

# **Trust Business Act**

(Act No. 154 of December 3, 2004)

The Trust Business Act (Act No. 65 of 1922) is hereby amended in its entirety.

Chapter I General Provisions (Articles 1 and 2)

Chapter II Trust Companies

Section 1 General Provisions (Articles 3 to 16)

Section 2 Major Shareholders (Articles 17 to 20)

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Chapter III Foreign Trust Business Operators (Articles 53 to 64)

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Chapter V Trust Agreement Agents

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Supplementary Provisions

## **Chapter I General Provisions**

(Purpose)

Article 1 The purpose of this Act is to protect the settlors and beneficiaries of trusts by providing for the necessary particulars in connection with persons engaging in trust business and other persons, so as to ensure fairness in the acceptance of trusts and other transactions, thereby contributing to the sound development of the national economy.

(Definitions)

- Article 2 (1) The term "trust business" as used in this Act means the business of accepting trusts (other than the acceptance of a trust which constitutes the receipt of deposits of money that will be allocated to cover the costs of other transactions and other than that which is incidental to other transactions, and is specified by Cabinet Order as the acceptance of a trust that, in consideration of the details thereof and other factors, is found not to compromise the protection of the settlor or beneficiary; the same applies hereinafter).
- (2) The term "trust company" as used in this Act means a person licensed by the Prime Minister as referred to in Article 3 or registered by the Prime Minister as referred to in Article 7, paragraph (1).
- (3) The term "custodial trust business" as used in this Act means the business of accepting only trusts that fall under one of the following items:
- (i) trusts whose property is managed or disposed of (or is subject to any action as may be necessary for achieving the purpose of the trust; the same applies hereinafter) based on instructions from the settlor or the person entrusted with the authority to give instructions by the settlor, alone (but only if the settlor or the person entrusted with the authority to give instructions by the settlor is other than a person that Cabinet Order prescribes as being closely related to the trustee through shareholdings or a personal relationship);
  - (ii) trusts whose trust property is only subject to preservation or is only subject to use or improvements to an extent that does not change the nature of the property.
- (4) The term "custodial trust company" as used in this Act means a person registered by the Prime Minister as referred to in Article 7, paragraph (1).
- (5) The term "foreign trust business operator" as used in this Act means a person (but not a trust company) engaged in trust business in a foreign country in accordance with that country's laws and regulations.
- (6) The term "foreign trust company" as used in this Act means a person licensed by the Prime Minister as referred to in Article 53, paragraph (1) or registered by the Prime Minister as referred to in Article 54, paragraph (1).
- (7) The term "foreign custodial trust company" as used in this Act means a person registered by the Prime Minister as referred to in Article 54, paragraph (1).
- (8) The term "trust agreement agency services" as used in this Act means the business of acting as an agent (but only acting as an agent for a trust company or a foreign trust company) or intermediary for the conclusion of a trust agreement (but not if the trustee of the trust that is based on that trust agreement is the issuer of a beneficial interest in the trust (including securities or a certificate representing the relevant beneficial interest) (meaning an

issuer as prescribed in Article 2, paragraph (5) of the Financial Instruments and Exchange Act (Act No. 25 of 1948))).

- (9) The term "trust agreement agent" as used in this Act means a person registered by the Prime Minister as referred to in Article 67, paragraph (1).
- (10) The term "designated dispute resolution organization" as used in this Act means a person designated as under Article 85-2, paragraph (1).
- (11) The term "trust business subject to dispute resolution procedures" as used in this Act means as follows:
- (i) the trust business in which a trust company or foreign trust company is engaged; the operations in which the relevant company engages pursuant to the provisions of Article 21, paragraph (1) (including as applied mutatis mutandis pursuant to Article 63, paragraph (2)); and trust agreement agency services in which a trust agreement agent engages for the relevant trust company or foreign trust company;
  - (ii) the trust business in which a person registered as referred to in Article 52, paragraph (1) is engaged and the operations in which a person so registered engages pursuant to the provisions of Article 21, paragraph (1);
  - (iii) processes connected with a trust that has been established in the way that is set forth in Article 3, item (iii) of the Trust Act (Act No. 108 of 2006), which a person registered as referred to in Article 50-2, paragraph (1) carries out; and operations for the purchase and sale, etc. of a beneficial interest in a trust (meaning operations connected with the purchase and sale, etc. of a beneficial interest in a trust as prescribed in Article 65-5, paragraph (1) of the Financial Instruments and Exchange Act; the same applies hereinafter) in which a person so registered engages.
- (12) The term "complaint processing procedures" as used in this Act means the process of processing a complaint involving trust business subject to dispute resolution procedures (meaning a complaint that involves trust business subject to dispute resolution procedures; the same applies in Article 85-7, Article 85-8 and Article 85-12).
- (13) The term "dispute resolution procedures" as used in this Act means the process of resolving a dispute involving trust business subject to dispute resolution procedures (meaning a dispute that involves trust business subject to dispute resolution procedures and that the parties are able to settle amicably; the same applies in Article 85-7, Article 85-8, and Article 85-13 through Article 85-15) without recourse to court proceedings.
- (14) The term "dispute resolution services" as used in this Act means services involved in complaint processing procedures and dispute resolution procedures and services incidental thereto.
- (15) The term "basic contract for the implementation of dispute resolution procedures" as used in this Act means an agreement concluded between a

designated dispute resolution organization and a trust company or similar person (meaning a trust company, foreign trust company, person registered as referred to in Article 50-2, paragraph (1), or person registered as referred to in Article 52, paragraph (1); the same applies in Chapter V-2) regarding the implementation of dispute resolution services.

## **Chapter II Trust Companies**

### **Section 1 General Provisions**

(License)

Article 3 A person may not engage in trust business unless licensed by the Prime Minister.

(Application for License)

Article 4 (1) A person seeking to be licensed as referred to in the preceding Article must submit a written application to the Prime Minister giving the following information:

- (i) its trade name;
- (ii) its amount of stated capital;
- (iii) the names of its directors and company auditors (meaning its directors, if it is a company with audit and supervisory committee and meaning its directors and executive officers, if it is a company with nominating committee, etc.; the same applies in Article 8, paragraph (1));
- (iv) the names of its accounting advisors, if it is a company with accounting advisors;
- (v) if it is engaged in operations other than trust business, the type of operations;
- (vi) the names and locations of its head office and other business offices.

(2) The following documents must accompany the written application referred to in the preceding paragraph:

- (i) the person's articles of incorporation;
- (ii) a certificate of the company's registered information;
- (iii) a business rules;
- (iv) a balance sheet;
- (v) a document showing expected income and expenditures;
- (vi) documents prescribed by Cabinet Office Order.

(3) The business rules referred to in item (iii) of the preceding paragraph must give the following information:

- (i) the type of trust property that will be accepted;
- (ii) how trust property will be managed or disposed of;
- (iii) how trust property will be managed separately from other property;

- (iv) the system for implementing trust business;
- (v) if the person seeking license entrusts a third party with a part of the trust business, the details of the trust business with which it will entrust the third party, as well as criteria and procedures for selecting the person to entrust with those business (unless it entrusts a person with operations as set forth in the items of Article 22, paragraph (3));
- (vi) if it engages in operations for the purchase and sale, etc. of beneficial interests in trusts or electronic payment instruments-related business (meaning electronic payment instruments-related business prescribed in Article 2, paragraph (11) of the Payment Services Act (Act No. 59 of 2009) which a specified trust company prescribed in Article 2, paragraph (27) of that Act that has made a notification referred to in Article 37-2, paragraph (3) of that Act engages in by making a notification referred to in Article 62-8, paragraph (3) of that Act (limited to those operations related to specified beneficial interests in trusts prescribed in Article 2, paragraph (9) of that Act); the same applies in Article 21, paragraph (1) and Article 93, item (iii)), the system for implementing those operations;
- (vii) the information prescribed by Cabinet Office Order.

(Licensing Criteria)

Article 5 (1) If an application is filed for license as referred to in Article 3, the Prime Minister must examine whether the person filing the application (referred to as the "applicant" in the following paragraph) conforms to the following criteria:

- (i) the provisions of its articles of incorporation and its business rules conform to laws and regulations and are also sufficient to allow it to perform trust business properly;
  - (ii) the applicant has a sufficient financial basis to soundly perform trust business;
  - (iii) in light of its personnel structure, the applicant has the knowledge and experience to unerringly perform trust business, and also has sufficient social credibility.
- (2) If an applicant falls under a category referred to in one of the following items, or if the written application referred to in paragraph (1) of the preceding Article or an accompanying document set forth in one of the items of paragraph (2) of that Article gives false statements or omits a material fact, the Prime Minister must not license the applicant:
- (i) a person that is not a stock company (meaning a stock company that has the following organs):
    - (a) a board of directors;
    - (b) company auditors, an audit and supervisory committee, or a nominating

- committee, etc. (meaning a nominating committee, etc. as prescribed in Article 2, item (xii) of the Companies Act (Act No. 86 of 2005));
- (ii) a stock company whose stated capital is less than the amount that Cabinet Order prescribes as necessary and appropriate for settlors' or beneficiaries' protection;
  - (iii) a stock company whose net assets are less than the amount prescribed in the preceding item;
  - (iv) a stock company seeking to use a trade name identical to one that another trust company is already using or a trade name that is likely to cause the stock company to be mistaken for another trust company;
  - (v) a stock company that has been denied renewal of registration as referred to in Article 7, paragraph (3) pursuant to the provisions of Article 10, paragraph (1); whose license as referred to in Article 3 has been revoked pursuant to the provisions of Article 44, paragraph (1); whose registration as referred to in Article 7, paragraph (1), Article 50-2, paragraph (1), or Article 52, paragraph (1) has been revoked pursuant to the provisions of Article 45, paragraph (1); that has been denied renewal of registration as referred to in Article 7, paragraph (3) as applied mutatis mutandis pursuant Article 50-2 paragraph (2), in accordance with paragraph (6) of that Article; whose registration as referred to in Article 67, paragraph (1) has been revoked pursuant to the provisions of Article 82, paragraph (1); whose license as referred to in Article 3 of the Secured Bonds Trust Act (Act No. 52 of 1905) has been revoked pursuant to the provisions of Article 12 of that Act; or whose authorization as referred to in Article 1, paragraph (1) of the Act on Engagement in Trust Business by Financial Institutions (Act No. 43 of 1943) has been revoked pursuant to the provisions of Article 10 of that Act; or a stock company that had obtained the same kind of license, registration, or authorization in a foreign state pursuant to the provisions of a foreign law or regulation that is equivalent to this Act, the Secured Bonds Trust Act, or the Act on Engagement in Trust Business by Financial Institutions (including permission or any other administrative disposition similar to the license, registration, or authorization; hereinafter the same applies in this item, item (viii), (d), and item (x), (a)) but that has had that license, registration, or authorization revoked or has been denied a renewal of its license, registration, or authorization; if it has not yet been five years since the date of the revocation(or since the day on which the disposition denying a renewal was issued, if the stock company has been denied a renewal; the same applies in item (viii), (d), (e), and (f) and item (x), (a));
  - (vi) a stock company that has been sentenced to a fine (or become subject to an equivalent sentence under a foreign law or regulation) for violating the provisions of this Act, the Trust Act, the Secured Bonds Trust Act, the Act on

