or electronic or magnetic records set forth in the preceding paragraph, the Trustee must report to the Beneficiary (if there is a Trust administrator at the time in question, to the Trust administrator) on the content thereof; provided, however, that if the Terms of Trust otherwise provide for, such provisions prevail.
- (6) When the Trustee has prepared the accounting books set forth in paragraph (2), the Trustee must retain said books (if electronic or magnetic records have been prepared in lieu of documents by the means specified by Ordinance of the Ministry of Justice, said electronic or magnetic records; if documents have been prepared in lieu of electronic or magnetic records, said documents) for ten

years from the date of their preparation (or until the date of the completion of the liquidation of the Trust if this occurs within said ten-year period; the same applies in the following paragraph); provided, however, that this does not apply if the Trustee has delivered said documents or copies thereof to the Beneficiary (if there are two or more Beneficiaries at the time in question, to all Beneficiaries; if there is a Trust administrator at the time in question, to the Trust administrator; the same applies in paragraph (8)), or has provided the Beneficiary with information on the particulars recorded in said electronic or magnetic records by the means specified by Ordinance of the Ministry of Justice.

- (7) When the Trustee has prepared or acquired a written contract pertaining to the disposition of property that comes under Trust Property or any other documents or electronic or magnetic records concerning the administration of Trust affairs, the Trustee must retain said documents or electronic or magnetic records (if electronic or magnetic records have been prepared in lieu of said documents by the means specified by Ordinance of the Ministry of Justice, said electronic or magnetic records; if documents have been prepared in lieu of said electronic or magnetic records, said documents) for ten years from the date of their preparation or acquisition. In this case, the provisions of the proviso to the preceding paragraph apply *mutatis mutandis*.
- (8) When the Trustee has prepared the balance sheet set forth in paragraph (3) and the documents or electronic or magnetic records set forth in paragraph (4) (hereinafter referred to as the "Balance Sheet, etc." in this paragraph and Article 224, paragraph (2), item (i)), the Trustee must retain said Balance Sheet, etc. (if electronic or magnetic records have been prepared in lieu of documents by the means specified by Ordinance of the Ministry of Justice, said electronic or magnetic records; if documents have been prepared in lieu of electronic or magnetic records, said documents) until the date of the completion of the liquidation of the Trust; provided, however that this does not apply if the Trustee has, after ten years have elapsed from the date of their preparation, delivered said documents or copies thereof to the Beneficiary, or has provided the Beneficiary with information on the particulars recorded in said electronic or magnetic records by the means specified by Ordinance of the Ministry of Justice.
- (9) For the purpose of the application of the provisions of Article 38 to the Limited Liability Trust, the phrase "paragraph (1) or paragraph (5) of the preceding Article" in the items of paragraph (1) of said Article is deemed to be replaced with "Article 222, paragraph (2) or paragraph (7)," and the phrase "paragraph (2) of the preceding Article" in paragraph (4), item (i) of said Article and the items of paragraph (6) of said Article is deemed to be replaced with "Article 222, paragraph (3) or paragraph (4)."

(Court's Order to Submit Documents)

Article 223 The court may, upon petition or on its own authority, order the parties to a lawsuit to submit all or part of the documents set forth in paragraph (2) to paragraph (4) of the preceding Article.

(Trustee's Liability to Third Parties)

Article 224 (1) In the case of a Limited Liability Trust, if the Trustee was willful or grossly negligent in the course of administering Trust affairs, the Trustee is liable to compensate for any damages suffered by a third party arising therefrom.

- (2) The provisions of the preceding paragraph also apply if the Trustee of the Limited Liability Trust has committed the following acts; provided, however, that this does not apply if the Trustee proves that the Trustee did not fail to exercise due care in committing said act:
- (i) making false statements or records on the particulars that must be stated or recorded in the Balance Sheet, etc.;
 - (ii) making a false registration; or
 - (iii) giving false public notice.
- (3) In the cases referred to in the preceding two paragraphs, if there is another Trustee who is also liable to compensate for damages in addition to the Trustee set forth in those paragraphs, these Trustees are jointly and severally liable.

(Restriction on Distribution of Trust Property to Beneficiary)

Article 225 In the case of a Limited Liability Trust, no distribution of Trust Property is allowed to be made to the Beneficiary beyond the maximum distributable amount (meaning the maximum amount that may be distributed to the Beneficiary, as calculated by the means specified by Ordinance of the Ministry of Justice within the amount of net assets; hereinafter the same applies in this Section).

(Obligations Relating to Distribution of Trust Property to Beneficiary)

- Article 226 (1) If a Trustee has made distribution of Trust Property to the Beneficiary in violation of the provisions of the preceding Article, the persons listed in the following items jointly and severally assume obligations specified in the respective items (in the case of the Beneficiary set forth in item (ii), joint and several liability is limited to the amount of distribution actually received by each Beneficiary); provided, however, that this does not apply if the Trustee proves that the Trustee did not fail to exercise due care in performing the duties:
- (i) the Trustee: the obligation to compensate the Trust Property with monies

- equivalent to the book value of the distribution (hereinafter referred to as the "Distributed Amount" in this Section); and
- (ii) the Beneficiary to whom the distribution was made: the obligation to pay to the Trustee monies equivalent to the Distributed Amount actually received by each Beneficiary.
- (2) If the Trustee has fulfilled the whole or part of the obligation specified in item (i) of the preceding paragraph, the Beneficiary set forth in item (ii) of said paragraph is released from the obligation specified in item (ii) of said paragraph up to the amount obtained by multiplying the amount of obligation fulfilled by the ratio of the Distributed Amount as set forth in item (ii) of said paragraph to the Distributed Amount set forth in item (i) of said paragraph, and if the Beneficiary has fulfilled the obligation specified in item (ii) of said paragraph in whole or in part, the Trustee is released from the obligation specified in item (i) of said paragraph up to the amount of obligation fulfilled.
 - (3) Monies paid by the Beneficiary to the Trustee pursuant to the provisions of paragraph (1) (limited to the part pertaining to item (ii)) belong to the Trust Property.
 - (4) No release may be granted for the obligation prescribed in paragraph (1); provided, however, that this does not apply if all Beneficiaries consent to grant a release from said obligation up to the maximum distributable amount as of the day on which the distribution was made.
 - (5) In the case prescribed in the main clause of paragraph (1), if there is another Trustee who also has the obligation set forth in item (i) of said paragraph in addition to the Trustee set forth therein, these Trustees are jointly and severally liable.
 - (6) The provisions of Article 45 apply mutatis mutandis to any action pertaining to the claim under the provisions of paragraph (1).

