

# Act on Engagement in Trust Business Activities by Financial Institutions

(Act No. 43 of March 11, 1943)

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## Chapter I General Provisions

(Authorization for Engagement in Trust Business Activities by Financial Institutions)

Article 1 (1) A bank or any other financial institution (limited to those specified by Cabinet Order; hereinafter referred to as a "Financial Institution") may, notwithstanding the provisions of other Acts, engage in trust business activities as defined in Article 2, paragraph (1) of the Trust Business Act (Act No. 154 of 2004) and the following business activities (excluding those specified by Cabinet Order; hereinafter collectively referred to as "Trust Business Activities") with the authorization of the Prime Minister:

- (i) agency for trust agreements defined in Article 2, paragraph (8) of the Trust Business Act;
- (ii) business of the purchase and sale, etc. of a beneficial interest in a trusts (meaning the business of carrying out the purchase and sale, etc. of a beneficial interest in a trust (purchase and sale, etc. of a beneficial interest in a trust as defined in Article 65-5, paragraph (1) of the Financial Instruments and Exchange Act (Act No. 25 of 1948); the same applies in paragraphs (3) and (4) of the following Article);
- (iii) management of property (limited to property of the same type as the trust property to be entrusted to the Financial Institution, managed using the same method as the trust property specified as part of the type and method of Trust Business Activities set forth in the following paragraph);

- (iv) execution of a will on property;
  - (v) accounting auditing;
  - (vi) agency or intermediary service for the acquisition, disposition, or borrowing or lending of property; and
  - (vii) agency functions for the following particulars:
    - (a) management of property as listed in item (iii);
    - (b) arrangement or liquidation of property;
    - (c) collection of claims;
    - (d) performance of obligations.
- (2) Pursuant to the provisions of Cabinet Office Ordinance, a Financial Institution must decide the type and method of Trust Business Activities and obtain authorization under the preceding paragraph.
- (3) If an application for the authorization under paragraph (1) has been made, the Prime Minister must examine whether the application conforms to the following standards:
- (i) the applicant has a sufficient financial basis for the sound performance of Trust Business Activities and the ability to perform Trust Business Activities properly; and
  - (ii) the implementation of Trust Business Activities by the applicant is unlikely to disturb the order of the financial system.

(Application Mutatis Mutandis of the Trust Business Act)

Article 2 (1) The provisions of Article 11, Articles 22 to 24 inclusive, Articles 25 to 31 inclusive, and Articles 42 to 49 inclusive of the Trust Business Act apply mutatis mutandis to the cases where a Financial Institution engages in Trust Business Activities. In this case, the phrase "in a case where a renewal of registration under Article 7, paragraph (3) has not been effected, a license under Article 3 has been rescinded pursuant to the provisions of Article 44, paragraph (1), or a case where a registration under Article 7, paragraph (1) has been rescinded pursuant to the provisions of Article 45, paragraph (1), or a license under Article 3 or a registration under Article 7, paragraph (1) has lost its effect pursuant to the provisions of Article 46, paragraph (1)" in Article 11, paragraph (10) of that Act is deemed to be replaced with "in a case where an authorization under Article 1, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions has been rescinded pursuant to the provisions of Article 10 of that Act, or an authorization under Article 1, paragraph (1) of that Act has lost its effect pursuant to the provisions of Article 11 of that Act," the term "Designated Dispute Resolution Organization" in Article 23-2 of the Trust Business Act is deemed to be replaced with "Designated Dispute Resolution Organization prescribed in Article 12-2, paragraph (1), item (viii) of the Act on Engagement in Trust Business

Activities by Financial Institutions," the term "Basic Contract for Implementation of Dispute Resolution Procedures" in Article 23-2, paragraph (1), item (i) of the Trust Business Act is deemed to be replaced with "Basic Contract for Implementation of Dispute Resolution Procedures (meaning a basic contract for implementation of dispute resolution procedures as prescribed in Article 12-2, paragraph (1), item (viii) of the Act on Engagement in Trust Business Activities by Financial Institutions," the term "trust business subject to dispute resolution procedure" in Article 23-2, paragraph (1), item (ii) of the Trust Business Act is deemed to be replaced with "Specific Concurrent Business Activities defined in Article 12-2, paragraph (4) of the Act on Engagement in Trust Business Activities by Financial Institutions," the terms "Dispute Resolution Services, etc." and "Article 85-2, paragraph (1)" in Article 23-2, paragraph (3) of the Trust Business Act are deemed to be replaced with "Dispute Resolution Services, etc. as prescribed in Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions" and "Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions" respectively, the phrase "to submit notifications under Articles 17 to 19 inclusive or take measures under that Article, or" in Article 42, paragraph (2) of the Trust Business Act is deemed to be replaced with "or", the phrase "has not accepted renewal of registration under Article 7, paragraph (3), has rescinded a license under Article 3 pursuant to the provisions of Article 44, paragraph (1), or has rescinded a registration under Article 7, paragraph (1) pursuant to the provisions of Article 45, paragraph (1)" in Article 49, paragraph (1) of the Trust Business Act is deemed to be replaced with "has rescinded an authorization under Article 1, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions pursuant to the provisions of Article 10 of that Act" and any other necessary technical replacement of terms is specified by Cabinet Order.