- Engagement in Trust Business by Financial Institutions, the Financial Instruments and Exchange Act, the Act on Investment Trusts and Investment Corporations (Act No. 198 of 1951), the Act on Regulations of Business Related to Commodity Investment (Act No. 66 of 1991), the Act on Liquidation of Assets (Act No. 105 of 1998), the Copyright Management Business Act (Act No. 131 of 2000), or any other law specified by Cabinet Order, or a foreign law or regulation that is equivalent thereto, if it has not yet been five years since the day that the sentence was completed or that the stock company ceased to be subject to its enforcement;
- (vii) a stock company whose other operations are unrelated to trust business, or a stock company whose engagement in other operations is found likely to interfere with its proper and reliable engagement in trust business;
  - (viii) a stock company that has a person falling under one of the following as a director or executive officer (this includes an adviser, consultant, or any other person, irrespective of title, that is found to have at least the same authority over the company as a director or executive officer; hereinafter the same applies in this item, Article 44, paragraph (2), Article 45, paragraph (2) and Article 50-2, paragraph (6), item (viii)), accounting advisor, or company auditor:
    - (a) a person specified by Cabinet Office Order as being unable to properly perform their duties subject to trust business due to mental or physical disorder;
    - (b) a person who has not had their rights restored after receiving an order to commence bankruptcy proceedings, or any person that is treated in the same manner under a foreign law or regulation;
    - (c) a person that has been sentenced to imprisonment without work or a heavier punishment (or become subject to an equivalent sentence under a foreign law or regulation), if it has not yet been five years since the day that the sentence was completed or that the stock company ceased to be subject to its enforcement;
    - (d) a person that was a director, executive officer, accounting advisor, or equivalent person, or a domestic representative (meaning a domestic representative as prescribed in Article 53, paragraph (2)) of a corporation within 30 days before the date on which it was denied renewal of registration as referred to in Article 7, paragraph (3) pursuant to the provisions of Article 10, paragraph (1); its license as referred to in Article 3 was revoked pursuant to the provisions of Article 44, paragraph (1); its registration as referred to in Article 7, paragraph (1), Article 50-2, paragraph (1), or Article 52, paragraph (1) was revoked pursuant to the provisions of Article 45, paragraph (1); it was denied renewal of registration as referred to in Article 7, paragraph (3) as applied mutatis

mutandis pursuant Article 50-2, paragraph (2), in accordance with paragraph (6) of that Article; it was denied renewal of registration as referred to in Article 7 paragraph (3) as applied mutatis mutandis pursuant Article 54, paragraph (2), in accordance with paragraph (6) of that Article; its license referred to in Article 53, paragraph (1) was revoked pursuant to the provisions of Article 59, paragraph (1); its registration as referred to in Article 54, paragraph (1) was revoked pursuant to the provisions of Article 60, paragraph (1); its registration as referred to in Article 67, paragraph (1) has been revoked pursuant to the provisions of Article 82, paragraph (1); its license as referred to in Article 3 of the Secured Bonds Trust Act was revoked pursuant to the provisions of Article 12 of that Act; its authorization as referred to in Article 1, paragraph (1) of the Act on Engagement in Trust Business by Financial Institutions was revoked pursuant to the provisions of Article 10 of that Act; or the same kind of license, registration, or authorization that it obtained in a foreign state was revoked or it was denied a renewal of that license, registration, or authorization pursuant to the provisions of a foreign law or regulation that is equivalent to this Act, the Secured Bonds Trust Act, or the Act on Engagement in Trust Business by Financial Institutions; if it has not yet been five years since the date of revocation;

- (e) a person whose registration as referred to in Article 67, paragraph (1) has been revoked pursuant to the provisions of Article 82, paragraph (1), if it has not yet been five years since the date of revocation;
- (f) a person that had obtained the same kind of registration as registration as referred to in Article 67, paragraph (1) in a foreign state pursuant to the provisions of a foreign law or regulation that is equivalent to this Act, but that has had that registration revoked or has been denied a renewal of that registration, if it has not yet been five years since the date of revocation;
- (g) a director, executive officer, accounting advisor, or company auditor whose dismissal has been ordered pursuant to the provisions of Article 44, paragraph (2) or Article 45, paragraph (2); a domestic representative or branch office's officer-in-residence whose dismissal has been ordered pursuant to the provisions of Article 59, paragraph (2) or Article 60, paragraph (2); an officer whose dismissal has been ordered pursuant to the provisions of Article 82, paragraph (2); or a director, executive officer, accounting advisor, company auditor, or equivalent person whose dismissal has been ordered pursuant to the provisions of a foreign law or regulation that is equivalent to this Act; if it has not yet been five years since the date the person became subject to that disposition;
- (h) a person that has been sentenced to a fine (or become subject to an equivalent sentence under a foreign law or regulation) for violating the

provisions of one of the laws prescribed in item (vi), the Companies Act, or any equivalent foreign law or regulation; for committing an offense referred to in Article 204, Article 206, Article 208, Article 208-2, Article 222, or Article 247 of the Penal Code (Act No. 45 of 1907); for committing an offense referred to in the Act on Punishment of Violent Acts (Act No. 60 of 1926); or for committing an offense referred to in Article 46 through Article 49, or Article 50 (but only the part that involves item (i)) or Article 51 of the Act to Prevent Act to Prevent Illegal Activities by Members of Organized Crime Groups (Act No. 77 of 1991); if it has not yet been five years since the day that the sentence was completed or that the person ceased to be subject to its enforcement;

(ix) a stock company that has a person falling under one of the following as a major shareholder, if the major shareholder is an individual (if the applicant is the subsidiary company of a holding company (meaning a holding company as prescribed in Article 9, paragraph (4), item (i) of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947); the same applies hereinafter), this includes the major shareholders of the holding company; the same applies in the following item):

(a) a person specified by Cabinet Office Order as being unable to properly exercise the right of a shareholder due to mental or physical disorder (for a person who assigns an agent for the exercise of the right of a shareholder due to mental or physical disorder, limited to cases where the agent is a person specified by Cabinet Office Order or a person falling under one of clauses (b) through (h) of the preceding item);

(b) a person falling under any clause of (b) through (h) of the preceding item;

(x) a stock company that has a person falling under one of the following as a major shareholder, if that major shareholder is a corporation:

(a) a person that has been denied renewal of registration as referred to in Article 7, paragraph (3) pursuant to the provisions of Article 10, paragraph (1); whose license as referred to in Article 3 has been revoked pursuant to the provisions of Article 44, paragraph (1); whose registration as referred to in Article 7, paragraph (1), Article 50-2, paragraph (1), or Article 52, paragraph (1) has been revoked pursuant to the provisions of Article 45, paragraph (1); that has been denied renewal of registration as referred to in Article 7, paragraph (3) as applied mutatis mutandis pursuant to Article 50-2, paragraph (2) in accordance with paragraph (6) of that Article; that has been denied renewal of registration as referred to in Article 7 paragraph (3) as applied mutatis mutandis pursuant to Article 54, paragraph (2) in accordance with paragraph (6) of that Article; whose license Article 53, paragraph (1) has been revoked pursuant to the provisions of Article 59, paragraph (1); whose registration as referred to in

Article 54, paragraph (1) has been revoked pursuant to the provisions of Article 60, paragraph (1); whose registration as referred to in Article 67, paragraph (1) has been revoked pursuant to the provisions of Article 82, paragraph (1); whose license as referred to in Article 3 of the Secured Bonds Trust Act has been revoked pursuant to the provisions of Article 12 of that Act; or whose authorization as referred to in Article 1, paragraph (1) of the Act on Engagement in Trust Business by Financial Institutions has been revoked pursuant to the provisions of Article 10 of that Act; or a person that had obtained the same kind of license, registration, or authorization in a foreign state but that has had that license, registration, or authorization pursuant to the provisions of a foreign law or regulation that is equivalent to this Act, the Secured Bonds Trust Act, or the Act on Engagement in Trust Business by Financial Institutions; if it has not yet been five years since the date of revocation;

- (b) a person that has been sentenced to a fine (or become subject to an equivalent sentence under a foreign law or regulation) for violating the provisions of one of the laws prescribed in item (vi) or any equivalent foreign law or regulation, if it has not yet been five years since the day that the sentence was completed or that the person ceased to be subject to its enforcement;
- (c) a corporation that has a person falling under one of the following as its representative director or executive officer, accounting advisor, company auditor, or equivalent person.
  - 1. a person specified by Cabinet Office Order as being unable to properly exercise the right of a shareholder due to mental or physical disorder;
  - 2. a person falling under any clause of (b) through (h) of item (viii).
- (3) The amount that Cabinet Order prescribes which is referred to in item (ii) of the preceding paragraph must not be less than one hundred million yen.
- (4) The amount of net assets referred to in paragraph (2), item (iii) is to be calculated pursuant to the provisions of Cabinet Office Order.
- (5) The term "major shareholder", as used in in paragraph (2), items (ix) and (x), means a person that holds a number of voting rights (this includes voting rights in respect of shares that cannot be asserted against the issuer pursuant to the provisions of Article 147, paragraph (1) or Article 148, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (Act No. 75 of 2001), and excludes voting rights that Cabinet Office Order prescribes in consideration of the manner in which they are held and other circumstances; hereinafter referred to as "subject voting rights" in this Article and Article 17, paragraph (1)) which constitutes 20 percent or more (or 15 percent or more, if a factual circumstance exists that is prescribed by Cabinet Office Order as something that is presumed to materially influence decisions about the

company's financial and operational policies) of all shareholders' or investors' voting rights in the company (if it is a stock company, this excludes voting rights in respect of shares that do not allow voting rights to be exercised with regard to all matters that can be resolved at a shareholders meeting, but includes voting rights in respect of shares that are deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act; the same applies hereinafter).

- (6) The term "subsidiary company", as used in paragraph (2), item (ix), means a company in which another company holds the majority of all shareholders' voting rights. In this case, if a first company and one or more of its subsidiary companies hold the majority of all shareholders' voting rights in a second company, or if one or more of a first company's subsidiary companies hold the majority of all shareholders' voting rights in a second company, the second company is deemed to be the subsidiary company of the first company.
- (7) To apply the provisions of paragraph (5) to a case as set forth in one of the following items, the person in question is deemed to hold the subject voting rights prescribed in the relevant item:
- (i) if a person has the authority to exercise subject voting rights in a company or the authority to give instructions for the exercise of those subject voting rights pursuant to a trust agreement or any other agreement or based on the provisions of the law: those subject voting rights;
  - (ii) if a person that is related to the person in question through shareholdings, a familial relationship, or any other special affiliation prescribed by Cabinet Order, holds subject voting rights in that company: the subject voting rights held by the person with the special affiliation to the person in question.
- (8) On finding that it is necessary to do so in light of the criteria for examination under the provisions of paragraph (1), the Prime Minister, within the scope of that necessity, may attach conditions to the license as referred to in Article 3 or make changes thereto.

#### (Reduction of Stated Capital)

Article 6 A trust company (other than a custodial trust company) must have the authorization of the Prime Minister to reduce the amount of its stated capital.

#### (Registration)

- Article 7 (1) Notwithstanding the provisions of Article 3, a person that has been registered by the Prime Minister may engage in custodial trust business.
- (2) The registration referred to in the preceding paragraph has a valid period of three years from the date of registration.
- (3) A person seeking to continue to engage in custodial trust business after the expiration of a registration's validity must apply for a renewal of registration

within the period prescribed by Cabinet Order.