(Restriction on Demand for Reimbursement from Beneficiary)

- Article 227 (1) In the case prescribed in the main clause of paragraph (1) of the preceding Article, if the Beneficiary to whom the distribution was made had no knowledge of the fact that the Distributed Amount exceeds the maximum distributable amount as of the day on which said distribution was made, the Beneficiary is not liable to meet the demand by the Trustee for reimbursement with regard to the Distributed Amount.
- (2) In the case prescribed in the main clause of paragraph (1) of the preceding Article, a Trust Creditor may have the Beneficiary to whom the distribution was made, pay monies equivalent to the Distributed Amount (or the amount of the claim held by said Trust Creditor if the Distributed Amount exceeds the amount of the claim).

(Liability in Case of Deficit)

Article 228 (1) Where a Trustee has made distribution of Trust Property to a Beneficiary, if any deficit (meaning the amount obtained by deducting the amount of assets on the balance sheet from the amount of liabilities on the same in cases where the amount of liabilities exceeds the amount of assets; hereinafter the same applies in this paragraph) occurs as of the time set forth in Article 222, paragraph (4), when it first comes after the day on which said distribution was made, the persons listed in the following items jointly and severally assume obligations specified in the respective items (in the case of the Beneficiary set forth in item (ii), the joint and several liability is limited to the Distributed Amount actually received by each Beneficiary); provided, however, that this does not apply if the Trustee has proved that the Trustee did not fail to exercise due care in performing the duties:

- (i) the Trustee: the obligation to compensate the Trust Property with monies equivalent to the deficit (or the amount delivered if the deficit exceeds the Distributed Amount); and
 - (ii) the Beneficiary to whom the distribution was made: the obligation to pay to the Trustee monies equivalent to the deficit (or the amount of distribution actually received by each Beneficiary if the deficit exceeds the Distributed Amount).
- (2) If the Trustee has fulfilled the obligation specified in item (i) of the preceding paragraph in whole or in part, the Beneficiary set forth in item (ii) of said paragraph is released from the obligation specified in item (ii) of said paragraph up to the amount obtained by multiplying the amount of obligation fulfilled by the ratio of the Distributed Amount as set forth in item (ii) of said paragraph to the amount distributed as set forth in item (i) of said paragraph, and if the Beneficiary has fulfilled the obligation specified in item (ii) of said paragraph in whole or in part, the Trustee is released from the obligation specified in item (i) of said paragraph up to the amount of obligation fulfilled.
- (3) Monies paid by the Beneficiary to the Trustee pursuant to the provisions of paragraph (1) (limited to the part pertaining to item (ii)) belong to the Trust Property.
- (4) No release may be granted for the obligations prescribed in paragraph (1) without the consent of all Beneficiaries.
- (5) In the case prescribed in the main clause of paragraph (1), if there is another Trustee who also has the obligation set forth in item (i) of said paragraph in addition to the Trustee set forth therein, these Trustees are jointly and severally liable.
- (6) The provisions of Article 45 apply mutatis mutandis to any action pertaining to the demand under the provisions of paragraph (1).

(Public Notice to Creditors)

Article 229 (1) Without delay after assuming the office, a Liquidation Trustee of a Limited Liability Trust must give public notice in the Official Gazette to the effect that Trust Creditors are requested to file their claims during a certain period of time, and must give notice of the same separately to each known Trust Creditor; provided, however that said period may not be less than two months.

(2) The public notice under the provisions of the preceding paragraph must be accompanied by a supplementary note that those Trust Creditors are excluded from the liquidation if they fail to file during said period.

(Restriction on Performance of Obligations)

Article 230 (1) A Liquidation Trustee of a Limited Liability Trust is not allowed to perform any obligations of the Limited Liability Trust in liquidation during the period set forth in paragraph (1) of the preceding Article. In this case, the Liquidation Trustee may not be released from the liability arising from the failure to perform said obligations.

(2) Notwithstanding the provisions of the preceding paragraph, even during the period set forth in paragraph (1) of the preceding Article, the Liquidation Trustee may, with the permission of the court, perform obligations pertaining to small claims, claims secured by security interests existing on property that comes under Trust Property of the Limited Liability Trust in liquidation, and any other claims that are unlikely to harm other creditors even if they are performed. In this case, if there are two or more Liquidation Trustees, a petition for said permission must be filed with the consent of all of them.

(3) When filing a petition for the permission set forth in the preceding paragraph, the Liquidation Trustee must make a prima facie showing of the facts constituting the grounds for the petition.

(4) The judicial decision dismissing the petition set forth in paragraph (2) must include the reasons therefor.

(5) No appeal may be entered against the judicial decision on the permission for performance under the provisions of paragraph (2).

(Exclusion from Liquidation)

Article 231 (1) Trust Creditors of a Limited Liability Trust in liquidation (excluding known creditors) who have not filed their claims during the period set forth in Article 229, paragraph (1) are excluded from the liquidation.

(2) Trust Creditors excluded from the liquidation under the provisions of the preceding paragraph may demand satisfaction of their claims only with respect to undistributed residual assets.

(3) Where there are two or more Beneficiaries, if residual assets of the Limited

Liability Trust in liquidation have been distributed to some of those Beneficiaries, the assets necessary for distribution to Beneficiaries other than said Beneficiaries at the same proportion as that applied to the distribution received by said Beneficiaries, are deducted from the residual assets set forth in the preceding paragraph.

Section 3 Registration of Limited Liability Trust

(Registration of the Provisions on Limited Liability Trust Status)

Article 232 When the Terms of Trust have provided as set forth in Article 216, paragraph (1), a registration of its provisions on the Limited Liability Trust status must be made within two weeks, by registering the following particulars:

- (i) the purpose of the Limited Liability Trust;
- (ii) the name of the Limited Liability Trust;
- (iii) the name and address of the Trustee;
- (iv) the place of administration of affairs of the Limited Liability Trust;
- (v) if a Trust Property administrator or an incorporated Trust Property administrator has been appointed under the provisions of Article 64, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 74, paragraph (6)), the name and address thereof;
- (vi) if the Terms of Trust contain provisions on the termination of the Trust under the provisions of Article 163, item (ix), said provisions; and
- (vii) if the Trust is a Trust with financial auditor(s) (meaning a Trust with Financial Auditor(s) as prescribed in Article 248, paragraph (3); the same applies in Article 240, item (iii)), a statement to that effect and the names of the financial auditor(s).

(Registration of Changes)

Article 233 (1) When there is a change to the place of administration of affairs of a Limited Liability Trust, a registration of said change must be made within two weeks at the former place of administration of affairs, and the particulars listed in the items of the preceding Article must be registered at the new place of administration of affairs.

- (2) When there is a change to the place of administration of affairs of the Limited Liability Trust within the jurisdictional district of the same registry office, it is sufficient to make a registration of said change.
- (3) When there is a change to any of the particulars listed in the items of the preceding Article (excluding item (iv)), a registration of said change must be made within two weeks.

(Registration of Provisional Disposition Order to Suspend Execution of Duties)

Article 234 When an provisional disposition order is given to suspend the execution of duties by a Trustee of a Limited Liability Trust or to appoint a person who is a substitute for the Trustee, or when said provisional disposition order is changed or revoked, a registration to that effect must be made at the place of administration of affairs of the Trust.