- (2) When the Financial Institution engaged in Trust Business Activities entrusts a third party to act as an agent or intermediary for the conclusion of a trust agreement (excluding that specified by Cabinet Office Ordinance), the Financial Institution is deemed to be a trust company and Article 2, paragraph (8) and the provisions of Chapter V (including penal provisions pertaining to these provisions) of the Trust Business Act apply. In this case, the term "Entrusting Trust Company" in that Chapter is deemed to be replaced with "entrusting financial institution engaged in trust business" and the phrase "the provisions of Article 34, paragraph (1)" in Article 78, paragraph (1) of that Act is deemed to be replaced with "Article 21, paragraph (2) of the Banking Act (Act No. 59 of 1981) and any other provisions specified by Cabinet Order."
- (3) Notwithstanding the provisions of Article 33-2 of the Financial Instruments

and Exchange Act, a Financial Institution engaged in Trust Business Activities may engage in business of the purchase and sale, etc. of a beneficial interest in a trust.

(4) When a Financial Institution engaged in Trust Business Activities engages in the business of the purchase and sale, etc. of a beneficial interest in a trust pursuant to the provisions of the preceding paragraph, the Financial Institution is deemed to be a Registered Financial Institution (meaning a registered financial institution as defined in Article 2, paragraph (11) of the Financial Instruments and Exchange Act) and the provisions of Articles 34 to 34-5 inclusive, Article 36, paragraph (1), Article 36-3, Article 37 (excluding paragraph (1), item (ii)), Article 37-2, Article 37-3 (excluding paragraph (1), item (ii)), Article 37-4, Article 37-6, Article 38 (excluding item (vii)), Article 39, Article 40, Article 40-4, Article 40-5, Article 45, items (i) and (ii), Article 48, Article 48-2, Article 51-2, Article 52-2, paragraphs (1) and (2), Article 56-2, paragraph (1), Article 190, and Article 194-5, paragraph (2) of the Financial Instruments and Exchange Act and the provisions of Chapter VIII and Chapter VIII-2 of that Act pertaining to these provisions apply. In this case, the phrase "any of the following items" and "may rescind its registration under Article 33-2, or order suspension of all or part of its business by specifying a period not exceeding six months" in Article 52-2, paragraph (1) of that Act is deemed to be replaced with "item (iii) or (v)" and "may order suspension of all or part of its business by specifying a period not exceeding six months" respectively, and the phrase "any of items (iii) to (v) of the preceding paragraph" in Article 52-2, paragraph (2) of that Act is deemed to be replaced with "item (iii) or (v) of the preceding paragraph."

(Application Mutatis Mutandis of the Financial Instruments and Exchange Act)

Article 2-2 The provisions of Chapter III, Section 1, Subsection 5 (excluding Article 34-2, paragraphs (6) to (8) inclusive and Article 34-3, paragraphs (5) and (6)), the provisions of Chapter III, Section 2, Subsection 1 (excluding Articles 35 to 36-4 inclusive, Article 37, paragraph (1), item (ii), Article 37-2, Article 37-3, paragraph (1), items (ii) to (iv) inclusive and (vi) and paragraph (3), Article 37-4, Article 37-5, Article 37-7, Article 38, items (i), (ii) and (vii), Article 38-2, Article 39, paragraph (1), paragraph (2), item (ii) and paragraphs (3) and (5), Article 40, item (i), and Articles 42-2 to 40-7 inclusive) and Article 45 (excluding items (iii) and (iv)) of the Financial Instruments and Exchange Act apply mutatis mutandis to the acceptance of trust under the Specific Trust Agreement (meaning a specific trust agreement as defined in Article 24-2 of the Trust Business activities Act) by a Financial Institution. In this case, the terms "Contract for Financial Instruments Transaction" and "Financial

Instruments Business" in these provisions are deemed to be replaced with "Specific Trust Agreement" and "Business of Conclusion of Specific Trust Agreements" respectively, the term "Act of Financial Instruments Transaction" in these provisions (excluding Article 34 of the Financial Instruments and Exchange Act) is deemed to be replaced with "conclusion of a Specific Trust Agreement," the phrase "a contract to conduct Acts of Financial Instruments Transaction (meaning acts listed in the items of Article 2, paragraph (8); the same applies hereinafter) with a customer as the other party or on behalf of a customer" in Article 34 of that Act is deemed to be replaced with "a Specific Trust Agreement as defined in Article 24-2 of the Trust Business Act," the phrase "the trade name or name and address" in Article 37-3, paragraph (1), item (i) of the Financial Instruments and Exchange Act is deemed to be replaced with "the address," the term "Article 37-4, paragraph (1)" in Article 37-6, paragraph (1) of that Act is deemed to be replaced with "Article 26, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions," the terms "Purchase and Sale or Other Transaction of Securities, etc." and "set forth in item (i) of the preceding paragraph" in Article 39, paragraph (2), item (i) of the Financial Instruments and Exchange Act is deemed to be replaced with "conclusion of a Specific Trust Agreement (excluding a trust agreement prescribed in Article 6 of the Act on Engagement in Trust Business Activities by Financial Institutions" and "Compensations of Losses, etc. (meaning compensation of losses or filling in of income as prescribed in Article 24, paragraph (1), item (iv) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions; the same applies in item (iii))" respectively, the term and phrase "Purchase and Sale or Other Transaction of Securities, etc." and "provided under item (iii) of the preceding paragraph" in Article 39, paragraph (2), item (iii) of the Financial Instruments and Exchange Act is deemed to be replaced with "conclusion of a Specific Trust Agreement" and "related to Compensation of Losses, etc." respectively, the term "Problematic Conduct" in Article 39, paragraph (4) of the Financial Instruments and Exchange Act is deemed to be replaced with "Problematic Conduct attributable to the Financial Institution (meaning the financial institution as defined in Article 1, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions)", and any other necessary technical replacement of terms is specified by Cabinet Order.