- (4) Once a registration is renewed as referred to in the preceding paragraph, it has a valid period of three years which begins on the day after the expiration of the previous registration's validity.
- (5) A person seeking to have a registration renewed as referred to in paragraph (3) must pay a fee for this pursuant to the provisions of Cabinet Order.
- (6) If an application is filed to renew a registration as referred to in paragraph (3) but no disposition is reached on the application by the last day of the registration's validity, the existing registration remains valid even after its expiration until the disposition is reached.

(Applying for Registration)

Article 8 (1) A person seeking registration as referred to in paragraph (1) of the preceding Article (or seeking to renew a registration as referred to in paragraph (3) of that Article; the same applies in Article 10, paragraph (1), Article 45, paragraph (1), item (iii), and Article 91, item (iii)) (referred to as the "applicant" in Article 10, paragraph (1)) must submit a written application to the Prime Minister giving the following information:

- (i) its trade name;
  - (ii) its amount of stated capital;
  - (iii) the names of its directors and company auditors;
  - (iv) the names of its accounting advisors, if it is a company with accounting advisors;
  - (v) if it is engaged in operations other than trust business, the type of operations;
  - (vi) the names and locations of its head office and other business offices.
- (2) The following documents must accompany the written application referred to in the preceding paragraph:
- (i) the applicant's articles of incorporation;
  - (ii) a certificate of the company's registered information;
  - (iii) a business rules;
  - (iv) a balance sheet;
  - (v) documents prescribed by Cabinet Office Order.
- (3) The business rules referred to in item (iii) of the preceding paragraph must give the following information:
- (i) the type of trust property that will be accepted;
  - (ii) how trust property will be managed or disposed of;
  - (iii) how trust property will be managed separately from other property;
  - (iv) the system for implementing trust business;
  - (v) if the person seeking registration entrusts a third party with a part of the trust business, the details of the trust business with which it will entrust the

third party, as well as criteria and procedures for selecting the person to entrust with those services (unless it entrusts the third party with operations as set forth in the items of Article 22, paragraph (3));  
(vi) the information prescribed by Cabinet Office Order.

(Registration in the Register)

Article 9 (1) When an application is filed for registration as referred to Article 7, paragraph (1), the Prime Minister, if not refusing to register the applicant pursuant to the provisions of paragraph (1) of the following Article, must register the following information in the custodial trust companies register:  
(i) the information set forth in the items of paragraph (1) of the preceding Article;  
(ii) the date of registration and the registration number.  
(2) The Prime Minister must make the custodial trust companies register available for public inspection.

(Refusing Registration)

Article 10 (1) If an applicant falls under a category referred to in one of the following items, or if the written application referred to in Article 8, paragraph (1) or an accompanying document set forth in one of the items of paragraph (2) of that Article gives false statements or omits a material fact, the Prime Minister must refuse to register the applicant:  
(i) a person falling under one of the items of Article 5, paragraph (2) (other than item (ii) or (iii));  
(ii) a stock company whose stated capital is less than the amount that Cabinet Order prescribes as necessary and appropriate for settlors' or beneficiaries' protection;  
(iii) a stock company whose net assets are less than the amount prescribed in the preceding item;  
(iv) a stock company with provisions in its articles of incorporation or business rules that do not conform to laws and regulations or that are insufficient to allow it to properly perform custodial trust business;  
(v) a stock company that, in light of its personnel structure, is found not to have the knowledge and experience to unerringly perform custodial trust business.  
(2) The amount of net assets as referred to in item (iii) of the preceding paragraph is to be calculated pursuant to the provisions of Cabinet Office Order.

(Business Security Deposit)

Article 11 (1) A trust company must place a business security deposit on deposit

- with the closest official depository to its head office.
- (2) The amount of the business security deposit referred to in the preceding paragraph is the amount that Cabinet Order prescribes in consideration of the contents of trust business and the necessity of protecting the beneficiaries.
  - (3) If a trust company concludes a contract indicating that the required business security deposit will be deposited with an official depository on its behalf at the order of the Prime Minister and notifies the Prime Minister of this pursuant to the provisions of Cabinet Order, it is permissible for the trust company not to deposit all or part of the business security deposit referred to in paragraph (1), in the amount that the contract provides will be deposited on its behalf (hereinafter referred to as the "contract amount" in this Article) during the period that the contract is in effect.
  - (4) On finding that it is necessary to do so for the protection of the beneficiaries, the Prime Minister may order a party that has concluded a contract as referred to in the preceding paragraph with a trust company, or that trust company itself, to deposit all or part of the contract amount with an official depository.
  - (5) A trust company must not begin trust business until it has placed the business security deposit referred to in paragraph (1) on deposit (or concluded a contract as referred to in paragraph (3)) and has notified the Prime Minister of that effect.
  - (6) The beneficiary of a trust has the right to have its claims arising in connection with the trust settled out of the business security deposit of the trust company that is the trustee of that trust in preference over other creditors.
  - (7) The necessary particulars to allow for execution of the right referred to in the preceding paragraph are specified by Cabinet Order.
  - (8) If the amount of a business security deposit (or the contract amount; the same applies in paragraph (10)) comes to fall short of the amount that Cabinet Order prescribes which is referred to in paragraph (2), the trust company must deposit the shortfall (or conclude a contract as referred to in paragraph (3)) within three weeks from the day that Cabinet Office Order prescribes, and notify the Prime Minister of that effect without delay.
  - (9) Japanese government bond certificates, municipal bond certificates, and other securities that Cabinet Office Order prescribes (including book-entry bonds as prescribed in Article 278, paragraph (1) of the Act on the Book-Entry Transfer of Corporate Bonds and Shares) may be used to cover a business security deposit that is placed on deposit pursuant to the provisions of paragraph (1) or the preceding paragraph.
  - (10) If renewal of registration as referred to in an Article 7, paragraph (3) is not effected; if Article (3) license is revoked pursuant to the provisions of Article 44, paragraph (1); if registration as referred to in Article 7, paragraph (1) is

revoked pursuant to the provisions of Article 45, paragraph (1); or if license as referred to in Article 3 or registration as referred to in Article 7, paragraph (1) loses its validity pursuant to the provisions of Article 46, paragraph (1); and either the trust property is fully transferred to a new trustee or fully assigned to the person in which the rights to the trust property vest, or the amount of the business security deposit comes to exceed the amount that Cabinet Order prescribes which is referred to in paragraph (2), all or part of the business security deposit that has been placed on deposit pursuant to the provisions of paragraph (1), (4), or (8) may be refunded pursuant to the provisions of Cabinet Order.

(11) Beyond what is prescribed in each of the preceding paragraphs, Cabinet Office Order and Ministry of Justice Order provide for the necessary particulars in connection with business security deposits.

#### (Notification of Changes)

Article 12 (1) If there is a change involving information set forth in one of the items of Article 4, paragraph (1), within two weeks from the date of the change a trust company (other than a custodial trust company) must notify the Prime Minister of that effect.

(2) If there is a change involving information set forth in one of the items of Article 8, paragraph (1), a custodial trust company must notify the Prime Minister of that effect within two weeks from the date of the change.

(3) On receipt of a notification as referred to in the preceding paragraph, the Prime Minister must register that effect in the custodial trust companies register.

#### (Changes to the Business Rules)

Article 13 (1) A trust company (other than a custodial trust company) must have the authorization of the Prime Minister to change its business rules.

(2) Before changing its business rules, a custodial trust company must first notify the Prime Minister of that effect.

#### (Trade Name)

Article 14 (1) A trust company must use the characters "信託" (pronounced "shintaku" and with a literal meaning of "trust") in its trade name.

(2) A person that is not a trust company must not use any character in its name or trade name that is likely to cause it to be mistaken for a trust company; provided, however, that this does not apply to a person licensed as referred to in Article 3 of the Secured Bonds Trust Act or authorized as referred to in Article 1, paragraph (1) of the Act on Engagement in Trust Business by Financial Institutions.

(Prohibition on Name Lending One's Name)

Article 15 A trust company must not allow another person to engage in trust business using its name.

(Restriction on the Concurrent Holding of Positions by Directors)

Article 16 (1) A director (or an executive officer, in a company with nominating committee, etc.) that is involved in the day-to-day operations of a trust company must have the approval of the Prime Minister to also be involved in the day-to-day operations of another company or to engaged in business.

(2) The proviso to Article 331, paragraph (2) (including as applied mutatis mutandis pursuant to Article 335, paragraph (1) of the Companies Act), the provisions of Article 332, paragraph (2) (including as applied mutatis mutandis pursuant to Article 334, paragraph (1) of that Act), Article 336, paragraph (2), and the proviso to Article 402, paragraph (5) of that Act do not apply to trust companies.

## **Section 2 Major Shareholders**

(Notification by Major Shareholders)

Article 17 (1) A person that becomes a major shareholder in a trust company (meaning a major shareholder as prescribed in Article 5, paragraph (5); the same applies hereinafter) must submit a statement of holdings in subject voting rights to the Prime Minister, giving the subject voting right holding rate (meaning the rate arrived at when the number of subject voting rights held by the person that holds them is divided by the number representing all shareholders' voting rights in the trust company), the purpose of the holdings, and the information prescribed by Cabinet Office Order without delay.

(2) A document in which the major shareholder swears that it does not fall under Article 5, paragraph (2), items (ix) and (x) and the documents that Cabinet Office Order prescribes must accompany the statement of holdings in subject voting rights referred to in the preceding paragraph.

(Order for Measures)

Article 18 If a major shareholder in a trust company falls under one of the categories in Article 5, paragraph (2), item (ix), (a) or (b) or item (x), (a), (b), or (c), the Prime Minister may order the major shareholder to take measures so that it will cease to be a major shareholder in the trust company, or to take any other necessary measures within a fixed period of no longer than three months.

(Notification of Having Ceased to Be a Major Shareholder)

Article 19 If it ceases to be a major shareholder in that trust company, a major shareholder in a trust company must notify the Prime Minister of that effect without delay.

(Application to Holding Companies That Have Trust Companies as Their Subsidiary Companies)

Article 20 The provisions of the preceding three Articles apply mutatis mutandis to the shareholders or investors of a holding company that has a trust company as its subsidiary company (meaning a subsidiary company as prescribed in Article 5, paragraph (6); the same applies hereinafter except in Article 51).

### **Section 3 Operations**

(Scope of Operations)

- Article 21 (1) In addition to trust business, a trust company may engage in trust agreement agency services, operations for the purchase and sale, etc. of beneficial interests in trusts, electronic payment instruments-related business, and property management services (but only those though which it manages property of the same kind as the trust property stated in its business rules (meaning business rules as referred to in Article 4, paragraph (2), item (iii) or Article 8, paragraph (2), item (iii)) in the same way as the way that it manages the trust property stated therein).
- (2) In addition to operations in which it engages pursuant to the provisions of the preceding paragraph, a trust company, with the approval of the Prime Minister, may engage in operations that are unlikely to interfere with its proper and reliable engagement in its trust business, and which are related to those trust business.
- (3) If a trust company seeks the approval referred to in the preceding paragraph, it must submit a written application to the Prime Minister accompanied by a document giving the details and methods of the operations in which it will engage as well as the reasons for engaging in those operations.
- (4) A trust company must have the approval of the Prime Minister to change the details or methods of operations in which it is engaged pursuant to the provisions of paragraph (2).
- (5) A trust company may not engage in other operations beyond those in which it engages pursuant to the provisions of paragraphs (1) and (2).
- (6) If a written application for license as referred to in Article 3 or registration as referred to in Article 7, paragraph (1) states that the applicant will engage in operations other than those in which it will engage pursuant to paragraph (1), and the applicant is so licensed or registered, the applicant is deemed to have obtained the approval referred to in paragraph (2) to engage in those

operations.