(Registration of Termination)

Article 235 When a Limited Liability Trust has terminated pursuant to the provisions of Article 163 (excluding the part pertaining to item (vi) and item (vii)) or Article 164, paragraph (1) or paragraph (3), or when a modification has been made to a Trust to abolish the provisions set forth in Article 216, paragraph (1), a registration of the termination must be made within two weeks.

(Registration of Liquidation Trustee)

Article 236 (1) Where a Limited Liability Trust has terminated, if the Trustee at the time of the termination of the Limited Liability Trust assumes the office of Liquidation Trustee, the name and address of the Liquidation Trustee must be registered within two weeks from the date of the termination.

(2) The provisions of the preceding paragraph also apply if a Liquidation Trustee is appointed pursuant to the provisions of the Terms of Trust, or the provisions of Article 62, paragraph (1) or paragraph (4), or Article 173, paragraph (1).

(3) The provisions of Article 233, paragraph (3) apply mutatis mutandis to the registration under the provisions of the preceding two paragraphs.

(Registration of Completion of Liquidation)

Article 237 When the liquidation of a Limited Liability Trust has been completed, a registration of the completion of the liquidation must be made within two weeks from the date of approval of the settlement of accounts set forth in Article 184, paragraph (1).

(Registry Office with Jurisdiction and the Register)

Article 238 (1) Affairs for registration of a Limited Liability Trust are administered by the Legal Affairs Bureau or District Legal Affairs Bureau, the branch bureau thereof, or the branch office of any of those bureaus, which has jurisdiction over the place of administration of affairs of the Limited Liability Trust.

(2) A registry office keeps a Limited Liability Trust register.

(Application for Registration)

Article 239 (1) Registrations under the provisions of Article 232 and Article 233 are made upon application by the Trustee, and registrations under the provisions of Article 235 to Article 237 are made upon application by the Liquidation Trustee.

(2) Notwithstanding the provisions of the preceding paragraph, if a Trust Property administrator or an incorporated Trust Property administrator has been appointed, registrations under the provisions of Article 232 and Article 233 (excluding a registration under the provisions of Article 246) are made upon application by said Trust Property administrator or incorporated Trust Property administrator.

(Attachments to Registration of the Provisions on Limited Liability Trust Status)

Article 240 The following documents must be attached to a written application for the registration of the provisions on Limited Liability Trust status:

- (i) a document certifying the Terms of Trust setting forth the Limited Liability Trust;
- (ii) if the Trustee is a corporation, a certificate of registered information for the corporation; provided, however, that this does not apply if the head office or principal office of the corporation is located within the jurisdictional district of the registry office;
- (iii) in the case of a Trust with Financial Auditor(s), the following documents:
 - (a) a document certifying acceptance of office(s);
 - (b) if the financial auditor is a corporation, a certificate of registered information for the corporation; provided, however, that this does not apply if the head office or principal office of the corporation is located within the jurisdictional district of the registry office; and
 - (c) if the financial auditor is not a corporation, a document certifying that the financial auditor is a person prescribed in Article 249, paragraph (1).

(Attachments to Registration of Change)

Article 241 (1) When filing a written application for the registration of a change in the place of administration of affairs or a registration of a change in any of the particulars listed in the items of Article 232 (excluding item (iv)), a document certifying the change in the place of administration of affairs or the change in the relevant registered particulars must be attached.

(2) When filing a written application for a registration of a change due to a New Trustee who is a corporation having assumed the office of Trustee, the document set forth in item (ii) of the preceding Article must be attached thereto.

(3) When filing a written application for a registration of a change due to a

financial auditor's assumption of the office, the document set forth in item (iii) (b) or (c) of the preceding Article must be attached.

(Attachments to Registration of Termination)

Article 242 When filing a written application for the registration of the termination of a Limited Liability Trust, a document certifying the grounds for the termination must be attached.

(Attachments to Registration of Liquidation Trustee)

Article 243 (1) When filing a written application for the registration of a Liquidation Trustee if any of the persons listed in the following items has become the Liquidation Trustee, the documents set forth in the respective items must be attached:

(i) a person appointed by the provisions of the Terms of Trust: the following documents:

(a) a document certifying that said provisions of the Terms of Trust exist; and

(b) a document certifying that the appointed person has accepted the office;

(ii) a person appointed pursuant to the provisions of Article 62, paragraph (1): the following documents:

(a) a document certifying that the agreement set forth in Article 62, paragraph (1) has been reached; and

(b) a document set forth in (b) of the preceding item; or

(iii) a person appointed by the court pursuant to the provisions of Article 62, paragraph (4) or Article 173, paragraph (1): a document certifying the appointment.

(2) The provisions of Article 240 (limited to the part pertaining to item (ii)) apply mutatis mutandis to the registration of a Liquidation Trustee who is a corporation.

(Attachments to Registration of Change Concerning Liquidation Trustee)

Article 244 (1) When filing a written application for the registration of a change due to a Liquidation Trustee's resignation, a document certifying the resignation must be attached.

(2) When filing a written application for the registration of a change to any of the particulars prescribed in Article 236, paragraph (1), a document certifying the change to the relevant registered particulars must be attached.

(3) The provisions of Article 241, paragraph (2) apply mutatis mutandis to the registration of a change due to a Liquidation Trustee who is a corporation having assumed the office of Liquidation Trustee.

(Attachments to Registration of Completion of Liquidation)

Article 245 When filing a written application for the registration of the completion of liquidation, a document certifying that the settlement of accounts set forth in Article 184, paragraph (1) has been approved must be attached.

(Commission of Registration by Juridical Decision)

Article 246 In the following cases, a court clerk must, on the clerk's own authority, and without delay, commission the registry office that has jurisdiction over the place of administration of affairs of a Limited Liability Trust to make a registration of the respective particulars:

- (i) if any of the following judicial decisions has been made:
 - (a) a judicial decision dismissing a Trustee, a Trust Property administrator, or an incorporated Trust Property administrator under the provisions of Article 58, paragraph (4) (including cases where applied mutatis mutandis pursuant to Article 70 (including cases where applied mutatis mutandis pursuant to Article 74, paragraph (6))); or
 - (b) a judicial decision appointing a Trust Property administrator or an incorporated Trust Property administrator pursuant to the provisions of Article 64, paragraph (1) (including cases where applied mutatis mutandis pursuant to Article 74, paragraph (6)); or
- (ii) if any of the following judicial decisions has become final and binding:
 - (a) a judicial decision revoking the judicial decision set forth in (a) of the preceding item; or
 - (b) a judicial decision ordering the termination of a Trust under the provisions of Article 165 or Article 166.

