

# Enforcement Order of the Limited Partnership Act for Investment

(Cabinet Order No. 235 of June 24, 1998)

(Bonds Equivalent to Bond with Share Options)

Article 1 The bonds to be prescribed by Cabinet Order pursuant to Article 3 (1)(ii) of the Limited Partnership Act for Investment (Act No. 90 of 1998; hereinafter referred to as the "Act") are to be those that a person, who issues share options, offers and allocates together with the relevant share options.

(Designated Securities)

Article 2 The securities to be prescribed by Cabinet Order pursuant to Article 3 (1)(iii) of the Act as contributing to the procuring of capital by an Enterprise are to be the following:

- (i) the bonds prescribed in the Securities and Exchange Act (Act No. 25 of 1948) Article 2 (1)(iv) (excluding bond with share options, etc., as prescribed in Article 3 (1)(ii) of the Act; hereinafter simply referred to as "bond with share options, etc.");
- (ii) promissory notes as set forth in the Securities and Exchange Act Article 2 (1)(viii); and
- (iii) rights that are to be represented in securities as prescribed in the preceding two items, that are deemed to be securities pursuant to Securities and Exchange Act Article 2 (2).

(Period of Holding of Specified Designated Securities)

Article 3 The period to be prescribed by Cabinet Order pursuant to Article 3 (1)(iii) of the Act is to be six months.

(Period of Holding of Specified Monetary Claims)

Article 4 The period to be prescribed by Cabinet Order pursuant to Article 3 (1)(iv) of the Act is to be six months.

(Specified Small and Medium Sized Enterprises)

Article 5 A person to be prescribed by Cabinet Order pursuant to Article 3 (1)(vii) of the Act is to be any of the following persons:

- (i) a stock company which is a Small or Medium Sized Enterprise (meaning a person as set forth in each item of Article 2 (1) of the Small and Medium-sized Enterprise Basic Act (Act No. 154 of 1963); the same applies in (ii) below) or other stock company that is covered by any of the following, which

is not listed on a securities exchange as prescribed in the Securities Exchange Act Article 2 (16), and is a stock company which issues share that are not registered in the registry of over-the-counter traded securities as prescribed in Article 75 (1) of the same Act:

- (a) The amount of capital is not more than 500 million yen;
- (b) The number of regularly hired employees is not more than 1,000;
- (c) The total amount stated in the liabilities section of its final balance sheet is not more than 20 billion yen;
- (d) If the ratio of the amount set forth in (1) below to the amount set forth in (2) below exceeds three percent in the previous business year:
  - 1. the total of the testing and research expenses as well as the development expenses set forth in Article 14 (1)(v) of the Order for the Enforcement of the Corporation Tax Act (Cabinet Order No. 97 of 1965); and
  - 2. the balance of gross income minus income from transfer of fixed assets, or securities as prescribed in Article 2 (xxi) of the Corporation Tax Act (Act No. 34 of 1965).
- (e) An entity (i) of which less than one year has passed since its incorporation, (ii) which has at least two full time researchers, and (iii) of which the number of full time researchers is at least 10 percent of the total of full time officers and employees thereof.
- (ii) an incorporated general partnership (gomei kaisha), incorporated limited partnership (goshi kaisha), a limited liability company (yugen kaisha) or an individual which constitutes a small and medium-sized enterprise; or
- (iii) enterprise cooperatives (kigyo kumiai) or a cooperative partnership (kyogyo kumiai).

(Ratio of Contributions for Investment Partnership Into One Investment Partnership, or Investment Business Operator)

Article 6 The ratio to be prescribed by Cabinet Order pursuant to Article 3 (1)(ix) of the Act is to be 50/100.

(Person Who Is in the Position of Having Substantial Control Over the Execution of the Business of an Investment Limited Partnership)

Article 7 (1) An Investment Partnership, Etc., to be prescribed by Cabinet Order pursuant to Article 3 (1)(ix)(a) of the Act is to be any of the following:

- (i) an investment partnership, etc., in which a person who holds a majority of the votes of all shareholders in a stock company that is unlimited liability partner in an Investment Limited Partnership (or one of the unlimited liability partners if there is more than one unlimited liability partners; the same applies hereinafter) executes the business thereof; or
- (ii) an investment partnership, etc., in which a person who holds the majority

of the votes of all equity members of a limited liability company that is the unlimited liability partner in an investment limited partnership executes the business thereof.