(Entrustment of a Third Party with Trust Business)

Article 22 (1) A trust company may entrust a third party with part of its trust business as regards trust property that has been placed in trust with it only if all of the following requirements are fulfilled:

- (i) the fact that it will entrust a third party with a part of the trust business and the party that it will entrust with those trust business (or the criteria and procedures for selecting the party that it will entrust with the business, if this has not been finalized) are made clear in the acts of trust;
- (ii) the person that it will entrust with trust business is able to unerringly perform the trust business with which it is entrusted.

(2) To apply the provisions of Article 28 and Article 29 (excluding paragraph (3)) and the provisions of Chapter VII that are relevant to those provisions if a trust company entrusts a third party with its trust business, the phrase "trust company" in those provisions is deemed to be replaced with "trust company (or a person that the trust company has entrusted with trust business)".

(3) The provisions of the preceding two paragraphs (excluding paragraph (1), item (ii)) do not apply if a third party is entrusted with the following operations:

- (i) operations for preserving trust property;
- (ii) operations whose aim is to use or improve trust property to an extent that does not change the nature of the property;
- (iii) operations not falling under either of the preceding two items, that Cabinet Office Order prescribes as operations in respect of which the lack of application of those paragraphs is found not to compromise the protection of the beneficiaries.

(Trust Company Liability on Entrusting a Third Party with Trust Business)

Article 23 (1) A trust company is liable to compensate for damage that a beneficiary incurs from business that a person entrusted with trust business carries out as entrusted; provided, however, that this does not apply if a trust company exercises due care in selecting the person with which to entrust the business and endeavors to prevent the damages that the beneficiary incurs from the business that the person so entrusted carries out as entrusted.

(2) The preceding paragraph does not apply if a trust company entrusts a third party as set forth in one the following items with trust business (for item (i) or (ii), this is limited to a third party constituting a person that Cabinet Order prescribes as being closely related to the settlor through shareholdings or a personal relationship and that does not fall under the category of a person that Cabinet Order prescribes as being closely related to the trustee); provided,

however, that this does not apply if the trust company knows the party it entrusts with the business to be unsuitable or untrustworthy or learns that the party it has entrusted with the business is not performing the trust business with which it has been entrusted appropriately, and neglects to notify the beneficiary of that effect (or neglects to notify the trust manager or beneficiary's agent, if the beneficiary has one at that time; the same applies in item (iii) of this paragraph, Article 29-3 and Article 51, paragraph (1), item (v)), neglects to terminate the entrustment of the party it has entrusted with the business, or neglects to take any other necessary measures:

- (i) the third party designated in the acts of trust;
- (ii) a third party designated in accordance with the phrases of trust, if the acts of trust specify that the trust company will entrust a third party designated by the settlor with the trust business;
- (iii) a third party designated in accordance with the phrases of trust, if the acts of trust specify that the trust company will entrust a third party designated by the beneficiary with the trust business.

(Obligation to Conclude a Contract with a Designated Dispute Resolution Organization)

Article 23-2 (1) A trust company must take the measures that the relevant of the following items prescribes for the category of cases specified in the item:

- (i) if a designated dispute resolution organization is in existence: measures to conclude a basic contract for the implementation of dispute resolution procedures with a single designated dispute resolution organization;
  - (ii) if no designated dispute resolution organization is in existence: complaint processing measures (meaning having a person as set forth in Article 85-13, paragraph (3), item (iii) provide advice or guidance to employees or any other workers that are working to process complaints from clients, or any other measures that Cabinet Office Order prescribes as being equivalent to this) and dispute resolution measures (meaning seeking to resolve disputes with clients through certified dispute resolution procedures (meaning certified dispute resolution procedures as prescribed in Article 2, item (iii) of the Act on Promotion of Use of Alternative Dispute Resolution Procedures (Act No. 151 of 2004)), or any other measures that Cabinet Office Order prescribes as being equivalent to this) for trust business subject to dispute resolution procedures.
- (2) If a trust company has taken measures to conclude a basic contract for the implementation of dispute resolution procedures pursuant to the provisions of the preceding paragraph, it must publicize the trade name or name of the designated dispute resolution organization that is the other party to the basic contract for the implementation of dispute resolution procedures.

- (3) The provisions of paragraph (1) do not apply during the period that the relevant of the following items prescribes for the category of case set forth in the item:
- (i) if a case that formerly fell under the category of case set forth in paragraph (1), item (i) comes to fall under the category of case set forth in item (ii) of that paragraph: the period that the Prime Minister prescribes at the time that the discontinuation of dispute resolution services under Article 85-23, paragraph (1) is authorized or that the designation under Article 85-24, paragraph (1) is revoked, as the period needed for taking the measures prescribed in paragraph (1), item (ii);
  - (ii) if a case formerly fell under the category of case set forth in paragraph (1), item (i), but the discontinuation of a single paragraph (1), item (i) designated dispute resolution organization's dispute resolution services has been authorized pursuant to Article 85-23, paragraph (1) or the designation under Article 85-2, paragraph (1) of a single paragraph (1), item (i) designated dispute resolution organization has been revoked pursuant to Article 85-24, paragraph (1) (other than as set forth in the preceding item): the period that the Prime Minister prescribes at the time that the discontinuation is authorized or the revocation is effected, as the period needed for taking the measures prescribed in paragraph (1), item (i);
  - (iii) if a case that formerly fell under the category of case set forth in paragraph (1), item (ii) comes to fall under the category of case set forth in item (i) of that paragraph: the period that the Prime Minister prescribes at the time that the designation under Article 85-2, paragraph (1) is made, as the period needed for taking the measures prescribed in paragraph (1), item (i).

(Rules of Conduct When Accepting a Trust)

Article 24 (1) A trust company must not engage in the following conduct (other than the conduct set forth in item (v), if it accepts a trust under a specific trust agreement as prescribed in the following Article) in connection with the acceptance of trusts:

- (i) providing a settlor with false information;
- (ii) providing a settlor with a conclusive assessment of a matter that is uncertain or with information that could mislead the settlor into believing that a matter that is uncertain is actually certain;
- (iii) promising to provide a settlor, beneficiary, or third party with a special advantage, or actually providing the relevant person with a special advantage (this includes having a third party promise to provide the relevant person with a special advantage or having a third party actually provide a special advantage thereto);

- (iv) promising a settlor, beneficiary, or third party that the company will cover any loss incurred in connection with a beneficial interest in the trust or will supplement its profits if a predetermined amount of profit does not accrue; or actually covering a loss incurred in connection with a beneficial interest in the trust or supplementing profits when a pre-determined amount of profit does not accrue (this includes having a third party make such a promise or engage in the conduct, but excludes the company's coverage of a loss due to problematic conduct for which it should be held liable);
  - (v) conduct that Cabinet Office Order prescribes as failing to protect the settlors.
- (2) A trust company must accept a trust that is appropriate in light of the settlor's knowledge and experience, the state of the settlor's assets and the purpose for which the trust agreement is concluded, and engage in operations in a way that does not fail to protect the settlor.

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

Article 24-2 The provisions of Chapter III, Section 1, Subsection 5 of the Financial Instruments and Exchange Act (Professional Investors) (excluding Article 34-2, paragraphs (6) through (8) (Cases In Which a Professional Investor Is Deemed to Be a Client Other Than a Professional Investor) and Article 34-3, paragraphs (5) and (6) (When a Client Other than a Professional Investor Is a Corporation and That Corporation Is Deemed to Be a Professional Investor)), the provisions of Chapter III, Section 2, Subsection 1 of that Act (General Rules) (excluding Article 35 through Article 36-4 (Scope of Services for Persons Engaged in Type I Financial Instruments Business or Investment Management Business; Scope of Concurrent Business by Persons Only Engaged in Type II Financial Instruments Business or Investment Advisory and Agency Business; Establishment of an Operational Control System; Duty of Sincerity to Clients; Posting of Signs; Prohibition on Lending One's Name; Prohibition on Corporate Bond Management), Article 37, paragraph (1), item (ii) (Regulation of Advertising), Article 37-2 (Obligation to Clarify the Conditions of Transactions in Advance), Article 37-3, paragraph (1), items (ii) through (iv) and (vi) and Article 37-3, paragraph (3) (Delivery of Documents Prior to the Conclusion of a Contract), Article 37-4 (Delivery of Documents upon the Conclusion of a Contract), Article 37-5 (Delivery of Documents in Connection with the Receipt of a Security Deposit), Article 37-7 (Obligation to Conclude a Contract with a Designated Dispute Resolution Organization), Article 38, items (i), (ii), (vii) and (viii) and Article 38-2 (Prohibited Acts), Article 39, paragraph (1), Article 39, paragraph (2), item (ii), Article 39, paragraphs (3) and (5) through (7) (Prohibition on Compensation of Loss), Article 40, item (i) (The

Principle of Suitability), and Article 40-2 through Article 40-7 (Best Execution Policy; Prohibition of Purchase and Sale If Separate Management Is Not Ensured; Prohibition of Public Offerings If Money Has Been Diverted; Restrictions on the Purchase and Sale of Securities for Professional Investors; Obligation to Notify in Connection with Securities for Professional Investors, Prohibition on Bucketing, Obligation to Use Electronic Data Processing Systems for Over-the-Counter Derivatives Transactions)), and the provisions of Article 45 (Miscellaneous Provisions) of that Act (excluding items (iii) and (iv)) apply mutatis mutandis to acceptance by a trust company of a trust under a trust agreement (meaning a trust agreement that Cabinet Office Order prescribes as one under which there is a risk that trust principal will be lost due to fluctuations in the money rate, the value of currencies, quotations on a financial instruments market (meaning a financial instruments market as prescribed in Article 2, paragraph (14) of that Act), or any other indicator; hereinafter referred to as a "specific trust agreement"). This being the case, the phrase "financial instruments transaction contract" in these provisions is deemed to be replaced with "specific trust agreement"; the phrase "financial instruments business" in these provisions is deemed to be replaced with "operations for concluding specific trust agreements"; the phrase "the performance of an act that constitutes a financial instruments transaction" in these provisions (excluding Article 34 of that Act) is deemed to be replaced with "the conclusion of specific trust agreements"; the phrase "for a contract for the financial instruments business operator, etc. to perform an act that constitutes a financial instruments transaction (meaning an act as set forth in the items of Article 2, paragraph (8); the same applies hereinafter) with the client as the other party or on behalf of the client" in Article 34 of that Act is deemed to be replaced with "for a specific trust agreement as prescribed 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 phrase "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"; the term "Purchase and Sale or Other Transaction of Securities, etc." in Article 39, paragraph (2), item (i) of the Financial Instruments and Exchange Act is deemed to be replaced with "conclusion of specific trust agreements", and the phrase "promise referred to in item (i) of the preceding paragraph" in that item is deemed to be replaced with "promise to cover losses or supplement profits (meaning covering for losses or supplementing profits as prescribed in Article 24, paragraph (1), item (iv) of the Trust Business Act; the same applies in item (iii))"; the term "purchase and sale or other transaction of securities, etc." in Article 39, paragraph (2), item (iii) of the Financial Instruments and

Exchange Act is deemed to be replaced with "conclusion of specific trust agreements", and the phrase "that is provided as referred to in item (iii) of the preceding paragraph" in that item is deemed to be replaced with "to cover losses or supplement profits"; the term "problematic conduct" in Article 39, paragraph (4) of that Act is deemed to be replaced with "problematic conduct for which the trust company should be held liable"; and beyond this, Cabinet Order provides for the necessary technical replacement of terms.