(Application Mutatis Mutandis of the Commercial Registration Act and the Civil Preservation Act)

Article 247 With regard to the registration of a Limited Liability Trust, the provisions of Article 2 to Article 5, Article 7 to Article 15, Article 17 (excluding paragraph (3)), Article 18 to Article 19-2, Article 20, paragraph (1) and paragraph (2), Article 21 to Article 24, Article 26, Article 27, Article 51 to Article 53, Article 71, paragraph (1), Article 132 to Article 137, and Article 139 to Article 148 of the Commercial Registration Act (Act No. 125 of 1963), and the provisions of Article 56 of the Civil Preservation Act apply mutatis mutandis. In this case, in Article 51, paragraph (1) of the Commercial Registration Act, the phrase "head office" is deemed to be replaced with "place of administration of affairs (meaning the place of administration of affairs as prescribed in Article 216, paragraph (2), item (iv) of the Trust Act (Act No. 108 of 2006); the same applies hereinafter)," and the term "relocation" is deemed to be replaced with "change"; in Article 51, paragraph (1) and Article 52,

paragraph (2), paragraph (3), and paragraph (5) of said Act, the phrase "new location" is deemed to be replaced with "new place of administration of affairs"; in Article 51, paragraph (1) and paragraph (2) and Article 52 of said Act, the phrase "former location" is deemed to be replaced with "former place of administration of affairs"; in Article 71, paragraph (1), the term "dissolution" is deemed to be replaced with "termination of a Limited Liability Trust"; and in Article 56 of the Civil Preservation Act, the phrase "representative or any other officer of a corporation" is deemed to be replaced with "Trustee or Liquidation Trustee of a Limited Liability Trust," and the phrase "location of the head office or principal office of the corporation (in the case of a foreign corporation, the location of its office)" is deemed to be replaced with "place of administration of affairs (meaning the place of administration of affairs as prescribed in Article 216, paragraph (2), item (iv) of the Trust Act (Act No. 108 of 2006) of the Limited Liability Trust)."

Chapter X Special Rules for Limited Liability Trust with Certificates of Beneficial Interest

(Appointment of Financial Auditor)

Article 248 (1) A Limited Liability Trust which is a Trust with Certificates of Beneficial Interest (hereinafter referred to as the "Limited Liability Trust with Certificates of Beneficial Interest") may appoint a financial auditor by the provisions of the Terms of Trust.

(2) A Limited Liability Trust with Certificates of Beneficial Interest which has reported a total of 20 billion yen or more in the liabilities section of its most recent balance sheet (meaning a balance sheet prepared at the most recent time set forth in Article 222, paragraph (4)) must appoint a financial auditor.

(3) In the case of a Trust whose Terms of Trust has the provisions set forth in paragraph (1) and a Trust prescribed in the preceding paragraph (hereinafter collectively referred to as a "Trust with Financial Auditor(s)"), provisions designating a financial auditor must be established in the Terms of Trust.

(Qualifications of Financial Auditor)

Article 249 (1) A financial auditor must be a certified public accountant (including a foreign certified public accountant (meaning a foreign certified public accountant as prescribed in Article 16-2, paragraph (5) of the Certified Public Accountant Act (Act No. 103 of 1948); the same applies in paragraph (3), item (ii)) or an auditing firm.

(2) An auditing firm which has been appointed as a financial auditor must select, from among its members, a person who is to perform the duties of a financial auditor, and notify the Trustee thereof. In this case, the person set forth in

item (ii) of the following paragraph may not be selected.

- (3) None of the following persons may serve as a financial auditor:
- (i) a person who, pursuant to the provisions of the Certified Public Accountant Act, is not allowed to audit the documents or electronic or magnetic records prescribed in Article 222, paragraph (4);
 - (ii) a person who continuously receives remuneration from the Trustee or an interested party thereof for business other than that of a certified public accountant or auditing firm, or the spouse of said person; and
 - (iii) an auditing firm wherein half or more of the members fall under the preceding item.

(Measures to Be Taken in the Event of Financial Auditor Vacancy)

- Article 250 (1) In the case of a Trust with Financial Auditor(s), when there is a financial auditor vacancy, a Settlor and a Beneficiary must appoint, based on an agreement between them, a new financial auditor (hereinafter referred to as the "New Financial Auditor" in this Article) within two months from the time when said vacancy of financial auditor occurred.
- (2) In the case prescribed in the preceding paragraph, if there is no Settlor at the time in question or no agreement has been reached as set forth in said paragraph after the expiration of two months from the time when a vacancy of financial auditor occurred, a New Financial Auditor may be appointed only by the Beneficiary.
- (3) In the cases prescribed in the preceding two paragraphs, when there are two or more Beneficiaries, the Trustee (if there is a Trust supervisor at the time in question, either of the Trustee or the Trust supervisor) must convene a Beneficiaries meeting without delay in order to appoint a New Financial Auditor pursuant to the provisions of the preceding two paragraphs.
- (4) When the New Financial Auditor has been appointed pursuant to the provisions of paragraph (1) or paragraph (2), it is deemed that the provisions set forth in Article 248, paragraph (3) were established in the Terms of Trust with regard to the appointed New Financial Auditor.
- (5) If there is a financial auditor vacancy, the financial auditor who has left office due to resignation continues to hold the rights and duties of a financial auditor until a New Financial Auditor is appointed.

(Resignation and Dismissal of Financial Auditor)

Article 251 The provisions of the main clause of Article 57, paragraph (1) apply mutatis mutandis to the resignation of a financial auditor, and the provisions of Article 58, paragraph (1) and paragraph (2) apply mutatis mutandis to the dismissal of a financial auditor.

(Powers of Financial Auditor)

- Article 252 (1) A financial auditor audits the documents or electronic or magnetic records set forth in Article 222, paragraph (4). In this case, a financial auditor must prepare an accounting audit report as provided for by Ordinance of the Ministry of Justice.
- (2) A financial auditor may, at any time, inspect and copy the following objects or request a Trustee to make a report on accounting:
- (i) if the accounting books or materials relating thereto are prepared in the form of documents, said documents; and
 - (ii) if accounting books or materials relating thereto are prepared in the form of electronic or magnetic records, any object which indicates the particulars recorded in the electronic or magnetic records by means specified by Ordinance of the Ministry of Justice.
- (3) A financial auditor, in the course of performing the duties, is prohibited from employing a person who falls under any of the following:
- (i) the person set forth in Article 249, paragraph (3) item (i) or item (ii);
 - (ii) the Trustee or an interested party thereof; or
 - (iii) a person who continuously receives remuneration from the Trustee or an interested party thereof for business other than that of a certified public accountant or auditing firm.
- (4) For the purpose of the application of the provisions of Article 222, paragraph (4), paragraph (5) and paragraph (8) to the case of a Trust with Financial Auditor(s), the term "must prepare" in paragraph (4) of said Article is deemed to be replaced with "must prepare and receive an accounting audit set forth in Article 252, paragraph (1) of," the phrase "the content thereof" in paragraph (5) of said Article is deemed to be replaced with "the content thereof and an accounting audit report," the phrase "prepared" in paragraph (8) of said Article is deemed to be replaced with "prepared and received an accounting audit set forth in Article 252, paragraph (1) of," and the phrase "said documents)" in paragraph (8) of said Article is deemed to be replaced with "said documents) and the accounting audit report."