(2) The persons to be prescribed by Cabinet Order pursuant to Article 3 (1)(ix)(b) of the Act is to be a person prescribed below:

- (i) a person who holds a majority of the votes of all shareholders in a stock company that is the unlimited liability partner in an investment limited partnership; or
- (ii) a person who holds a majority of the votes of all equity members of a limited liability company that is an unlimited liability partner in an investment limited partnership.

(Ancillary Business)

Article 8 The business activities to be prescribed by Cabinet Order pursuant to Article 3 (1)(x) of the Act are to be the business of engaging in the purchase, sale, exchange or lease, or broking or intermediation of, real estate or movable property in which a security interest is created in respect of rights that are represented by designated securities as prescribed in Article 3 (1)(ii) thereof or monetary claims as prescribed in Article 3 (1)(iv) thereof (which in the case that the objective of the security interest is land includes neighboring land to the relevant land, and in the event that the object of the security interest is a building includes the land and neighboring land on which said building is located).

(Acquiring Shares Issued by a Foreign Corporation)

Article 9 The business activities set forth in Article 3 (1)(xi) of the Act must be conducted as set forth in the partnership agreement, limited to an extent in which the ratio of the total of the market value of the contributions pursuant to Article 3 (1)(ix) of the Act and the market value of the acquisition set forth in Article 3 (1)(xi)(a) thereof as well as the market value of the contributions pursuant to Article 3 (1)(xi)(b) thereof is less than 50/100 of the total capital contribution of all partners.

(Manner of Investment of Surplus Funds)

Article 10 The manner to be prescribed by Cabinet Order pursuant to Article 3 (1)(xii) of the Act is to be the following:

- (i) deposits with banks or other financial institutions, or postal savings;
- (ii) acquisition of Japanese government bonds, local government bonds or bonds guaranteed by the government (meaning bonds for which the government guarantees payment of the principal and interest) or issued by a bank or other financial institution;

- (iii) acquisition of bonds issued by a juridical person that is incorporated under a special law (excluding those bonds set forth in the preceding item);
- (iv) money trusts in a bank that engages in the trust business, or a trust company;
- (v) acquiring beneficiary certificates in investment trusts or loan trusts;
- (vi) acquiring monetary claims that are represented by any of the following certificates:
  - (a) Negotiable certificates of deposit; and
  - (b) Promissory notes as set forth in Securities and Exchange Act Article 2 (1)(viii) (limited to those that are specified designated securities as set forth in Article 3 (1)(iii) of the Act).
- (vii) acquiring bonds that a foreign government, local government, international organization, foreign government affiliated institution (meaning an institution in which the main equity investor is the government of the country in which the head office or principle office of the institution is located), a juridical person in which a local government of a foreign country is the main equity investor, or a foreign bank or other financial institution issues or guarantees the debts thereof.

(Total Number of Partners)

Article 11 The number to be prescribed by Cabinet Order pursuant to Article 3 (4) of the Act is to be 100 individuals; provided, however, that in a specified partnership as prescribed in Article 6-2 (1) of the Act (which in Article 13 is referred to simply as a "specified partnership") the number of partners other than qualified institutional investors (meaning qualified institutional investors as set forth in Article 2 (3)(i) of the Securities and Exchange Act; the same applies to Article 13 (i) hereof) must not exceed 49 individuals.