(Explaining the Content of a Trust Agreement)

Article 25 Before accepting a trust under a trust agreement, a trust company must first give the settlor its trade name and explain the information set forth in paragraph (1), items (iii) through (xvi) of the following Article (if the company accepts a trust under a specific trust agreement, this excludes an explanation of the information set forth in those items); provided, however, that this does not apply if Cabinet Office Order prescribes it to be a case in which the company's not doing so does not compromise the protection of the settlor.

(Delivery of Documents on Concluding a Trust Agreement)

Article 26 (1) Once a trust company accepts a trust under a trust agreement, it must deliver a document giving the following information to the settlor without delay; provided, however, that this does not apply if Cabinet Office Order prescribes it to be a case in which even a failure to deliver the document to the settlor will not compromise the protection of the settlor:

- (i) the year, month, and day of conclusion of the trust agreement;
- (ii) the name of the settlor and the trade name of the trustee;
- (iii) the purpose of the trust;
- (iv) information about the trust property;
- (v) information about the period of the trust agreement;
- (vi) information about how trust property is managed or disposed of (this includes the policy for managing or disposing of trust property, for a trust not falling under any of the items of Article 2, paragraph (3));
- (vii) if it entrusts a third party with trust business (unless it entrusts a third party with the operations set forth in the items of Article 22, paragraph (3)), the contents of trust business with which it will entrust the third party as well as the name and address or location of the party that it will entrust with the business (or the criteria and procedures for selecting the party that it will entrust with the services, if this has not been finalized);
- (viii) if it conducts a transaction set forth in one of the items of Article 29, paragraph (2), an indication of that effect and an overview of the transaction;
- (ix) information about the beneficiaries;

- (x) information about delivery of the trust property;
  - (xi) information about trust fees;
  - (xii) information about taxes and other costs related to the trust property;
  - (xiii) information about the accounting period for the trust property;
  - (xiv) information about reports on the management status or disposal status of the trust property;
  - (xv) information about termination of the trust agreement by agreement;
  - (xvi) the information prescribed by Cabinet Office Order.
- (2) In lieu of delivering the document referred to in the preceding paragraph, a trust company may provide the settlor with the information that is required to be given in the document by electronic or magnetic means (meaning by using an electronic data processing system or employing other information and communications technology in the manner that Cabinet Office Order prescribes; the same applies hereinafter), with the consent of the settlor, pursuant to the provisions of Cabinet Order. In doing so, the trust company is deemed to have delivered that document.
- (3) Unless otherwise prescribed by Cabinet Office Order, the accounting period for the trust property which is referred to in paragraph (1), item (xiii) may not exceed one year.

(Delivery of Reports on the Status of Trust Property)

- Article 27 (1) A trust company must prepare a report on the status of trust property that has been placed in trust with it for each of the trust property's accounting periods (or for each of the periods shorter than the relevant accounting period which Cabinet Office Order prescribes, if the acts of trust specify a shorter period or if Cabinet Office Order otherwise prescribes it to be a case in which a shorter period is clearly in line with the beneficiaries' interests), and deliver it to the beneficiaries of the trust property; provided, however, that this does not apply if Cabinet Office Order prescribes it to be a case in which even the failure to deliver the relevant report to the beneficiaries will not compromise the protection of the beneficiaries.
- (2) The provisions of paragraph (2) of the preceding Article apply mutatis mutandis to the delivery of a report to the beneficiaries on the status of trust property referred to in the preceding paragraph.

(Trust Companies' Duty of Loyalty)

- Article 28 (1) A trust company must work resolutely on behalf of the beneficiary in carrying out trust business and other operations in accordance with the main purpose of the trust.
- (2) A trust company must carry out trust business with the due care of a prudent manager, in accordance with the main purpose of the trust.

(3) A trust company, pursuant to the provisions of Cabinet Office Order and based on the provisions of Article 34 of the Trust Act, must develop a system for managing the property that has been placed in trust with it as trust property, its own property, and property that has been placed in trust with it as the trust property of other trusts in a segregated manner, and must develop other systems to avoid damage being done to trust property and to prevent the trust business from losing credibility.

(Rules of Conduct Regarding Trust Property)

Article 29 (1) A trust company must not engage in the following conduct with regard to trust property that has been placed in trust with it:

- (i) conducting a transaction under terms and conditions that are different from ordinary terms and conditions and that damage the trust property;
- (ii) conducting a transaction that is unnecessary in light of the purpose of the trust, the status of the trust property, or the policy for managing or disposing of the trust property;
- (iii) conducting a transaction (other than one that Cabinet Office Order prescribes) in pursuit of its own interests or the interests of a person other than the beneficiary of the trust property, using information about the trust property;
- (iv) other conduct that Cabinet Office Order prescribes as being likely to damage trust property or to cause the trust business to lose credibility.

(2) A trust company must not enter into a transaction as follows unless the acts of trust provide for the trust company to conduct a transaction as follows and give an overview of the transaction in question; or unless the trust company discloses the material facts of the transaction in question to the beneficiaries and gains their assent in advance, either in writing or by electronic or magnetic means (or gains the assent of the trust manager or beneficiary's agent, if a beneficiary has one at that time) (unless the act of trust provides that the trust company may not conduct the transaction in question), and Cabinet Office Order prescribes it to be a case in which conducting the transaction will not compromise the protection of the beneficiaries:

- (i) a transaction between the trust company itself or an interested party thereof (meaning a person that Cabinet Order prescribes as being closely related to the trust company through shareholdings or a personal relationship) and the trust property;
- (ii) a transaction between the trust property of one trust and the trust property of another trust;
- (iii) a transaction that the trust company enters into for the trust property with a third party, in which it is acting as the agent of the third party.

(3) If a trust company enters into a transaction as referred to in one of the items

of the preceding paragraph, it must prepare a document giving the status of the transaction during the relevant accounting period for each of the trust property's accounting periods, and must deliver this document to the beneficiary of the trust property; provided, however, that this does not apply if Cabinet Office Order prescribes it to be a case in which even a failure to deliver the document to the beneficiary will not compromise the protection of the beneficiary.

- (4) The provisions of Article 26, paragraph (2) apply mutatis mutandis to the delivery of a document as referred to in the preceding paragraph to the beneficiary.

(Material Modification of a Trust)

Article 29-2 (1) If a trust company seeks to make any material modification to a trust (meaning a modification to a trust in terms of a particular set forth in one of the items of Article 103, paragraph (1) of the Trust Act) or consolidate or split a trust (hereinafter referred to as a "material modification or other change to a trust" in this Article), it must issue public notice of the following information pursuant to the provisions of Cabinet Office Order or give demand to each beneficiary (or to the trust manager or beneficiary's agent, if a beneficiary has one at that time; hereinafter the same applies in this Article), unless the modification or other change is not in conflict with the purpose of the trust and is clearly in line with the beneficiaries' interests, or unless it is a case as Cabinet Office Order prescribes:

- (i) that it seeks to make a material modification or other change to a trust;
- (ii) that a beneficiary objecting to the material modification or other change to a trust must state an objection within a fixed time frame;
- (iii) the information prescribed by Cabinet Office Order.

(2) The time frame referred to in item (ii) of the preceding paragraph may not be less than one month.

(3) If the number of beneficial interests in the trust that the beneficiaries objecting within the time frame referred to in paragraph (1), item (ii) hold exceeds half of the total number of beneficial interests in the trust (or, if the conditions of each beneficial interest are not the same, and the price of the beneficial interests in the trust that those beneficiaries hold exceeded half of the total price of beneficial interests in the trust as of the time of the public notice or demand pursuant to the provisions of that paragraph or if the case is as Cabinet Office Order prescribes), a material modification or other change to a trust referred to in paragraph (1) may not be made.

(4) The provisions of the preceding three paragraphs do not apply if one of the following items applies:

- (i) if the acts of trust provide that a material modification or other change to a

- trust is subject to majority vote at a beneficiaries meeting;
- (ii) if beneficiaries holding beneficial interests exceeding half of the total number of beneficial interests in the trust (or, in the event that the conditions of each beneficial interest are not the same, beneficiaries holding beneficial interests exceeding half of the total price of the beneficial interests in the trust, or as Cabinet Office Order prescribes) approve the material modification or other change to a trust other than as prescribed in the preceding item;
  - (iii) if the situation falls under a category of case other than as set forth in the preceding two items, which Cabinet Office Order prescribes as being equivalent thereto.
- (5) Pursuant to the provisions of trust agreements that a trust company concludes between itself and a large number of settlors under a single set of general conditions of trust, the trusts subject to those general conditions of trust are deemed to be a single trust and the provisions of each of the preceding paragraphs apply.

(Explanation of the Scope of Reimbursement or Advance Payment of Expenses)

Article 29-3 When seeking to reach the agreement prescribed in Article 48, paragraph (5) of the Trust Act (including as applied mutatis mutandis pursuant to Article 54, paragraph (4) of that Act) with a beneficiary, a trust company must explain the scope of the expenses, etc. (meaning expenses, etc. prescribed in Article 48, paragraph (1) of that Act) or trust fees for which it may be reimbursed based on that agreement, the scope of expenses or trust fees that it may be paid in advance based on that agreement, and other information that Cabinet Office Order prescribes.

(Exceptions to Public Notice of a Trust)

Article 30 To apply the provisions of Article 14 of the Trust Act, if a trust company registers a transfer as referred to in Article 3 of the Act on Japanese Government Bonds (Act No. 34 of 1906) or makes the registration that Cabinet Office Order or Ministry of Finance Order prescribes for registered JGBs (meaning Japanese government bonds registered pursuant to the provisions of Article 2, paragraph (2) of that Act) that it holds as trust property, and in the registration it clearly indicates, pursuant to the provisions of Cabinet Office Order or Ministry of Finance Order, that the registered JGBs are trust property, the registration is deemed to be the registration of a trust.

(Offsetting Debts involving Trust Property)

Article 31 (1) A trust company may offset a claim ascribable to trust property whose obligor is a clearing organization (meaning a financial instruments

clearing organization or foreign financial instruments clearing organization as prescribed in Article 2, paragraph (29) of the Financial Instruments and Exchange Act; hereinafter the same applies in this paragraph) (but only if the clearing organization has become the obligor due to the assumption of a debt, etc. (meaning to take over, novate, or in any other way bear an obligation as a part of financial instruments debt assumption services, etc. as prescribed in Article 156-3, paragraph (1), item (vi) of that Act; hereinafter the same applies in this paragraph)) against a debt ascribable to other trust property (but only a debt that the trust company has incurred as consideration for the clearing organization's assumption of a debt, etc.); provided, however, that this does not apply if otherwise provided for in the acts of trust.

- (2) If a trust company that offsets a claim against a debt pursuant to the provisions of the preceding paragraph causes any damage to the trust property in the set-off, it is liable to compensate for those damages.

#### **Section 4 Accounting**

(Business Year)

Article 32 The business year of a trust company is from April 1 of a given year to March 31 of the next year.

(Business Reports)

Article 33 A trust company must prepare a business report for each business year and submit it to the Prime Minister within three months from the end of the business year.

(Public Inspection of Explanatory Documents on the State of Operations and Assets)

Article 34 (1) Each business year, a trust company must prepare an explanatory document giving the information that Cabinet Office Order prescribes as pertinent to the state of its operations and assets, and must keep copies of this at all of its business offices and make them available for public inspection during the one-year period following the day calculated as marking the end of the period that Cabinet Office Order prescribes after the end of the business year.