(Financial Auditor's Duty of Care)

Article 253 A financial auditor must perform the duties with the due care of a prudent manager.

(Financial Auditor's Liability to Compensate for Losses)

- Article 254 (1) If any loss has occurred to the Trust Property due to a financial auditor's negligence in the performance of the duties, the Beneficiary may demand that the financial auditor compensate for said loss.
- (2) Monies or other property delivered by the financial auditor to the Trustee as

compensation for the loss under the provisions of the preceding paragraph belong to the Trust Property.

- (3) The provisions of Article 42 (limited to the part pertaining to item (i)) and Article 105, paragraph (3) and paragraph (4) (excluding item (iii)) apply mutatis mutandis to a release from liability under the provisions of paragraph (1), the provisions of Article 43 apply mutatis mutandis to the claim pertaining to liability under the provisions of paragraph (1), and the provisions of Article 45 apply mutatis mutandis to an action pertaining to the demand under the provisions of paragraph (1). In this case, the phrase "the Trustee's bad faith or gross negligence in the performance of the duties" in Article 105, paragraph (4), item (ii) is deemed to be replaced with "the financial auditor's bad faith or gross negligence in the performance of the duties."

(Financial Auditor's Liability to Third Parties)

Article 255 (1) In the case of a Trust with Financial Auditor(s), if a financial auditor was willful or grossly negligent in the performance of the duties, the financial auditor is liable to compensate for any damage suffered by a third party arising therefrom.

- (2) The provisions of the preceding paragraph also apply when the financial auditor of a Trust with Financial Auditor(s) has made a false statement or record on the particulars that must be stated or recorded in the accounting audit report set forth in Article 252, paragraph (1); provided, however, that this does not apply if the financial auditor proves that the financial auditor did not fail to exercise due care in carrying out said act.

- (3) In the cases referred to in the preceding two paragraphs, if there is another financial auditor who is also liable to compensate for the damages in addition to the financial auditor set forth therein, these financial auditors are jointly and severally liable.

(Expenses and Remuneration of Financial Auditor)

Article 256 The provisions of Article 127, paragraph (1) to paragraph (5) apply mutatis mutandis to expenses and interest thereon accruing from the date of payment, compensation for damages, and remuneration payable to a financial auditor.

(Special Rules for Beneficiaries Meetings)

Article 257 For the purpose of the application of the provisions of Article 118 to cases where the Terms of Trust for a Trust with Financial Auditor(s) do not otherwise provide as set forth in Article 214, the phrase "the same applies in the following paragraph)" in Article 118, paragraph (1) is deemed to be replaced with "the same applies in the following paragraph) and a financial

auditor," and the term "the Trustee" in Article 118, paragraph (2) is deemed to be replaced with "the Trustee or the financial auditor."

Chapter XI Special Rules for Trust with No Provisions on a Beneficiary

(Requirements for Trust with No Provisions on a Beneficiary)

Article 258 (1) A Trust with no provisions on a Beneficiary (including provisions on the means for specifying a Beneficiary; the same applies hereinafter) may be created by the means set forth in Article 3, item (i) or item (ii).

(2) In the case of a Trust with no provisions on a Beneficiary, provisions on a Beneficiary are not allowed to be established by making a modification to the Trust.

(3) In the case of a Trust with provisions on a Beneficiary, the provisions on a Beneficiary are not allowed to be abolished by making a modification to the Trust.

(4) When a Trust with no provisions on a Beneficiary is to be created by the means set forth in Article 3, item (ii), provisions to designate a Trust administrator must be established. In this case, no provisions are allowed to be established to restrict the Trust administrator's power to exercise the rights listed in the items of Article 145, paragraph (2) (excluding item (vi)).

(5) In the case of a Trust with no provisions on a Beneficiary which was created by the means set forth in Article 3, item (ii) and for which there are no provisions for designating a Trust administrator, if there are provisions on an executor, the executor must appoint a Trust administrator. In this case, when the executor has appointed a Trust administrator, it is deemed that the provisions set forth in the first sentence of the preceding paragraph were established in the Terms of Trust with regard to the appointed Trust administrator.

(6) In the case of a Trust with no provisions on a Beneficiary which was created by the means set forth in Article 3, item (ii) and for which there are no provisions designating a Trust administrator, if there are no provisions on an executor or if a person designated as the one who is to be the executor does not appoint or is unable to appoint a Trust administrator, the court may appoint a Trust administrator upon petition of an interested party. In this case, when the judicial decision on the appointment of a Trust administrator has been made, it is deemed that the provisions set forth in the first sentence of paragraph (4) were established in the Terms of Trust with regard to the appointed Trust administrator.

(7) The provisions of Article 123, paragraph (6) to paragraph (8) apply mutatis mutandis to the judicial decision on the petition set forth in the preceding paragraph.

(8) In the case of a Trust with no provisions on a Beneficiary which was created by the means set forth in Article 3, item (ii), the Trust terminates if there is a vacancy in the position of a Trust administrator and the position is not filled with a new Trust administrator for one year.

(Duration of Trust with No Provisions on a Beneficiary)

Article 259 The duration of a Trust with no provisions on a Beneficiary is not allowed to exceed 20 years.

(Settlor's Rights in Trust with No Provisions on a Beneficiary)

Article 260 (1) In the case of a Trust with no provisions on a Beneficiary which was created by the means set forth in Article 3, item (i), it is deemed as having been provided that the Settlor (if there are two or more Settlers, all Settlers) has the rights listed in the items of Article 145, paragraph (2) (excluding item (vi)) and that the Trustee has the duties listed in the items of paragraph (4) of said Article. In this case, said provisions are not allowed to be changed by making a modification to the Trust.

(2) In the case of a Trust with no provisions on a Beneficiary which was created by the means set forth in Article 3, item (ii), if it is deemed, pursuant to the provisions of the second sentence of Article 258, paragraph (5) or the second sentence of paragraph (6) of said Article, that the provisions set forth in the first sentence of paragraph (4) of said Article have been established, it is not allowed to restrict the Trust administrator's power to exercise the rights listed in the items of Article 145, paragraph (2) (excluding item (vi)) by making a modification to the Trust.