(Authorization for Changes to the Type and Method of Trust Business Activities)

Article 3 When a Financial Institution engages in Trust Business Activities, and the Financial Institution intends to change the type or method of the Trust Business Activities, it must obtain authorization from the Prime Minister.

## **Chapter II Business Activities**

(Granting of Credit to One Person)

Article 4 When the provisions of Article 13 of the Banking Act (Act No. 59 of 1981) or other provisions pertaining to the granting of credit, etc. to one person by a Financial Institution are applied to a Financial Institution engaged in Trust Business Activities, different provisions may be provided for the credit grant category or the credit grant limit, etc. prescribed in these provisions.

(Changes to the Basic Terms and Conditions for a Standard Trust Agreement)

Article 5 (1) When a Financial Institution engaged in Trust Business Activities intends to change the basic terms and conditions of a standard trust agreement (excluding trust agreements pertaining to a loan trust or an investment trust) that involves a large number of persons as the settlors or beneficiaries, the Financial Institution engaged in Trust Business Activities may do so either by obtaining the consent of all settlors and beneficiaries of the standard trust agreement, or by obtaining authorization from the Prime Minister and giving public notice to the effect that any settlor or beneficiary who opposes the changes is to state the objection within a certain period of time.

(2) The period of time under the preceding paragraph must be at least one month.

(3) When a settlor or beneficiary does not state an objection within the period of time under paragraph (1), the settlor or beneficiary is deemed to have accepted the changes to the contract.

(4) Any beneficiary who has stated an objection within the period of time under paragraph (1) may demand the Financial Institution engaged in Trust Business Activities to purchase the beneficial interest at a fair price which would have been enjoyed if the changes had not been made.

(5) The provisions of Article 103, paragraph (7) and Article 104 of the Trust Act (Act No. 108 of 2006) apply mutatis mutandis to cases where the demand under the preceding paragraph has been made. In this case, the phrase "act of trust or decision making on major changes, etc. to a trust" in the proviso to Article 104, paragraph (12) of that Act is deemed to be replaced with "basic terms and conditions for a standard trust agreement," the phrase "paragraph (1) or (2) of the preceding Article" in Article 104, paragraph (13) of that Act is deemed to be replaced with "Article 5, paragraph (4) of the Act on Engagement in Trust Business Activities by Financial Institutions" and the phrase "act of trust or decision making on major changes, etc. to a trust" in the proviso to Article 104,

paragraph (13) of that Act is be deemed to be replaced with "basic terms and conditions for a standard trust agreement."

(Conclusion of a Trust Agreement on Compensation of Loss)

Article 6 Notwithstanding the provisions of Article 24, paragraph (1), item (iv) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1), a Financial Institution engaged in Trust Business Activities may, pursuant to the provisions of Cabinet Office Ordinance, conclude a trust agreement (limited to that specified by Cabinet Office Ordinance) which provides to the effect that if a loss in principal has occurred or a certain amount of income has not been obtained the loss will be compensated or the gap in the profits will be filled, only for a money trust for which the method of investment is not specified.

### **Chapter III Supervision**

(Trust Business Activities Report)

Article 7 For each business year, a Financial Institution engaged in Trust Business Activities must prepare an interim business activities report pertaining to the Interim Business Year (meaning the period from April 1 to September 30 of the relevant business year) of the relevant business year in which the Trust Business Activities and status of property pertaining to the Trust Business Activities are stated and a business report pertaining to the relevant business year and submit them to the Prime Minister.

(Notification)

Article 8 (1) If a Financial Institution engaged in Trust Business Activities has come to fall under any of the following items, it must notify the Prime Minister to that effect without delay:

- (i) if the Financial Institution has commenced Trust Business Activities;
- (ii) if the Financial Institution has terminated Trust Business Activities (including cases where the Financial Institution has had all of its Trust Business Activities succeeded to through a company split or has transferred all of its Trust Business Activities);
- (iii) if the Financial Institution has implemented a merger (excluding cases where the Financial Institution engaged in Trust Business Activities disappears as a result of the merger) and if the Financial Institution has had part of its Trust Business Activities succeeded to through a company split or has transferred part of its Trust Business Activities; or
- (iv) when the Financial Institution falls under the cases specified by Cabinet Office Ordinance.

- (2) When a Financial Institution engaged in Trust Business Activities falls under any of the following items, it must notify the Prime Minister to that effect:
- (i) when the relevant Financial Institution intends to establish, change the location of, or close the business office or office at which all or part of the Trust Business Activities are to be conducted, or to change the contents of the Trust Business Activities which are to be conducted at the business office or office; or
  - (ii) when the Financial Institution falls under the cases specified by Cabinet Office Ordinance.
- (3) When a Financial Institution engaged in Trust Business Activities intends to eliminate its Trust Business Activities, implement a merger (limited to a merger through which the Financial Institution engaged in Trust Business Activities disappears), dissolve due to reasons other than merger or the decision of commencement of bankruptcy proceedings, have all or part of its Trust Business Activities succeeded to through a company split, or transfer all or part of its Trust Business Activities, it must give public notice at least 30 days in advance to that effect and post a notice to that effect in a place easily seen by the public at all of its business offices, pursuant to the provisions of Cabinet Office Ordinance.
- (4) If a Financial Institution engaged in Trust Business Activities has given the public notice under the preceding paragraph, it must immediately notify to that effect to the Prime Minister.