- (2) The explanatory document prescribed in the preceding paragraph may be prepared in the form of an electronic or magnetic record (meaning a record as prescribed by Cabinet Office Order which is used in computerized data processing and which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses; the same applies hereinafter).

(3) If the explanatory document prescribed in paragraph (1) is prepared in the form of an electronic or magnetic record, a trust company may take what Cabinet Office Order prescribes as measures to put the data forming the content of that document into a format that allows a large, non-exclusive audience to gain access to it through electronic or magnetic means at its business offices. In doing so, it is deemed to have made the explanatory document prescribed in that paragraph available for public inspection.

(Denial of a Shareholder's Right to Inspect the Books)

Article 35 The provisions of Article 433 of the Companies Act do not apply to the accounting books of a trust company (other than a custodial trust company; hereinafter the same applies in this Article through Article 39) and materials related to them (but only those connected with trust property).

## **Section 5 Supervision**

(Authorization for Merger)

Article 36 (1) A merger to which trust companies constitute all or part of the parties is invalid without the authorization of the Prime Minister.

(2) A trust company seeking the authorization referred to in the preceding paragraph must submit a written application to the Prime Minister giving the information set forth in the items of Article 4, paragraph (1) with regard to the stock company surviving the merger or the stock company incorporated in the merger (referred to as the "post-merger trust company" in paragraph (4)).

(3) The merger agreement and the documents that Cabinet Office Order prescribes must accompany the written application referred to in the preceding paragraph.

(4) When an application is filed for the authorization referred to in paragraph (1), the Prime Minister must examine whether the post-merger trust company conforms to the criteria set forth in the items of Article 5, paragraph (1). In this case, if the post-merger trust company falls under one of the conditions set forth in the items of Article 5, paragraph (2), or if the written application referred to in paragraph (2) or an accompanying document referred to in the preceding paragraph gives false statements or omits a material fact, the Prime Minister must not authorize the merger.

(5) A stock company incorporated in a merger under the authorization referred to in paragraph (1) is deemed to have been licensed by the Prime Minister as referred to in Article 3 at the time of its formation.

(Authorization for an Incorporation-Type Company Split)

Article 37 (1) An incorporation-type company split that a trust company

implements in order to have the newly incorporated stock company assume all of its trust business (referred to as "incorporation-type company split" in the following paragraph and paragraph (5)) is invalid without the authorization of the Prime Minister.

- (2) A trust company seeking the authorization referred to in the preceding paragraph must submit a written application to the Prime Minister giving the information set forth in the items of Article 4, paragraph (1) with regard to the stock company to be incorporated in the incorporation-type company split (referred to as the "incorporated company" in paragraph (4)).
- (3) A company split plan and the documents that Cabinet Office Order prescribes must accompany the written application referred to in the preceding paragraph.
- (4) When an application is filed for the authorization referred to in paragraph (1), the Prime Minister must examine whether the incorporated company conforms to the criteria set forth in the items of Article 5, paragraph (1). In this case, if the incorporated company falls under one of the conditions set forth in the items of Article 5, paragraph (2), or if the written application referred to in paragraph (2) or an accompanying document referred to in the preceding paragraph gives a false statement or omits a material fact, the Prime Minister must not authorize the split.
- (5) A stock company incorporated in an incorporation-type company split with the authorization referred to in paragraph (1) is deemed to have been licensed by the Prime Minister as referred to in Article 3 at the time of its formation.

(Authorization for an Absorption-Type Company Split)

Article 38 (1) An absorption-type company split that a trust company implements in order to have another stock company assume all or part of its trust business (referred to as an "absorption-type company split" in the following paragraph and paragraph (5)) is invalid without the authorization of the Prime Minister; provided, however, that this does not apply to an absorption-type company split in which it causes another stock company to assume only custodial trust business.

- (2) A trust company seeking the authorization referred to in the preceding paragraph must submit a written application to the Prime Minister giving the following information with regard to the stock company assuming all or part of the trust business in the absorption-type company split (hereinafter referred to as the "succeeding company" in this Article):
  - (i) the information set forth in the items of Article 4, paragraph (1);
  - (ii) the contents of the trust business that the succeeding company will assume.
- (3) A company split plan and the documents that Cabinet Office Order prescribes must accompany the written application referred to in the preceding paragraph.
- (4) When an application is filed for the authorization referred to in paragraph (1),

the Prime Minister must examine whether the succeeding company conforms to the criteria set forth in the items of Article 5, paragraph (1). In this case, if the succeeding company falls under one of the conditions set forth in the items of Article 5, paragraph (2), or if the written application referred to in paragraph (2) or an accompanying document referred to in the preceding paragraph gives a false statement or omits a material fact, the Prime Minister must not authorize the split.

- (5) A stock company that assumes all of a person's trust business in an absorption-type company split with the authorization referred to in paragraph (1) is deemed to have been licensed by the Prime Minister as referred to in Article 3 at the time it assumes it.

(Authorization for a Business Transfer)

Article 39 (1) A trust company's full or partial transfer of its trust business to another trust company (referred to as a "business transfer" in the following paragraph) is invalid without the authorization of the Prime Minister; provided, however, that this does not apply to a business transfer in which only custodial trust business is transferred.

- (2) A trust company seeking the authorization referred to in the preceding paragraph must submit a written application to the Prime Minister giving the following information with regard to the trust company acquiring all or part of the trust business in the business transfer (hereinafter referred to as the "acquiring company" in this Article):

- (i) the information set forth in the items of Article 4, paragraph (1);
- (ii) the content of the trust business that the acquiring company will assume.

- (3) A business transfer agreement and the documents that Cabinet Office Order prescribes must accompany the written application referred to in the preceding paragraph.

- (4) When an application is filed for the authorization referred to in paragraph (1), the Prime Minister must examine whether the acquiring company conforms to the criteria set forth in the items of Article 5, paragraph (1). In this case, if the acquiring company falls under one of the conditions set forth in the items of Article 5, paragraph (2), or if the written application referred to in paragraph (2) or an accompanying document referred to in the preceding paragraph gives a false statement or omits a material fact, the Prime Minister must not authorize the transfer.

- (5) The provisions of each of the preceding paragraphs apply mutatis mutandis to a trust company's full or partial transfer of its trust business to a foreign trust company. In this case, the phrases set forth in the middle column of the following table in the provisions set forth in the left-hand column of that table are deemed to be replaced with the phrases set forth in the right-hand column

of that table.

paragraph (2), item (i)	the items of Article 4, paragraph (1)	the items of Article 53, paragraph (2)
paragraph (4)	the items of Article 5, paragraph (1)	the items of Article 53, paragraph (5)
	the items of Article 5, paragraph (2)	the items of Article 53, paragraph (6)

(Assumption of Rights and Obligations)

Article 40 (1) The trust company surviving a merger or the trust company incorporated in a merger assumes the rights and obligations that the trust company disappearing in the merger held in connection with its operations, based on the authorization of the Prime Minister or any other exercise of authority by the Prime Minister.

(2) The provisions of the preceding paragraph apply mutatis mutandis to a trust company assuming the whole of a person's trust business in a company split.

(Notifications)

Article 41 (1) if it comes to fall under one of the following items, a trust company must notify the Prime Minister of that effect without delay:

- (i) it has filed a petition to commence bankruptcy proceedings, to commence rehabilitation proceedings, or to commence reorganization proceedings;
- (ii) it has effected a merger (unless that trust company has disappeared in the merger); has caused a person to assume a part of its trust business through a company split; or has transferred a part of its trust business;
- (iii) it falls under a category of case that Cabinet Office Order prescribes.

(2) If a trust company comes to fall under one of the following items, the person specified in the item must notify the Prime Minister of that effect without delay:

- (i) it discontinues trust business (or has a person assume all of its trust business through a company split or transfers all of its trust business): the trust company;
- (ii) it disappears due to a merger: a former director or executive officer that represented the company or a former company auditor;
- (iii) it is dissolved due to an order commencing bankruptcy proceedings: the bankruptcy trustee;
- (iv) it is dissolved for a reason other than a merger or the commencement of bankruptcy proceedings: the liquidator.

(3) A trust company must issue public notice and post a notice at all of its business offices in a place easily seen by the public, pursuant to the provisions of Cabinet Office Order, by 30 days prior to discontinuing its trust business,

effecting a merger (but only a merger in which the trust company will disappear), dissolving due to any reason other than a merger or the commencement of bankruptcy proceedings, having a person assume all or part of its trust business due to a company split, or transferring all or part of its trust business.

- (4) Having issued the public notice referred to in the preceding paragraph, a trust company must notify the Prime Minister of that effect immediately.
- (5) Having been registered pursuant to Article 7, paragraph (1) or Article 52, paragraph (1), a trust company (other than a custodial trust company; hereinafter the same applies in this paragraph) must issue public notice of that effect and post a notice indicating the same at all of its business offices in a place easily seen by the public without delay and pursuant to the provisions of Cabinet Office Order; and having been registered pursuant to Article 52, paragraph (1), a custodial trust company must issue public notice of this and post a notice indicating the same at all of its business offices in a place easily seen by the public without delay and pursuant to the provisions of Cabinet Office Order.
- (6) The provisions of Article 940, paragraph (1) (excluding item (ii)) and 940, paragraph (3) (Public Notice Period for Electronic Public Notices) of the Companies Act apply mutatis mutandis if a trust company issues a public notice pursuant to the provisions of this Act or any other Act (other than public notice under the provisions of the Companies Act) as an electronic public notice; and beyond this, Cabinet Order provides for the necessary technical replacement of terms.

#### (On-Site Inspections)

- Article 42 (1) On finding that it is necessary to do so in order to ensure a trust company's sound and appropriate administration of trust business, the Prime Minister may order the trust company, a person that conducts transactions with the trust company in connection with its operations, or a holding company that has that trust company as its subsidiary company to give a report or submit materials that should serve as a reference with regard to the operations or assets of the trust company, or may have the relevant officials enter the business office or other facility of the trust company or the business office or office of the holding company that has that trust company as its subsidiary company, ask questions about the state of its operations or assets, and inspect its books, documents and any other articles.
- (2) On finding that it is particularly necessary to do so in order to ensure a trust company's sound and appropriate administration of trust business, the Prime Minister, within the scope of that necessity, may order the major shareholders of the trust company or the major shareholders of a holding company that has

that trust company as a subsidiary company to submit the notifications referred to in Article 17 through Article 19, to take the measures referred to in those Articles, or to give reports or submit materials that should serve as a reference with regard to the operations or assets of the trust company, or may have the relevant officials enter the business offices or offices of those major shareholders, ask questions about notifications and measures as referred to in Article 17 through Article 19 and the state of the trust company's operations and assets, and inspect the documents and other articles of those major shareholders.

- (3) On finding that it is particularly necessary to do so in order to ensure a trust company's sound and appropriate administration of trust business, the Prime Minister, within the scope of that necessity, may order a person that the trust company has entrusted with its operations (or a person entrusted with those operations by the person that the trust company has entrusted with them (this includes entrustment at the second or higher degree of separation from the original entrustment); hereinafter the same applies in this paragraph and the following paragraph) to give reports or submit materials that should serve as a reference with regard to the operations or assets of the trust company, and may have the relevant officials enter the facility of a person that the trust company has entrusted with its operations, ask questions about the state of the trust company's operations and assets, and inspect its books, documents and any other articles.
- (4) A person that a trust company entrusts with its operations as referred to in the preceding paragraph may refuse to give a report or submit materials, to be questioned, or to undergo an inspection as referred to in the provisions of that paragraph if it has a legitimate reason to do so.
- (5) An official carrying out an on-site inspection pursuant to the provisions of paragraphs (1) through (3) must carry identification and present it to the persons concerned.
- (6) The authority for an on-site inspection under the provisions of paragraphs (1) through (3) must not be interpreted as having been accorded for the purpose of a criminal investigation.