(Application of This Act)

Article 261 (1) For the purpose of the application of the provisions of this Act listed in the left-hand column of the following table with regard to a Trust with no provisions on a Beneficiary, the terms and phrases listed in the middle column of said table are deemed to be replaced with the terms and phrases listed in the right-hand column of said table, respectively:

| | | |
|---|--|--|
| Article 19, paragraph (1), item (iii) and paragraph (3), item (iii) | will not harm the interests of the Beneficiary | will not hinder the achievement of the purpose of the Trust |
| | between the Trustees and the Beneficiaries | that the Trustee has with regard to the purpose of the Trust |

| | | |
|---------------------------------------|---|--|
| Article 19, paragraph (3), item (ii) | agreement between the Beneficiaries of both Trusts (if there is a Trust administrator for each Trust at the time in question, the Trust administrators) | agreement between the Trust administrator of the Trust with no provisions on the Beneficiary and the Beneficiary of the other trust (if there is a Trust administrator at the time in question, the Trust administrator), or on an agreement between the Trust administrators of both Trusts with no provisions on the Beneficiary |
| Article 30 | on behalf of a Beneficiary | for the achievement of the purpose of the Trust |
| Article 31, paragraph (1), item (iv) | would cause a conflict of interest between the Trustee or an interested party thereof and the Beneficiary | would be in the interest of the Trustee or an interested party thereof and impede the achievement of the purpose of the Trust |
| Article 31, paragraph (2), item (iv) | will not harm the interests of the Beneficiary | will not hinder the achievement of the purpose of the Trust |
| | between the Trustee and the Beneficiary | that the Trustee has with regard to the purpose of the Trust |
| Article 32, paragraph (1) | be contrary to the interest of a Beneficiary | hinder the achievement of the purpose of the Trust |
| Proviso to Article 37, paragraph (4) | Beneficiary (Beneficiaries) | Settlor(s) |
| | Trust administrator | Trust administrator or Settlor |
| Proviso to Article 37, paragraph (6) | Beneficiary | Settlor |
| Article 38, paragraph (2), item (iii) | harming the common interests of the Beneficiaries | hindering the achievement of the purpose of the Trust |
| Article 57, paragraph (1) | a Settlor and a Beneficiary | a Settlor (if there is a Trust administrator at the time in question, the Settlor and the Trust administrator) |
| Article 58, paragraph (1) | A Settlor and a Beneficiary may, based on an agreement between them, ... at any time. | A Settlor may, at any time (if there is a Trust administrator at the time in question, the Settlor and the Trust administrator may, at any time based on an agreement between them) . |
| Article 58, paragraph (2) | the Settlor and the Beneficiary have | the Settlor has (if there is a Trust administrator at the time in question, the Settlor and the Trust administrator have) |

| | | |
|---|---|--|
| | the Settlor and the Beneficiary | the Settlor |
| Article 62, paragraph (1) | the Settlor and the Beneficiary may, based on an agreement between them | the Settlor may (if there is a Trust administrator at the time in question, the Settlor and the Trust administrator may, based on an agreement between them,) |
| Article 62, paragraph (3) | the Settlor and the Beneficiary (if there are two or more Beneficiaries at the time in question, to one of them; if there is a Trust administrator at the time in question, to the Trust administrator) | the Settlor (if there is a Trust administrator at the time in question, to the Settlor and the Trust administrator) |
| Article 62, paragraph (4) | status of discussions pertaining to the agreement set forth in said paragraph | status of the Settlor (if there is a Trust administrator at the time in question, the status of discussions pertaining to the agreement set forth in said paragraph) |
| Article 62, paragraph (8) | "the Beneficiary may" | "the Trust administrator may" |
| | "the Beneficiary" | "the Trust administrator" |
| | "status of the Beneficiary" | "status of the Trust administrator" |
| Article 125, paragraph (1) | on behalf of a Beneficiary | for the achievement of the purpose of the Trust |
| Article 126, paragraph (2) | on behalf of the Beneficiary | for the achievement of the purpose of the Trust |
| Article 146, paragraph (1) | a Trustee and a Beneficiary | a Trustee |
| Article 146, paragraph (2) | other Settlor(s), a Trustee, and a Beneficiary. | other Settlor(s) and a Trustee |
| Article 149, paragraph (1) | a Settlor, a Trustee, and a Beneficiary | a Settlor and a Trustee (if there is a Trust administrator at the time in question, the Settlor, the Trustee, and the Trust administrator) |
| Article 149, paragraph (2) (excluding item (i)) | to the Settlor and the Beneficiary | to the Settlor (if there is a Trust administrator at the time in question, to the Settlor and the Trust administrator) |

| | | |
|---|--|---|
| | is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary | is necessary for the achievement of the purpose of the Trust |
| Article 149, paragraph (3), item (i) | the Settlor and the Beneficiary | the Settlor (if there is a Trust administrator at the time in question: the Settlor and the Trust administrator) |
| Article 149, paragraph (5) | to the Beneficiary | to the Trust administrator |
| Article 150, paragraph (1) | no longer conforms to the interest of a Beneficiary | comes to hinder the achievement of the purpose of a Trust |
| Article 151, paragraph (1) | Settlors, Trustees, and Beneficiaries of each of the previous Trusts | Settlors and Trustees of each of the previous Trusts (if there are Trust administrators at the time in question, the Settlor, the Trustees, and the Trust administrators) |
| Article 151, paragraph (2) (excluding item (i)) | to the Settlor and the Beneficiary | to the Settlor (if there is a Trust administrator at the time in question, to the Settlor and the Trust administrator) |
| | is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary | is necessary for the achievement of the purpose of the Trust |
| Article 151, paragraph (4) | to the Beneficiary | to the Trust administrator |
| Article 155, paragraph (1) | a Settlor, a Trustee, and a Beneficiary | a Settlor and a Trustee (if there is a Trust administrator at the time in question, the Settlor, the Trustee, and the Trust administrator) |
| Article 155, paragraph (2) (excluding item (i)) | to the Settlor and the Beneficiary | to the Settlor (if there is a Trust administrator at the time in question, to the Settlor and the Trust administrator) |
| | is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary | is necessary for the achievement of the purpose of the Trust |
| Article 155, paragraph (4) | to the Beneficiary | to the Trust administrator |

| | | |
|---|---|--|
| Article 159, paragraph (1) | a Settlor, a Trustee, and a Beneficiary | a Settlor and a Trustee (if there is a Trust administrator at the time in question, the Settlor, the Trustee, and the Trust administrator) |
| Article 159, paragraph (2) (excluding item (i)) | to the Settlor and the Beneficiary | to the Settlor (if there is a Trust administrator at the time in question, to the Settlor and the Trust administrator) |
| | is not contrary to the purpose of the Trust and that it conforms to the interests of the Beneficiary: | is necessary for the achievement of the purpose of the Trust |
| Article 159, paragraph (4) | to the Beneficiary | to the Trust administrator |
| Article 164, paragraph (1) | A Settlor and a Beneficiary may ... at any time by an agreement between them | A Settlor may at any time (if there is a Trust administrator at the time in question, the Settlor and the Trust administrator may, at any time by an agreement between them) ... |
| Article 164, paragraph (2) | the Settlor and the Beneficiary have | the Settlor has (if there is a Trust administrator at the time in question, the Settlor and the Trust administrator have) |
| | the Settlor and the Beneficiary | the Settlor |
| Article 165, paragraph (1) | has come to be in the best interest of the Beneficiary | has come to be reasonable |
| Proviso to Article 222, paragraph (6) | Beneficiary (Beneficiaries) | Settlor(s) |
| | to the Trust administrator | to the Trust administrator or the Settlor |
| Proviso to Article 222, paragraph (8) | Beneficiary | Settlor |
| Article 243, paragraph (1), item (ii)(a) | the agreement | the Settlor's manifestation of intention (if there is a Trust administrator at the time in question, the agreement between the Settlor and the Trust administrator) |

(2) With regard to Expenses, etc., compensation for loss, and Trust fees for a Trustee in the case of a Trust with no provisions on a Beneficiary, the provisions of Article 48, paragraph (5) (including cases where applied mutatis mutandis pursuant to Article 53, paragraph (2) and Article 54, paragraph (4))

do not apply.