(Suspension of Business Activities)

Article 9 When the Prime Minister finds it necessary for the sound and appropriate operations of Trust Business Activities by a Financial Institution engaged in Trust Business Activities in light of the status of business activities or property of the Financial Institution engaged in Trust Business Activities, the Prime Minister may order suspension of all or part of Trust Business Activities by setting a time limit, or order changes to the type or method of Trust Business Activities, deposit of property, or any other measures necessary for supervision, within the limit necessary.

(Rescission of Authorization)

Article 10 If a Financial Institution engaged in Trust Business Activities has violated laws and regulations, or orders from the Prime Minister based on laws and regulations, or has committed an act that is harmful to the public interest in the implementation of Trust Business Activities, the Prime Minister may order the Financial Institution engaged in Trust Business Activities to suspend all or part of its Trust Business Activities or may rescind the authorization under Article 1, paragraph (1).



(Lapse of Authorization)

Article 11 When a Financial Institution engaged in Trust Business Activities falls under any of the following items, the authorization under Article 1, paragraph (1) loses its effect:

- (i) if the relevant Financial Institution has terminated all of its Trust Business Activities;
- (ii) if the relevant Financial Institution has had all of its Trust Business Activities succeeded to through a company split or has transferred all of its Trust Business Activities;
- (iii) if the relevant Financial Institution has dissolved (including cases where a judgment nullifying the incorporation, share transfer, merger (limited to a merger through which a Financial Institution engaged in Trust Business Activities is incorporated) or incorporation-type company split has become final and binding); or
- (iv) if the relevant Financial Institution has failed to perform the actions which have been authorized within six months from the day on which the authorization was granted (excluding cases where there are unavoidable reasons and the approval from the Prime Minister has been obtained in advance).

(Public Notice of Supervisory Disposition)

Article 12 If the Prime Minister has rescinded the authorization under Article 1, paragraph (1) pursuant to the provisions of Article 10, or has ordered the suspension of all or part of the Trust Business Activities pursuant to the provisions of Article 9 or Article 10, the Prime Minister must give public notice to that effect.

#### **Chapter IV Designated Dispute Resolution Organization**

(Designation of a Person to Conduct Dispute Resolution Services)

Article 12-2 (1) The Prime Minister may, upon an application, designate a person (or persons) satisfying the following requirements to conduct the Dispute Resolution Services, etc. (meaning the business of Complaint Processing Procedures (meaning procedures to process Complaints Related to Specific Concurrent Business) and Dispute Resolution Procedures (meaning procedures seeking resolution of a Dispute Related to Specific Concurrent Business without using court proceeding(s)) and business incidental thereto; hereinafter the same applies in this Article, the following Article and Article 19-3):

- (i) the relevant person is a corporation (including an association or foundation

- without legal personality for which a representative person or administrator has been designated and excluding a corporation established in compliance with laws and regulations of a foreign state and any other foreign associations; the same applies in item (iv), sub-item (d));
- (ii) the relevant person has not, in the past, had the designation under the provisions of this paragraph rescinded pursuant to the provisions of Article 85-24, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4 less than five years prior to the current designation under the provisions of this paragraph, or a person who has not had a designation under the provisions of another Act specified by Cabinet Order as pertaining to Business Activities equivalent to Dispute Resolution Services, etc. rescinded less than five years prior to the current designation;
  - (iii) the relevant person has been ordered to pay a fine (including a penalty under the law and regulations of a foreign state equivalent thereto) for violating the provisions of this Act, the Attorney Act (Act No. 205 of 1949) or a law or regulation of a foreign state equivalent thereto, and at least five years have not elapsed since the day on which the sentence ended or the person became exempt from its execution;
  - (iv) the relevant person has no officers falling under any of the following categories:
    - (a) an adult ward or a person under a conservatorship, or a person who is treated in the same manner under the laws and regulations of a foreign state;
    - (b) a bankrupt person whose rights have not been restored or a person who is treated in the same manner under laws and regulations of a foreign state;
    - (c) a person who has been sentenced to imprisonment without work or a more severe punishment (including punishment under the laws and regulations of a foreign state equivalent thereto) and at least five years have not elapsed since the day on which the sentence ended or the person became exempt from the execution of the sentence;
    - (d) if the designation under this paragraph has been rescinded pursuant to the provisions of Article 85-24, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, or if an administrative disposition similar to the relevant designation obtained in a foreign state pursuant to the provisions of laws and regulations of a foreign state equivalent to this Act has been rescinded, a person who was an officer of the corporation (including a person who is treated in the same manner under laws and regulations of a foreign state; the same applies in sub-item (d)) within one month prior to the day of rescission and for whom five years have not elapsed from the day of rescission, or if a designation under the provisions of other Acts specified by Cabinet Order as being related to