(Operational Improvement Orders)

Article 43 On finding that it is necessary to do so in order to ensure a trust company's sound and appropriate administration of trust business in light of the state of that trust company's operations or assets, the Prime Minister, within the scope of that necessity, may order the trust company to change the contents of its business rules, to make a deposit of assets, or to otherwise take measures that are necessary for improving the state of its operations or assets.

(Supervisory Dispositions against an Investment-Based Trust Company)

Article 44 (1) If a trust company (other than a custodial trust company; hereinafter the same applies in this Article) falls under one of the following items, the Prime Minister may revoke its license as referred to in Article 3 or may order the suspension of all or part of its operations during a fixed period of no longer than six months:

- (i) it comes to fall under Article 5, paragraph (2), items (i) through (vi);
- (ii) it is discovered to have fallen under Article 5, paragraph (2) at the time it was licensed as referred to in Article 3;
- (iii) it no longer has a sufficient personnel structure to unerringly perform trust business ;
- (iv) it is discovered to have gained its license as referred to in Article 3 by wrongful means;
- (v) it violates a condition attached to its license as referred to in Article 3;
- (vi) it violates a law or regulation or a disposition by the Prime Minister which is based on a law or regulation;
- (vii) it acts in a way that harms the public interest.

(2) If the director, executive officer, accounting advisor, or company auditor of a trust company comes to fall under one of clauses (a) through (h) of Article 5, paragraph (2), item (viii) or engages in conduct that falls under item (v) or (vi) of the preceding paragraph, the Prime Minister may order the trust company to dismiss that director, executive officer, accounting advisor, or company auditor.

(Supervisory Dispositions against a Custodial Trust Company)

Article 45 (1) If a custodial trust company falls under one of the following items, the Prime Minister may revoke its registration as referred to in Article 7, paragraph (1) or may order the suspension of all or part of its operations during a fixed period of no longer than six months:

- (i) it comes to fall under one of Article 5, paragraph (2), item (i) or items (iv) through (vi) of that paragraph;
- (ii) it comes to fall under one of Article 10, paragraph (1), items (ii) through (v);
- (iii) it is discovered to have gained its registration as referred to in Article 7, paragraph (1) by wrongful means;
- (iv) it violates a law or regulation or a disposition by the Prime Minister which is based on a law or regulation;
- (v) it acts in a way that harms the public interest.

(2) If the director, executive officer, accounting advisor, or company auditor of a custodial trust company comes to fall under one of clauses (a) through (h) of Article 5, paragraph (2), item (viii) or engages in conduct that falls under item (iv) of the preceding paragraph, the Prime Minister may order the custodial

trust company to dismiss that director, executive officer, accounting advisor, or company auditor.

(Loss of Validity of License or Registration)

Article 46 (1) A trust company's license as referred to in Article 3 or registration as referred to in Article 7, paragraph (1) ceases to be valid if the trust company comes to fall under one of the items of Article 41, paragraph (2).

(2) A trust company's license as referred to in Article 3 ceases to be valid if the trust company (other than a custodial trust company) is registered as referred to in Article 7, paragraph (1) or Article 52, paragraph (1).

(3) A custodial trust company's registration as referred to in Article 7, paragraph (1) ceases to be valid if the custodial trust company is licensed as referred to in Article 3 or is registered as referred to in Article 52, paragraph (1).

(Deletion of Registrations)

Article 47 If the Prime Minister does not make registration renewal as referred to in Article 7, paragraph (3) or revokes registration as referred to in Article 7, paragraph (1) pursuant to the provisions of Article 45, paragraph (1); or if registration as referred to in Article 7, paragraph (1) ceases to be valid pursuant to the provisions of paragraph (1) or (3) of the preceding Article, the Prime Minister must delete that registration.

(Public Notice of Supervisory Dispositions)

Article 48 The Prime Minister must issue public notice on revoking an Article 3 license pursuant to the provisions of Article 44, paragraph (1); revoking registration as referred to in Article 7, paragraph (1) pursuant to the provisions of Article 45, paragraph (1); or ordering a full or partial operational suspension pursuant to the provisions of Article 44, paragraph (1) or Article 45, paragraph (1).

(Dismissal Procedures If License Is Revoked)

Article 49 (1) To apply Article 58, paragraph (4) of the Trust Act (including as applied mutatis mutandis pursuant to Article 70 of that Act) if the Prime Minister does not make registration renewal as referred to in Article 7, paragraph (3); revokes license as referred to in Article 3 pursuant to the provisions of Article 44, paragraph (1); or revokes registration as referred to in Article 7, paragraph (1) pursuant to the provisions of Article 45, paragraph (1), the phrase "settlor or beneficiary" in Article 58, paragraph (4) of the Trust Act (including as applied mutatis mutandis pursuant to Article 70 of that Act) is deemed to be replaced with "settlor or beneficiary or the Prime Minister".

(2) To apply Article 62, paragraphs (2) and (4) and Article 63, paragraph (1) of

the Trust Act in a case as referred to in the preceding paragraph, the phrase "interested party" in those provisions is deemed to be replaced with "interested party or the Prime Minister".

- (3) In a case as referred to in paragraph (1), a trustee that was formerly a trust company is deemed to be a trust company until the court dismisses the trustee that was formerly the trust company.

(Opinion of the Prime Minister in Liquidation Proceedings)

Article 50 (1) The court may ask for the opinion of the Prime Minister or request that the Prime Minister undertake an inspection or investigation in liquidation proceedings, bankruptcy proceedings, rehabilitation proceedings, reorganization proceedings, or recognition assistance proceedings for a trust company.

- (2) On finding that it is necessary to do so, the Prime Minister may state an opinion to the court in the proceedings prescribed in the preceding paragraph.
- (3) The provisions of Article 42, paragraphs (1), (5), and (6) apply mutatis mutandis if the Prime Minister is requested by the court to undertake an inspection or investigation pursuant to the provisions of paragraph (1).

### **Section 6 Special Provisions on Specific Trusts**

(Special Provisions on Placing Property into Trust in the Way Set Forth in Article 3, Item (iii) of the Trust Act)

Article 50-2 (1) A person seeking to place property in trust in the way set forth in Article 3, item (iii) of the Trust Act must be registered by the Prime Minister if it is a case that Cabinet Order prescribes as one in which it is possible for many persons (meaning persons of at least the number that Cabinet Order prescribes; the same applies in paragraph (10)) to acquire a beneficial interest in the trust; provided, however, that this does not apply if it is a case that Cabinet Order prescribes as one in which the placement of property into the trust will not compromise the protection of the trust's beneficiaries.

- (2) The provisions of Article 7, paragraphs (2) through (6) apply mutatis mutandis to the registration referred to in the preceding paragraph.
- (3) A person seeking paragraph (1) registration (or renewal of registration as referred to in Article 7, paragraph (3) as applied mutatis mutandis pursuant to the preceding paragraph; the same applies in paragraph (6), as well as in Article 45, paragraph (1), item (iii) and Article 91, item (iii) as applied following the deemed replacement of terms pursuant to the provisions of paragraph (12)) (referred to as the "applicant" in paragraph (6)) must submit a written application to the Prime Minister giving the following information:

- (i) its trade name;
  - (ii) its amount of stated capital;
  - (iii) the names of its directors and company auditors (meaning its directors, if it is a company with audit and supervisory committee; meaning its directors and executive officers, if it is a company with nominating committee, etc.; and meaning the executive managing members, if it is a holding company);
  - (iv) the names of its accounting advisors, if it is a company with accounting advisors;
  - (v) the type of operations linked to processes that are connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act;
  - (vi) if it is engaged in operations other than trust business referred to in the preceding item, the type of operations;
  - (vii) the names and locations of business offices at which the person seeking registration will carry out the processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act.
- (4) The following documents must accompany the written application referred to in the preceding paragraph:
- (i) the articles of incorporation;
  - (ii) a certificate of the company's (meaning a company prescribed in Article 2, item (i) of the Companies Act; the same applies in paragraph (6)) registered information;
  - (iii) a document giving the details and methods of the processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act;
  - (iv) a balance sheet;
  - (v) documents prescribed by Cabinet Office Order.
- (5) The document referred to in item (iii) of the preceding paragraph must give the following information:
- (i) the type of trust property in the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act;
  - (ii) how trust property will be managed or disposed of;
  - (iii) how trust property will be managed separately from other property;
  - (iv) the system for implementing the processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act;
  - (v) if it entrusts a third party with part of the processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act, the details of the processes with which it will entrust the third party as well as the criteria and procedures for selecting the party with which it will entrust those processes (unless it entrusts a third party

- with a process that falls under one of the items of Article 22, paragraph (3));
- (vi) if it engages in operations for the purchase and sale, etc. of beneficial interests in trusts, the system for implementing those operations;
  - (vii) the information prescribed by Cabinet Office Order.
- (6) If an applicant falls under a category referred to in one of the following items or if the written application referred to in paragraph (3) or an accompanying document set forth in one of the items of paragraph (4) gives false statements or omits a material fact, the Prime Minister must refuse to register the applicant:
- (i) a person that is not a company;
  - (ii) a company whose stated capital is less than the amount that Cabinet Order prescribes as necessary and appropriate for beneficiaries' protection;
  - (iii) a company whose net assets are less than the amount prescribed in the preceding item;
  - (iv) a company with provisions in its articles of incorporation or in the document set forth in paragraph (4), item (iii) that do not conform to laws and regulations or that are insufficient to allow it to properly perform the processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act;
  - (v) a company that is found, in light of its personnel structure, not to have the knowledge and experience to unerringly perform the processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act;
  - (vi) a company falling under Article 5, paragraph (2), item (v) or (vi);
  - (vii) a company whose other operations are found to be contrary to the public interest, or a company whose engagement in the other operations in which it is engaged is likely to compromise its proper and reliable undertaking of its trust processes;
  - (viii) a company with a director, executive officer, accounting advisor, or company auditor falling under one of clauses (a) through (h) of Article 5, paragraph (2), item (viii).
- (7) The amount of net assets referred to in item (iii) of the preceding paragraph is to be calculated pursuant to the provisions of Cabinet Office Order.
- (8) When an application is filed for registration as referred to in paragraph (1), the Prime Minister, if not refusing to register the applicant pursuant to the provisions of paragraph (6), must register the following information in the register of self-declared trusts:
- (i) the matters set forth in the items of paragraph (3);
  - (ii) the date of registration and the registration number.
- (9) The Prime Minister must make the register of self-declared trusts available for public inspection.