(Business of Acquiring Shares of Unlisted Small or Medium Sized Enterprises)

Article 12 The business to be prescribed by Cabinet Order pursuant to Article 6-2 (1) of the Act is to be the following:

- (i) acquiring and holding of shares issued by joint share companies (limited to a specified small and medium-sized enterprise, etc., as prescribed in Article 3 (1)(vii) of the Act (hereinafter simply referred to as "specified small and medium-sized enterprise , etc."; the same applies to the following item)) upon their establishment as well as acquiring and holding of equity shares of a limited liability company (limited to a specified small and medium-sized enterprise, etc.; the same applies to the following item) or enterprise cooperatives upon their establishment;
- (ii) acquiring and holding of shares, share options or bond with share options, etc., issued by a stock company, or equity shares issued by a limited liability

- company or enterprise cooperatives;
- (iii) acquiring and holding of shares, share options, and bond with share options, etc. issued by a stock company (excluding a specified small and medium-sized enterprise, etc.; the same applies to item (ix)) in which the investment limited partnership (hereinafter referred to in this Article (hereinafter referred to as "partnership" in this Article (excluding item (xii))) holds shares, share options, and bond with share options, etc. of the stock company or an equity interest in a limited liability company (excluding a specified small and medium-sized enterprise, etc.; the same applies to item (ix)) in which the partnership holds an equity interest, pursuant to the preceding two items;
  - (iv) in the event that a share held company (meaning a stock company, etc. (meaning a stock company or a limited liability company; the same applies hereinafter in this item, the following item and item (viii)) in which the partnership holds shares, share options or bond with share options, etc., or an equity share pursuant to the three preceding items; the same applies hereafter.) ceases to exist as a result of a merger-acquiring and holding shares or equity shares allocated by the surviving company (meaning a stock company, etc., that survives after the merger or a stock company, etc., that is incorporated as a result of the merger, and is neither a specified small and medium-sized enterprise, etc., nor a share held company; the same applies in the following item) or share options or bond with share options, etc., in respect of which the surviving company (limited to a stock company) has assumed the obligation thereof;
  - (v) if a share held company transfers its business to a successor company (meaning a stock company, etc., incorporated as a result of incorporation-type company split, or a stock company, etc., that assumes the business as a result of an absorption-type company split, and is neither specified small and medium-sized enterprise, etc. nor a share held company; the same applies in this item) as a result of a corporate separation -acquiring and holding of shares or equity shares that the successor company allocates to shareholders of the share held company at the time of the corporate separation, or share options or bond with share options, etc. in respect of which the successor company (limited to a stock company) has assumed the obligation thereof;
  - (vi) if a share held company (limited to a stock company; the same applies to the this item) becomes a wholly owned subsidiary (meaning a wholly owned subsidiary as set forth in Commercial Code (Act No. 48 of 1899) Article 352 (1); the same applies in item (viii)) as a result of a share-for-share exchange or a share transfer-the acquiring and holding of shares that the specified wholly owning parent company (meaning the stock company that becomes a wholly owning parent company (meaning a wholly owning parent company as

- set forth in said paragraph; the same applies hereinafter in this item) through the exchange of shares or the wholly owning parent company incorporated through the transfer of shares and which is a stock company other than a specified small and medium-sized enterprise, etc. or a share held company; hereinafter the same applies in this item) allocates as a result of the exchange of shares or the transfer of shares, or the share options in respect of which the specified wholly owning parent company has assumed the obligation thereof;
- (vii) making of new cash loans to a share held company, etc. (meaning a share held company or enterprise cooperatives in which the partnership holds an equity interest; the same applies hereinafter in this item) and the holding of monetary claims in connection with the relevant loans;
  - (viii) in the event of monetary claims that the partnership holds pursuant to the preceding item, the holding of monetary claims, the obligations of which, in the event the share held company disappears as a result of a merger, the surviving company (meaning a stock company, etc., that survives after the merger, or a stock company, etc., incorporated as a result of the merger, that is other than a share held company) assumes, or in the event a successor company (meaning a stock company, etc. that is incorporated as a result of incorporation-type company split or a stock company, etc. that assumes the business as a result of an absorption-type company split, that is other than a share held company; the same applies hereinafter in this item) assumes the business pursuant to a corporate separation, the successor company assumes, or those against a wholly owned subsidiary in the event that the share held company (limited to a stock company) becomes the wholly owned subsidiary as a result of an exchange of share or a transfer of share;
  - (ix) acquiring and holding of industrial property rights or copyrights held by a specified small and medium-sized enterprise, etc., or a stock company or a limited liability company as prescribed in item (iii) (including granting a license to use the rights relating thereto);
  - (x) acquiring and holding of equity investment in an silent partnership (tokumei kumiai) Agreement (meaning an silent partnership agreement under Article 535 of the Commercial Code; the same applies hereinafter) of which a party is a specified small and medium-sized enterprise, etc. (other than a person who engages in the investment business) or beneficial interest (limited to rights to receive distributions of earnings or profits arising from a business carried on by a specified small and medium-sized enterprise, etc.);
  - (xi) provisions of management-related advice or technical guidance to a specified small and medium-sized enterprise, etc. in which the partnership owns shares, equity interest, share options, bond with share options, etc., monetary claims, industrial property, copyrights or beneficial interest of