- business activities equivalent to Dispute Resolution Services, etc. or an administrative disposition similar to designation as specified by Cabinet Order obtained in a foreign state pursuant to laws and regulations of a foreign state has been rescinded, a person who was an officer of the corporation within one month prior to the day of rescission and for whom five years have not elapsed from that day of rescission; or
- (e) a person who has been sentenced to a fine (including a punishment under laws and regulations of a foreign state equivalent thereto) for having violated the provisions of this Act, the Attorney Act, or laws and regulations of a foreign state equivalent thereto, and for whom five years have not elapsed since the day on which the sentence ended or the person became exempt from the execution of the sentence;
  - (v) the relevant person has accounting and technical foundations sufficient for the proper implementation of Dispute Resolution Services, etc.;
  - (vi) there is no risk that the composition of officers or employees will hinder the fair implementation of Dispute Resolution Services, etc.;
  - (vii) the rules concerning the implementation of Dispute Resolution Services, etc. (hereinafter referred to as "Operational Rules") conform to laws and regulations and are found sufficient for the fair and proper implementation of Dispute Resolution Services, etc. pursuant to the provisions of this Act; and
  - (viii) as a result of hearing opinions pursuant to the following paragraph, the proportion of the number of Financial Institutions engaged in Trust Business Activities who have stated their objections (limited to those with reasonable reasons therefor) to the particulars concerning the cancellation of the Basic Contract for Implementation of Dispute Resolution Procedures (meaning a contract concluded between the Designated Dispute Resolution Organization (meaning the one designated pursuant to the provisions of this paragraph; the same applies in paragraph (5), the following Article and Article 12-4) and a Financial Institution engaged in Trust Business Activities; hereinafter the same applies in this item and the following Article), other contents of the Basic Contract for Implementation of Dispute Resolution Procedures (excluding the particulars listed in the items of Article 85-7, paragraph (2) of the Trust Business Activities Act as applied mutatis mutandis pursuant to Article 12-4), or the contents of other Operational Rules (excluding particulars which are to be the contents thereof pursuant to the provisions of Article 85-7, paragraph (3) of that Act and the particulars necessary to conform to the standards listed in the items of Article 85-7, paragraph (4) and paragraph (5), item (i) of that Act) to the total number of Financial Institutions engaged in Trust Business Activities has become less than the proportion specified by Cabinet Order.

- (2) Any person who intends to make the application under the preceding paragraph must give an explanation on the contents of the Operational Rules to the Financial Institution engaged in Trust Business Activities, hear opinions therefrom as to whether they have any objections thereto (when there are objections, the reasons therefore are to be included) and prepare documents stating the results thereof, in advance and pursuant to the provisions of Cabinet Office Ordinance.
- (3) When the Prime Minister intends to make a designation under the provisions of paragraph (1), the Prime Minister must consult with the Minister of Justice in advance with regard to the fact that the relevant person satisfies the requirements listed in items (v) to (vii) inclusive of that paragraph (limited to the portion related to the operation of Dispute Resolution Procedures, and with regard to the requirement set forth in item (vii), limited to that related to the standard listed in the items under Article 85-7, paragraph (4) and (5) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4).
- (4) The term "Complaints Related to Specific Concurrent Business Activities" as used in paragraph (1) means complaints related to Specific Concurrent Business Activities (meaning the trust business activities provided in Article 2, paragraph (1) of the Trust Business Act conducted by a Financial Institution, Business Activities listed in Article 1, paragraph (1), item (i) to (iii) inclusive, and agency for trust agreements carried out by an agent for trust agreement defined in Article 2, paragraph (9) of the Act on behalf of the Financial Institution; hereinafter the same applies in this paragraph) and the term "Dispute Related to Specific Concurrent Business Activities" means a dispute related to Specific Concurrent Business Activities which may be settled between the parties.
- (5) When the Prime Minister makes the designation under the provisions of paragraph (1), the Prime Minister must give public notice of the trade name or name and the location of the principal business office or office of the Designated Dispute Resolution Organization and the day on which the Prime Minister made the designation.

(Operational Rules)

Article 12-3 A Designated Dispute Resolution Organization must provide the following particulars in its Operational Rules:

- (i) particulars concerning the contents of the Basic Contract for Implementation of Dispute Resolution Procedures;
- (ii) particulars concerning the conclusion of the Basic Contract for Implementation of Dispute Resolution Procedures;
- (iii) particulars concerning the implementation of Dispute Resolution Services, etc.;

- (iv) particulars concerning the charge to be borne by the Member Financial Institution (meaning the Financial Institution engaged in Trust Business Activities that is the counterparty to the Basic Contract for Implementation of Dispute Resolution Procedures; the same applies in the following item) with regard to the costs necessary for the Dispute Resolution Services, etc.;
- (v) when collecting fees concerning the implementation of Dispute Resolution Services, etc. from the Member Financial Institution that is the party to the dispute or from its customer, particulars concerning the fees;
- (vi) particulars concerning coordination with another Designated Dispute Resolution Organization, national organ, local governments, private business operators, or any other person providing consultation, processing complaints, or implementing dispute resolution;
- (vii) particulars concerning the processing of complaints related to Dispute Resolution Services, etc.; and
- (viii) in addition to those listed in the preceding items, particulars specified by Cabinet Office Ordinance as those necessary for the implementation of Dispute Resolution Services, etc.

(Application Mutatis Mutandis of the Trust Business Act)

Article 12-4 The provisions of Chapter V-2 of the Trust Business Act (excluding Article 85-2 and Article 85-7, paragraph (1)) apply mutatis mutandis to Designated Dispute Resolution Organizations. In this case, the phrase "paragraph (1) of the preceding Article" in Article 85-3, paragraph (1) of that Act is deemed to be replaced with "Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "paragraph (1), items (iii) and (iv) of the preceding Article" in Article 85-3, paragraph (2), item (i) of the Trust Business Act is deemed to be replaced with "Article 12-2, paragraph (1), item (iii) and (iv) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "paragraph (2) of the preceding Article" in Article 85-3, paragraph (2), item (vi) of the Trust Business Act is deemed to be replaced with "Article 12-2, paragraph (2) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "this Act" in Article 85-5, paragraph (1) of the Trust Business Act is deemed to be replaced with "the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "other Acts" in Article 85-6 of the Trust Business Act is deemed to be replaced with "Acts other than the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "item (i) of the preceding paragraph" in Article 85-7, paragraph (2) of the Trust Business Act is deemed to be replaced with "Article 12-3, item (i) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "paragraph (1), item (ii)" in Article 85-7, paragraph (3) of the Trust Business