- (3) With regard to a modification of a Trust in the case of a Trust with no provisions on a Beneficiary, the provisions of Article 149, paragraph (2), item (i) and paragraph (3), item (ii) do not apply.
- (4) With regard to a Consolidation of Trusts in the case of Trusts with no provisions on a Beneficiary, the provisions of Article 151, paragraph (2), item (i) do not apply.
- (5) With regard to a Split of a Trust in the case of a Trust with no provisions on a Beneficiary, the provisions of Article 155, paragraph (2), item (i) and Article 159, paragraph (2), item (i) do not apply.

Chapter XII Miscellaneous Provisions

Section 1 Non-Contentious Case

(Jurisdiction over Non-Contentious Case Relating to Trust)

- Article 262 (1) Unless otherwise provided for in this Article, a non-contentious case under the provisions of this Act is subject to the jurisdiction of the district court having jurisdiction over the location of the address of a Trustee.
- (2) For the purpose of the application of the provisions of the preceding paragraph to cases where there are two or more Trustees, the phrase "address of a Trustee" in said paragraph is deemed to be replaced with "address of any of the Trustees."
 - (3) A case pertaining to a petition to the court filed under the provisions of this Act after the termination of a Trustee's duty as Trustee and prior to the assumption of the office by a New Trustee is subject to the jurisdiction of the district court having jurisdiction over the address of the Former Trustee.
 - (4) For the purpose of the application of the provisions of the preceding paragraph to cases where there are two or more Trustees, the phrase "termination of a Trustee's duty as Trustee" in said paragraph is deemed to be replaced with "termination of all Trustees' duties as Trustees," and for the purpose of the application of the provisions of said paragraph to cases where there are two or more Former Trustees, the phrase "address of the Former Trustee" in said paragraph is deemed to be replaced with "address of any of the Former Trustees."
 - (5) A case pertaining to a petition set forth in Article 6, paragraph (1) or Article 258, paragraph (6) is subject to the jurisdiction of the district court having jurisdiction over the testator's last address.

(Special Rules for Procedures for Non-Contentious Case Relating to Trust)

Article 263 With regard to non-contentious cases under the provisions of this Act, the provisions of Article 40 and Article 57, paragraph (2), item (ii) of the Non-

Contentious Cases Procedures Act do not apply.

(Supreme Court Rules)

Article 264 In addition to what is provided for in this Act, the necessary particulars concerning procedures for non-contentious cases under the provisions of this Act are prescribed by the Rules of the Supreme Court.

Section 2 Public Notice

(Means of Public Notice if Trustee Is a Corporation)

Article 265 If a Trustee (after the termination of a Trustee's duty as Trustee and prior to the assumption of said duty by a New Trustee, the Former Trustee) is a corporation, a public notice under the provisions of this Act (excluding Article 152, paragraph (2), Article 156, paragraph (2), Article 160, paragraph (2) and Article 229, paragraph (1)) must be given in accordance with the means of public notice (including the period of public notice) which is adopted by said corporation.

(Special Rules for Public Notice Procedures in Case of Merger of Trustee Who Is a Corporation)

Article 266 (1) If a Trustee who is a corporation intends to conduct an entity conversion, a merger, or any other act under the provisions of the Companies Act or other laws and if it is provided under the said law that that creditors of said corporation may state their objections through a public notice, a separate notice, or other procedures against said act, creditors who hold claims pertaining to the Obligations Covered by the Trust Property that the Trustee is only liable for using property that comes under Trust Property to perform said obligations are deemed not to be included in the scope of said creditors who may state their objections through said procedures with regard to said act.

(2) For the purpose of the application of the provisions on the transfer of a business of a corporation under the provisions of the Companies Act or other laws, a Trust created by the means set forth in Article 3, item (iii) are deemed to be included in the scope of acts subject to these provisions; provided, however, that this does not apply if said laws otherwise provide.

Chapter XIII Penal Provisions

(Crime of Bribery by or of Trustee of Limited Liability Trust with Certificates of Beneficial Interest)

Article 267 (1) When any of the following persons, in connection with said person's duties, has accepted, solicited, or promised to accept a bribe, said

person is punished by imprisonment with work for up to three years or a fine of up to three million yen. When said person has committed misconduct or failed to conduct an appropriate act due to said bribe, said person is punished by imprisonment with work for up to five years or a fine of up to five million yen:

- (i) a Trustee (including the Former Trustee or a Liquidation Trustee; the same applies hereinafter) of a Limited Liability Trust with Certificates of Beneficial Interest;
 - (ii) a Trust Property administrator of a Limited Liability Trust with Certificates of Beneficial Interest;
 - (iii) a person who acts for the Trustee of a Limited Liability Trust with Certificates of Beneficial Interest, who was appointed by an order of provisional disposition prescribed in Article 56 of the Civil Preservation Act;
 - (iv) an incorporated Trust Property administrator of a Limited Liability Trust with Certificates of Beneficial Interest;
 - (v) a Trust administrator of a Limited Liability Trust with Certificates of Beneficial Interest;
 - (vi) a Trust supervisor of a Limited Liability Trust with Certificates of Beneficial Interest;
 - (vii) a Beneficiary's agent of a Limited Liability Trust with Certificates of Beneficial Interest;
 - (viii) an inspector of a Limited Liability Trust with Certificates of Beneficial Interest; and
 - (ix) a financial auditor.
- (2) A person who has given, offered, or promised to offer a bribe prescribed in the preceding paragraph is punished by imprisonment with work for up to three years or a fine of up to three million yen.
- (3) In the case referred to in paragraph (1), any bribe accepted by the offender is confiscated. If the whole or part of the bribe cannot be confiscated, the equivalent value thereof is to be collected.

(Crimes Committed Outside Japan)

Article 268 (1) The crime set forth in paragraph (1) of the preceding Article also applies to a person who has committed the crime set forth in said paragraph outside Japan.

(2) The crime set forth in paragraph (2) of the preceding Article is governed by the provisions of Article 2 of the Penal Code (Act No. 45 of 1907).