- trust pursuant to any of the preceding items;
- (xii) the following business activities conducted in the manner set forth in the partnership agreement, to the extent that there is no hindrance to the conduct of business activities set forth in each of the preceding items, and limited to an extent in which the ratio of the total of the price of acquisition as set forth in (a) below and the market value of contributions as set forth in (b) below is less than 50/100 of the total capital contribution of all partners:
- (a) Acquiring and holding of shares, share options, bond with share options, etc., and similar instruments that are issued by a foreign corporation whose share that it issues is not listed on a share exchange as set forth in Securities and Exchange Act Article 2 (16) or a similar exchange located in a foreign country, and is not registered in the over-the-counter traded securities registry as prescribed in Article 75 (1) of the same Act or a similar registry located in a foreign country.
  - (b) Investment in an investment limited partnership or a partnership formed by a partnership agreement as set forth in Civil Code (Act No. 89 of 1896) Article 667 (1) that promises to carry on the investment business or similar organization located in a foreign country that is similar to one of these partnerships, or contributions pursuant to a silent partnership in which the other party is a person carrying on the investment business.
- (xiii) investment of surplus funds in the course of business to be made in a manner listed below in order to accomplish the purposes of the partnership agreement:
- (a) deposits with banks or other financial institutions, or postal savings;
  - (b) Acquisition of Japanese government bonds, local government bonds or bonds guaranteed by the government (meaning bonds for which the government guarantees payment of the principal and interest) or issued by a bank or other financial institution;
  - (c) Acquisition of bonds issued by a juridical person that is incorporated under a special law (excluding those bonds set forth in the preceding (b));
  - (d) Money trusts in a bank that engages in the trust business, or a trust company;
  - (e) Acquiring beneficiary certificates in investment trusts or loan trusts;
  - (f) Acquiring monetary claims that are represented by negotiable certificates of deposit as well as promissory notes set forth in Securities Exchange Act Article 2 (1)(viii); and/or
  - (g) Acquiring bonds that a foreign government, local government, international organization, foreign government affiliated institution (meaning an institution in which the main equity investor is the government of the country in which the head office or principle office of the institution is located), a juridical person in which a local government of a

foreign country is the main equity investor, or a foreign bank or other financial institution issues or guarantees the debts thereof.

(Persons Qualified to Be a Partner of a Specified Partnership)

Article 13 The persons to be prescribed by Cabinet Order pursuant to Article 6-2

(1) of the Act are to be persons covered by the following:

- (i) qualified institutional investors;
- (ii) companies whose total amount of capital or contributions is at least 100 million yen;
- (iii) partnerships formed by a partnership agreement as prescribed in Civil Code Article 667 (1) that promises to carry on the investment business (limited to partnerships in which all of the partners are persons as set forth in the preceding two items or the following item through item (vii)) as well as proprietors in connection with an silent partnership agreement (limited to persons who carry on the investment business and for whom all persons who make contributions pursuant to an silent partnership for the purpose of the investment business with the other party as the proprietor are listed in the preceding two items as well as the next item through item (vii));
- (iv) an incorporated educational institution set forth in Article 4 (iii) and (v) of the Private Schools Act (Act No. 270 of 1949);
- (v) a person who is equivalent to a person set forth in any of the preceding items under laws and regulations of a foreign state;
- (vi) an association in a foreign country that is similar to an Investment Limited Partnership;
- (vii) the Japan Small and Medium Enterprise Corporation; or
- (viii) an officer or employee of the juridical person in the event that the relevant juridical person is an unlimited liability partner of the specified partnership.