Act is deemed to be replaced with "Article 12-3, item (ii) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "paragraph (1), item (iii)" in Article 85-7, paragraph (4) of the Trust Business Act is deemed to be replaced with "Article 12-3, item (iii) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrases "paragraph (1), items (iv) and (v)" and "item (v) of that paragraph" in Article 85-7, paragraph (5) of the Trust Business Act are deemed to be replaced with "Article 12-3, items (iv) and (v) of the Act on Engagement in Trust Business Activities by Financial Institutions" and "item (v) of that Article" respectively, and the phrase "Article 85-2, paragraph (1)" in Article 85-14, paragraph (2) of the Trust Business Act is deemed to be replaced with "Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrases "the requirements set forth in Article 85-2, paragraph (1), items (v) to (vii) inclusive (" and "Article 85-2, paragraph (1), item (v)" in Article 85-22, paragraph (2), item (i) of the Trust Business Act are deemed to be replaced with "the requirements set forth in Article 12-2, paragraph (1), items (v) to (vii) inclusive of the Act on Engagement in Trust Business Activities by Financial Institutions (" and "Article 12-2, paragraph (1), item (v) of that Act" respectively, the phrase "other Acts" in Article 85-23, paragraph (3) of the Trust Business Act is deemed to be replaced with "Acts other than the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "Article 85-2, paragraph (1)" in Article 85-24, paragraph (1) of the Trust Business Act is deemed to be replaced with "Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "Article 85-2, paragraph (1), items (ii) to (vii) inclusive" in Article 85-24, paragraph (1), item (i) of the Trust Business Act is deemed to be replaced with "Article 12-2, paragraph (1), items (ii) to (vii) inclusive of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrase "Article 85-2, paragraph (1)" in Article 85-24, paragraph (1), item (ii) of the Trust Business Act is deemed to be replaced with "Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions," the phrases "Article 85-2, paragraph (1), items (v) to (vii) inclusive" and "Article 85-2, paragraph (1)" in Article 85-24, paragraph (2), item (i) of the Trust Business Act are deemed to be replaced with "Article 12-2, paragraph (1), items (v) to (vii) inclusive of the Act on Engagement in Trust Business Activities by Financial Institutions" and "Article 12-2, paragraph (1) of that Act" respectively, the phrase "Article 85-2, paragraph (1)" in Article 85-24, paragraphs (3) and (4) of the Trust Business Act is deemed to be replaced with "Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions" and any other necessary technical replacement of terms is specified by Cabinet Order.

## **Chapter V Miscellaneous Provisions**

(Submission of Materials to the Minister of Finance)

- Article 13 (1) When the Minister of Finance finds it necessary for planning or drafting a system pertaining to Trust Business Activities in relation to a system for the disposition of failed financial institutions and financial risk management under the minister's jurisdiction, the minister may request the Prime Minister to provide the necessary materials and an explanation thereof.
- (2) When the Minister of Finance finds it necessary for planning or drafting a system pertaining to Trust Business Activities in relation to a system for the disposition of a failed financial institution and financial risk management under the minister's jurisdiction, the minister may, within the limit necessary, request a Financial Institution engaged in Trust Business Activities or any other persons concerned to provide materials or an explanation thereof or any other cooperation.

(Delegation of Authority)

- Article 14 (1) The Prime Minister delegates the authority vested under this Act (excluding that specified by Cabinet Order) to the Commissioner of the Financial Services Agency.
- (2) Pursuant to the provisions of Cabinet Order, the Commissioner of the Financial Services Agency may delegate part of the authority delegated pursuant to the preceding paragraph, to the Director-General of the Finance Bureau or Director-General of the Local Finance Branch Bureau.

(Delegation to Cabinet Office Ordinance)

- Article 15 Beyond what is provided for in this Act, the application procedures for the authorization under Article 1, paragraph (1) and any other particulars necessary for the enforcement of this Act are specified by Cabinet Office Ordinance.

## **Chapter VI Penal Provisions**

Article 15-2 A person who falls under any of the following items is sentenced to imprisonment with work for not more than three years or a fine of not more than three million yen, or both:

- (i) a person who has carried out the acts set forth in, Article 24, paragraph (1), item (i) of the Trust Business Act (excluding those pertaining to the acceptance of trust set forth in the items of Article 2, paragraph (3) of that Act), in violation of the provisions of that item as applied mutatis mutandis

- pursuant to Article 2, paragraph (1); or
- (ii) a person who has failed to submit a report under Article 27, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) (excluding those pertaining to the acceptance of trust set forth in the items of Article 2, paragraph (3) of that Act; hereinafter the same applies in this item) or who has submitted a false report.

Article 16 Any person who has violated an order of suspension of Trust Business Activities under the provisions of Article 9 or Article 10 is sentenced to imprisonment with work for not more than two years or a fine of not more than three million yen, or both.