(Application of Penal Provisions to Corporation)

Article 269 If a person prescribed in Article 267, paragraph (1) is a corporation, the provisions of said paragraph apply to an executive officer or any other officer executing business or manager who has committed said act.

(Acts to Be Punished by Non-Criminal Fine)

Article 270 (1) If a Trustee, the Former Trustee's Heir, etc. as prescribed in Article 60, paragraph (1), a Trust Property administrator, a person who acts for the Trustee and who was appointed by an order of provisional disposition prescribed in Article 56 of the Civil Preservation Act, an incorporated Trust Property administrator, a Trust administrator, a Trust supervisor, a Beneficiary's agent, or an inspector has committed any of the following acts, said person is punished by a non-penal fine of up to one million yen; provided, however, that this does not apply if the act in question is subject to criminal punishment:

- (i) if the person has failed to give public notice or other notice under the provisions of this Act or has given improper public notice or improper other notice;
- (ii) if the person has failed to disclose particulars under the provisions of this Act;
- (iii) if the person has, in violation of the provisions of this Act, refused to allow the inspection or copying of documents or any object which indicates the particulars recorded in electronic or magnetic records by means specified by Ordinance of the Ministry of Justice, without justifiable grounds;
- (iv) if the person has failed to give a report under the provisions of this Act or if the person has given a false report;
- (v) if the person has obstructed an investigation under the provisions of this Act;
- (vi) if the person has failed to prepare or retain the documents or electronic or magnetic records set forth in Article 37, paragraph (1), paragraph (2) or paragraph (5) or the minutes set forth in Article 120 (limited to cases where it is provided by the Terms of Trust that the Beneficiaries' decision is to be made by a majority vote at a Beneficiaries meeting as provided for in Chapter IV, Section 3, Subsection 2), if the person has failed to state or record particulars that must be stated or recorded in said documents, records or minutes, or if the person has made false statements or records therein;
- (vii) if the person has effected a Consolidation of Trusts or Split of a Trust in violation of the provisions of Article 152, paragraph (2) or paragraph (5), Article 156, paragraph (2) or paragraph (5), or Article 160, paragraph (2) or paragraph (5);
- (viii) if the person has, in violation of the provision of Article 179, paragraph (1), failed to file a petition for the commencement of bankruptcy proceedings;
or
- (ix) if the person has, in violation of the provision of Article 181, distributed property that comes under Trust Property in liquidation.

- (2) If a Trustee, a Trust Property administrator, a person who acts for the Trustee and who was appointed by an order of provisional disposition prescribed in Article 56 of the Civil Preservation Act, an incorporated Trust Property administrator, a Trust supervisor, or a Beneficial Interest register administrator of a Trust with Certificates of Beneficial Interest has committed any of the following acts, said person is punished by a non-criminal fine of up to one million yen; provided, however, that this does not apply if the act in question is subject to criminal punishment:
- (i) if the person has failed to prepare or retain the minutes set forth in Article 120 (limited to cases where the Terms of Trust do not otherwise provide for as set forth in Article 214) or the Beneficial Interest register set forth in Article 186, if the person has failed to state or record particulars that must be stated or recorded in these documents, or if the person has made false statements or records therein;
 - (ii) if the person has, in violation of the provisions of Article 187, paragraph (1) or Article 202, paragraph (1), refused to deliver documents or provide electronic or magnetic records;
 - (iii) if the person has, in violation of the provisions of Article 190, paragraph (1), failed to keep the Beneficial Interest register set forth in Article 186;
 - (iv) if the person has, in violation of the provisions of Article 207, failed to issue a Certificate of Beneficial Interest without delay; or
 - (v) if the person has, in violation of the provisions of Article 209, failed to state particulars on a Certificate of Beneficial Interest or has made false statements therein.
- (3) If a Trustee, a Trust Property administrator, a person who acts for the Trustee and who was appointed by an order of provisional disposition prescribed in Article 56 of the Civil Preservation Act, or an incorporated Trust Property administrator of a Limited Liability Trust has committed any of the following acts, said person is punished by a non-criminal fine of up to one million yen; provided, however, that this does not apply if the act in question is subject to criminal punishment:
- (i) if the person has failed to make a registration under the provisions of Chapter IX, Section 3;
 - (ii) if the person has failed to prepare or retain the accounting books set forth in Article 222, paragraph (2), the balance sheet set forth in paragraph (3) of said Article or the documents or electronic or magnetic records set forth in paragraph (4) or paragraph (7) of said Article, if the person has failed to state or record particulars that must be stated or recorded in these documents or records, or if the person has made false statements or records therein;
 - (iii) if the person has, with an intention of delaying the completion of

- liquidation, inappropriately specified the period set forth in Article 229, paragraph (1); or
- (iv) if the person has performed any obligation in violation of the provisions of Article 230, paragraph (1).
- (4) If a Trustee, a Trust Property administrator, a person who acts for the Trustee and who was appointed by an order of provisional disposition prescribed in Article 56 of the Civil Preservation Act, an incorporated Trust Property administrator or a Trust supervisor of a Trust with Financial Auditor(s) has, in violation of the provisions of Article 250, paragraph (3), failed to carry out the procedures for appointing a financial auditor, said person is punished by a non-criminal fine of up to one million yen; provided, however, that this does apply if the act in question is subject to criminal punishment.

Article 271 A person who falls under any of the followings is punished by a non-criminal fine of up to one million yen:

- (i) a person who has, in violation of the provisions of Article 218, paragraph (1), failed to use the characters representing the term "Limited Liability Trust" in the name of a Limited Liability Trust;
- (ii) a person who has, in violation of the provisions of Article 218, paragraph (2), used, in its name or trade name, any characters which make it likely that a Trust will be mistaken for a Limited Liability Trust; or
- (iii) a person who has, in violation of the provisions of Article 218, paragraph (3), used any name or trade name which makes it likely that a Limited Liability Trust will be mistaken for another Limited Liability Trust.

Supplementary Provisions

(Effective Date)

- (1) This Act comes into effect as of the day specified by Cabinet Order within a period not exceeding one year and six months from the date of its promulgation.

(Transitional Measures Concerning Declaration of Trust)

- (2) The provisions of Article 3, item (iii) do not apply until the day on which one year has elapsed from the date of enforcement of this Act.

(Transitional Measures Concerning Trusts with No Provisions on Beneficiary)

- (3) Until a date specified separately by law, a Trust with no provisions on a Beneficiary (excluding Trusts to be created for academic activities, art, charity, worship, religion, or any other public interest) may not be created by designating, as a Trustee, a person other than a corporation specified by

Cabinet Order as having sufficient financial basis and personnel structure to appropriately administer Trust affairs concerning said Trust.

- (4) The date specified separately by law set forth in the preceding paragraph is considered in light of the status of the review of Trusts with no provisions on the Beneficiary which are created for the purpose of academic activities, art, charity, worship, religion, or other public interest, as well as other circumstances concerned, and said date is determined based on said consideration.