Article 17 Any person who falls under any of the following items is sentenced to imprisonment with work for not more than one year or a fine of not more than three million yen, or both:

- (i) a person who has carried out the acts set forth in Article 24, paragraph (1), item (i) of the Trust Business Act (excluding those pertaining to the acceptance of trust set forth in the items of Article 2, paragraph (3) of that Act) as applied mutatis mutandis pursuant to Article 2, paragraph (1), in violation of the provisions of that item, or a person who has carried out the acts set forth in Article 24, paragraph (1), items (i), (iii), or (iv) of that Act as applied mutatis mutandis pursuant to Article 2, paragraph (1), in violation of the provisions of those items;
- (ii) a person who has failed to submit a report under Article 27, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) (excluding those pertaining to the acceptance of trust set forth in the items of Article 2, paragraph (3) of that Act; hereinafter the same applies in this item) or who has submitted a false report;
- (iii) a person who has violated the provisions of Article 29, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1);
- (iv) a person who has failed to submit a report or materials under Article 42, paragraphs (1) to (3) inclusive of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) or who has submitted a false report or false materials;
- (v) a person who has failed to answer or who has given a false answer to questions asked by the relevant officials under the provisions of Article 42, paragraphs (1) to (3) inclusive of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) or who has refused, hindered, or avoided inspection under these provisions;
- (vi) a person who has failed to submit an interim business report or a business



- report under the provisions of Article 7, who has failed to state important particulars from among those to be stated therein, or who has made a false statement on the important particulars;
- (vii) a person who has failed to give the public notice under Article 8, paragraph (3) or who has given false public notice;
  - (viii) a person who has made a false statement or record in the written application for designation under Article 85-3, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4 or in the documents or electronic or magnetic record to be attached thereto pursuant to Article 85-3, paragraph (2) of the Trust Business Act;
  - (ix) a person who has violated the provisions of Article 85-9 of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4;
  - (x) a person who has failed to submit the written reports under Article 85-20, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4 or who has submitted a written report containing false statements;
  - (xi) a person who has failed to make a report or submit materials under Article 85-21, paragraph (1) or (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4 or who has made a false report or submitted false materials, or who has failed to answer or given a false answer to the questions asked by the relevant officials, or who has refused, hindered, or avoided the inspection under these provisions; or
  - (xii) a person who has violated an order under the provisions of Article 85-22, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4.

Article 18 Any person who falls under any of the following items is sentenced to imprisonment with work for not more than one year or a fine of not more than one million yen, or both:

- (i) a person who has commenced Trust Business Activities in violation of Article 11, paragraph (5) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1);
- (ii) a person who has violated the provisions of Article 39, paragraph (2) (excluding item (ii)) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2;
- (iii) a person who has, in violation of Article 3, changed the contents or method of business activities without obtaining authorization; or
- (iv) a person who has divulged or used for the person's own interest a secret learned during the course of the person's duties in violation of Article 85-4, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4;

Article 18-2 (1) In the case referred to in item (ii) of the preceding Article, a property benefit obtained by an offender or a third party is confiscated. When the whole or a part of the property benefit cannot be confiscated, the equivalent monetary value is collected.

(2) The provisions of Article 209-2 and 209-3, paragraph (2) of the Financial Instruments and Exchange Act apply mutatis mutandis to confiscation under the provisions of the preceding paragraph. In this case, the phrases "Article 198-2, paragraph (1) or Article 200-2," "this Article, paragraph (1) of the following Article and Article 209-4, paragraph (1)" and "the following paragraph and paragraph (1) of the following Article" in Article 209-2, paragraph (1) of that Act are deemed to be replaced with "Article 18-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions," "this paragraph" and "the following paragraph" respectively, the phrase "mixed property (limited to property in which illegal property pertaining to the provisions of Article 200-2 is mixed)" in Article 209-2, paragraph (2) of that Act is deemed to be replaced with "mixed property" and the phrase "Article 198-2, paragraph (1) or Article 200-2" in Article 209-3, paragraph (2) of that Act is deemed to be replaced with "Article 18-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions."

Article 19 Any person who falls under any of the following items is sentenced to imprisonment with work for not more than six months or a fine of not more than 500,000 yen, or both:

- (i) a person who has failed to make a deposit in violation of the provisions of Article 11, paragraph (8) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1);
- (ii) a person who has failed to deliver documents required under Article 26, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) or who has delivered false documents;
- (iii) a person who has failed to deliver documents under Article 29, paragraph (3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) or who has delivered false documents;
- (iv) a person who has failed to indicate the particulars specified in Article 37, paragraph (1) (excluding item (ii)) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 or who has made a false indication;
- (v) a person who has violated the provisions of Article 37, paragraph (2) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2;

(vi) a person who has failed to deliver documents, delivered documents without stating the facts specified in Article 37-3, paragraph (1) of that Act, delivered documents containing false statements, provided documents lacking the aforementioned facts or containing false facts using the method prescribed in Article 34-2, paragraph (4) of that Act as applied mutatis mutandis pursuant to Article 37-3, paragraph (2) of that Act, in violation of Article 37-3, paragraph (1) (excluding items (ii) to (iv) inclusive and (vi)) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2.

Article 19-2 Any person who has failed to prepare or preserve the records under Article 85-11 or Article 85-13, paragraph (9) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4 or who has prepared a false record is punished by a fine of not more than one million yen.

Article 19-3 Any person who has suspended or terminated Dispute Resolution Services, etc. in whole or in part without obtaining the authorization under Article 85-23, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, is punished by a fine of not more than 500,000 yen.

Article 20 Any person who falls under any of the following items is punished by a fine of not more than 300,000 yen:

- (i) a person who has failed to make the notification under Article 8, paragraph (1), (2) or (4) or who has made a false notification;
- (ii) a person who has failed to make the report under Article 85-8, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, or who has made a false report;
- (iii) a person who has failed to make the notification under Article 85-18, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, or who has made a false notification;
- (iv) a person who has failed to make the notification under Article 85-19 of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, or who has made a false notification;
- (v) a person who has failed to make the notification under Article 85-23, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, or who has made a false notification;
- (vi) a person who has failed to give the notice under Article 85-23, paragraph (3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, or who has given false notice;
- (vii) a person who has failed to give the notice under Article 85-24, paragraph

(3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4, or who has given false notice.

Article 21 (1) If the representative person of a corporation (including an association or foundation without legal personality for which a representative person or administrator has been designated; hereinafter the same applies in this paragraph) or an agent, employee, or any other worker of a corporation or individual has committed an act in violation of the following provisions with regard to the business activities or property of the corporation or individual, in addition to the offender being punished by the fine prescribed in the provisions set forth in the respective items the corporation is also punished by the fine in the respective articles:

- (i) Article 15-2 or Article 16: a fine of not more than 300 million yen;
- (ii) Article 17 (excluding item (ix)): a fine of not more than 200 million yen;
- (iii) Article 18, item (ii): a fine of not more than 100 million yen; and
- (iv) Article 17, item (ix), Article 18 (excluding item (ii)), or Article 19 to the preceding Article inclusive: the fine prescribed in the respective Articles.

(2) When an organization that is not a corporation is to be punished pursuant to the preceding paragraph, in addition to the representative person and administrator thereof representing the organization with regard to the procedural act, criminal procedures applicable to corporations apply mutatis mutandis.

Article 22 When an officer, manager, counselor, or liquidator of a Financial Institution engaged in Trust Business Activities falls under any of the following items, the person is punished by a non-penal fine of not more than one million yen:

- (i) if the relevant person has concluded a trust agreement prescribed in Article 6 in violation of the Cabinet Office Ordinance under that Article 6;
- (ii) if the relevant person has violated an order (excluding an order of suspension of Trust Business Activities) of the Prime Minister under the provisions of Article 9; or
- (iii) if the relevant person has failed to manage trust property to be managed pursuant to the provisions of Article 34 of the Trust Business Act.

Article 23 Any person who falls under any of the following items is punished by a non-penal fine of not more than one million yen:

- (i) a person who has failed to make a deposit in violation of the order under Article 11, paragraph (4) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1);
- (ii) a person who has made major changes to, consolidated or split a trust in

- violation of Article 29-2 of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1); or
- (iii) a person who has violated the provisions of Article 85-16 of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4.

Article 24 Any person who has violated the provisions of Article 85-17 of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4 is punished by a non-penal fine of not more than 100,000 yen.

## **Chapter VII Special Provisions on Procedures Concerning Confiscation**

(Procedure for Confiscation of Property of a Third Party)

- Article 25 (1) Where a Claim, etc. (meaning property other than real property and movables; the same applies in the following Article and Article 27) which is property to be confiscated pursuant to the provisions of Article 18-2, paragraph (1), belongs to a person other than the accused (hereinafter referred to as a "Third Party" in this Article), and the Third Party is not allowed to participate in the proceedings of the case under public prosecution, a judicial decision for confiscation may not be made.
- (2) The preceding paragraph also applies to the case of intending to confiscate property on which a superficies, a mortgage or any other right of a Third Party exists pursuant to the provisions of Article 18-2, paragraph (1), and the Third Party is not allowed to participate in the proceedings of the case under public prosecution.
- (3) The provisions of Article 209-4, paragraphs (3) to (5) inclusive of the Financial Instruments and Exchange Act apply mutatis mutandis to the case of confiscating property on which a superficies, a mortgage or any other right of a Third Party exists and the right is to be kept in existence pursuant to the provisions of Article 209-3, paragraph (2) of that Act as applied mutatis mutandis pursuant to Article 18-2, paragraph (2). In this case, the phrase "paragraph (2) of the preceding Article" in Article 209-4, paragraphs (3) and (4) of that Act is deemed to be replaced with "paragraph (2) of the preceding Article as applied mutatis mutandis pursuant to Article 18-2, paragraph (2) of the Act on Engagement in Trust Business Activities by Financial Institutions."
- (4) With regard to the procedures concerning confiscation of property provided in paragraphs (1) and (2), beyond what is specially provided for in this Act, the provisions of the Act on Emergency Measures on Criminal Procedure to Confiscate Items Owned by Third Parties (Act No. 138 of 1963) apply mutatis mutandis.

(Disposition of a Confiscated Claim)

Article 26 The provisions of Article 209-5, paragraph (1) of the Financial Instruments and Exchange Act apply mutatis mutandis to a Claim, etc. that has been confiscated with regard to the crime set forth in Article 18, item (ii), the provisions of Article 209-5, paragraph (2) of that Act apply mutatis mutandis to the case where a judicial decision for confiscation of the claim to be confiscated with regard to the crime set forth in Article 18, item (ii) has become final and binding, and the provisions of Article 209-6 of that Act apply mutatis mutandis to the case of commissioning a relevant organization to make registration of transfer of the right based on a judicial decision for confiscation, with regard to the crime set forth in Article 18, item (ii), of property that requires registration of transfer of a right.

(Special Provisions on Criminal Compensation)

Article 27 With regard to the contents of compensation under the Criminal Compensation Act (Act No. 1 of 1950) for execution of compensation of a Claim, etc. to be confiscated with regard to the crime set forth in Article 18, item (ii), the provisions of Article 4, paragraph (6) of that Act apply mutatis mutandis.