- (10) If a person registered as referred to in paragraph (1) places property in trust in the way set forth in Article 3, item (iii) of the Trust Act (but only in a case that Cabinet Order prescribes as one in which it is possible for many persons to acquire a beneficial interest in the trust), that person must have a person other than itself that Cabinet Order prescribes inspect the state of the assets that form the trust property and other particulars of those assets, pursuant to the provisions of Cabinet Office Order.
- (11) A person registered as referred to in paragraph (1) must ensure that its engagement in the other operations in which it engages does not compromise its proper and reliable undertaking of the trust processes referred to in that paragraph, pursuant to the provisions of Cabinet Office Order.
- (12) If a person places property into trust as referred to in paragraph (1) based on the registration referred to in that paragraph, the person registered as referred to in paragraph (1) is deemed to be a trust company (or a custodial trust company, as regards Article 12, paragraphs (2) and (3), Article 13, paragraph (2), Article 45, and Article 47) and the provisions of Article 11 (other than the part that deals with the revocation and loss of validity of the license referred to in paragraph (10)), Article 12, paragraphs (2) and (3), Article 13, paragraph (2), Article 15, Article 22 through Article 23-2, Article 24, paragraph (1) (but only the part that involves items (iii) and (iv) (other than the part of those provisions that deals with the settlor)), Article 27 through Article 29, Article 29-2 (other than paragraph (5)), Article 29-3 through Article 31, Article 33, Article 34, Article 40, Article 41 (other than paragraph (5)), Article 42, Article 43, Article 45 (other than paragraph (1), item (ii)), Article 46, paragraph (1) (other than the part that deals with the loss of validity of license), Article 47, Article 48 (other than the part that deals with the revocation of license), Article 49 (other than the part that deals with the revocation of license), and the preceding Article, and the provisions of Chapter VII that are relevant to those provisions apply. In this case, the phrase "trust business" and "trust service" in those provisions are deemed to be replaced with "processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act"; the phrase "registration as referred to in Article 7, paragraph (1)" in those provisions is deemed to be replaced with "registration as referred to in Article 50-2, paragraph (1)"; and beyond this, the words set forth in the right-hand column of the following table are deemed to stand in place of the words set forth in the middle column of that table in the provisions set forth in the left-hand column thereof.

Article 11, paragraph (10)	renewal of registration as referred to Article 7, paragraph (3)	renewal of registration as referred to Article 7, paragraph (3) as applied mutatis mutandis pursuant to Article 50-2, paragraph (2)
Article 12, paragraph (2)	the items of Article 8, paragraph (1)	the items of Article 50-2, paragraph (3)
Article 12, paragraph (3)	the custodial trust companies register	the register of self-declared trusts
Article 13, paragraph (2)	its business rules	a document giving the details and methods of the processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act
Article 22, paragraph (3)	operations	processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act
Article 28, paragraph (1)	other operations	other processes
Article 33	business report	self-declared trust report
Article 34, paragraph (1)	operations	processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act
	all of its business offices	all of the business offices at which it will carry out the processes connected with the trust that will be established in the way that is set forth in that item
Article 40, paragraph (1)	operations	processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act
Article 41, paragraph (2), item (ii)	or a former company auditor	a former company auditor, or a former executive managing member

Article 41, paragraph (3)	all of its business offices	all of the business offices at which it will carry out the processes connected with the trust that will be established in the way that is set forth in that item
Article 42, paragraph (1)	with its operations	with its processes
	with regard to the operations or assets of the trust company	with regard to its processes or assets
	state of its operations	state of its processes
Article 42, paragraph (2)	notifications or measures as referred to in Article 17 through to Article 19 inclusive or the state of the trust company's operations	its processes or assets
Article 42, paragraph (3)	with its operations	with its processes
	operations	processes
Article 42, paragraph (4)	operations	processes
Article 43	operations	processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act
	its business rules	a document giving the details and mechanisms of the processes connected with the trust that will be established in the way that is set forth in that item
	its operations	those processes
Article 45, paragraph (1)	operations	processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act
Article 45, paragraph (1), item (i)	Article 5, paragraph (2), item (i) or items (iv) through (vi) of that paragraph	Article 50-2, paragraph (6), item (i) through (vii)

Article 45, paragraph (2)	or company auditor	or company auditor, or an executive managing member
Article 47	renewal of registration as referred to Article 7, paragraph (3)	renewal of registration as referred to Article 7, paragraph (3) as applied mutatis mutandis pursuant to Article 50-2, paragraph (2)
	paragraph (1) or (3) of the preceding Article	paragraph (1) of the preceding Article
Article 48	Article 44, paragraph (1) or Article 45, paragraph (1)	Article 45, paragraph (1)
	operations	processes connected with the trust that will be established in the way that is set forth in Article 3, item (iii) of the Trust Act
Article 49, paragraph (1)	renewal of registration as referred to Article 7, paragraph (3)	renewal of registration as referred to Article 7, paragraph (3) as applied mutatis mutandis pursuant to Article 50-2, paragraph (2)

(Special Provisions on Trusts among Persons Belonging to Same Group of Companies)

Article 51 (1) The provisions of Article 3 and the preceding Article do not apply to acceptance of a trust under all of the following conditions:

- (i) the settlor, trustee, and beneficiary are companies belonging to the same group of companies (meaning a group formed by a company (this includes a foreign company; hereinafter the same applies in this item and paragraph (10)) and its subsidiary companies; hereinafter referred to as "corporate group" in this Article);
- (ii) if a special purpose company (meaning a special purpose company as prescribed in Article 2, paragraph (3) of the Act on Liquidation of Assets) is a beneficiary, no person not belonging to the same corporate group as the trustee has acquired the asset-backed securities (meaning asset-backed securities as prescribed in paragraph (11) of that Article; the same applies in paragraph (8), item (ii)) issued by the special purpose company;
- (iii) no silent partnership agreement related to the business of investing in beneficial interests in trusts (meaning a silent partnership agreement as prescribed in Article 535 of the Commercial Code (Act No. 48 of 1899); the

- same applies in paragraph (8), item (iii)) has been concluded with a person not belonging to the same corporate group as the trustee;
- (iv) any conditions that Cabinet Office Order prescribes as equivalent to those referred to in the preceding two items;
  - (v) the trust agreement includes the condition that the trustee may resign as trustee without the consent of the settlor or beneficiary if the trust ceases to meet any of the conditions set forth in the preceding items.
- (2) A person that will accept a trust as referred to in the preceding paragraph must first notify the Prime Minister of that effect
  - (3) In addition to the trust agreement for the trust in question, documents that Cabinet Office Order prescribes as evidencing that the trust falls under all of the conditions set forth in the items of paragraph (1) must accompany the notification referred to in the preceding paragraph.
  - (4) If a trust as referred to in paragraph (1) ceases to fall under one of the conditions set forth in the items of that paragraph, the Prime Minister may order the trustee of the trust referred to in that paragraph to take measures that will cause it to cease to be the trustee or to take other necessary measures within a fixed period of no longer than three months.
  - (5) On ceasing to be the trustee of a trust as referred to in that paragraph or on learning that the trust referred to in that paragraph has ceased to fall under one of the conditions set forth in the items of that paragraph, the trustee of a trust as referred to in paragraph (1) must notify the Prime Minister of that effect without delay.
  - (6) On finding that it is particularly necessary to do so in order to confirm the status of a trust under paragraph (1), the Prime Minister, within the scope of that necessity, may order the settlor, trustee, or beneficiary of the trust referred to in that paragraph to file the notification referred to in paragraph (2) or the preceding paragraph or to give reports or submit materials that should serve as reference with regard to the measures referred to in paragraph (4); and may have the relevant officials enter the business office, office, or other facility of the trustee; ask questions about the notification referred to in paragraph (2) or the preceding paragraph and the measures referred to in paragraph (4); and inspect the trustee's documents and other articles (but only those that it is necessary to inspect in connection with the notification referred to in paragraph (2) or the preceding paragraph or the measures referred to in paragraph (4)).
  - (7) The provisions of Article 42, paragraph (5) and (6) apply mutatis mutandis to an inspection under the provisions of the preceding paragraph.
  - (8) The beneficiary of a trust as referred to in paragraph (1) must not engage in the following conduct:
    - (i) allow a person not belonging to the same corporate group as the trustee to

- acquire a beneficial interest in the trust;
- (ii) allow a person not belonging to the same corporate group as the trustee to acquire an asset-backed security linked to a beneficial interest in the trust;
  - (iii) conclude a silent partnership agreement in connection with the business of investing in a beneficial interest in the trust with a person not belonging to the same corporate group as the trustee;
  - (iv) take an action that Cabinet Office Order prescribes as equivalent to what is referred to in the preceding two items.
- (9) It is prohibited for a financial instruments business operator (meaning a financial instruments business operator as prescribed in Article 2, paragraph (9) of the Financial Instruments and Exchange Act, and including a person deemed to be a financial instruments business operator pursuant to the provisions of Article 65-5, paragraph (2) of that Act) or registered financial institution (meaning a registered financial institution as prescribed in Article 2, paragraph (11) of that Act, and including a person deemed to be a registered financial institution pursuant to the provisions of Article 2, paragraph (4) of the Act on Engagement in Trust Business by Financial Institutions) to sell a beneficial interest in a trust as referred to in paragraph (1) to a person not belonging to the same corporate group as the trustee, or to act as agent or intermediary for such a sale.
- (10) The term "subsidiary company", as used in paragraph (1), item (i), means a company in which another company holds the majority of all shareholders' or all equity investors' voting rights. In this case, if a first company and one or more of its subsidiary companies hold the majority of all shareholders' or all equity investors' voting rights in a second company, or if one or more of a first company's subsidiary companies holds the majority of all shareholders' or all equity investors' voting rights in a second company, the second company is deemed to be the subsidiary company of the first company.

(Special Provisions on Trusts Linked to Specified University Technology Transfer Projects)

Article 52 (1) The provisions of Article 3 do not apply if a person that has the approval of the Minister of Education, Culture, Sports, Science and Technology and the Minister of Economy, Trade and Industry on a plan to implement a specified university technology transfer project (meaning a specified university technology transfer project as prescribed in Article 2, paragraph (1) of the Act to Promote Technology Transfer from Universities to the Private Sector (Act No. 52 of 1998); hereinafter the same applies in this Article) pursuant to the provisions of Article 4, paragraph (1) of that Act (referred to as the "approved firm" in paragraph (3)) accepts a trust as a specified university technology transfer project after having being registered by the Prime Minister

(hereinafter referred to as "acceptance of a trust that falls under the category of a specified university technology transfer project" in this Article).

(2) The provisions of Article 8 (other than paragraph (1), item (iv)), Article 9, and Article 10 (other than paragraph (1), item (ii)) apply mutatis mutandis to the registration referred to in the preceding paragraph. In this case, the words set forth in the right-hand column of the following table are deemed to stand in place of the words set forth in the middle column of that table in the provisions set forth in the left-hand column thereof.

Article 8, paragraph (1), item (i)	the trade name	the trade name or name
Article 8, paragraph (1), item (ii)	of stated capital	of stated capital or contribution
Article 8, paragraph (1), item (iii)	directors and company auditors	officers
Article 8, paragraph (1), item (v)	trust business	trust business (but only those falling under the category of a specified university technology transfer project)
Article 8, paragraph (1), item (vi)	the head office and other business offices	the main business offices or offices or other business offices or offices
Article 8, paragraph (2), item (i)	the articles of incorporation	the articles of incorporation or the articles of endowment
Article 8, paragraph (2), item (ii)	a certificate of the company's registered information	a certificate of the company's registered information
Article 9, paragraphs (1) and (2)	custodial trust companies register	the register of approved business operators for a specified university technology transfer project
Article 10, paragraph (1), item (i)	items (ii) and (iii)	items (i) through (iv)
Article 10, paragraph (1), item (iii)	a stock company whose net assets are less than the amount prescribed in the preceding item	a corporation net assets are is less than the amount of stated capital or contribution
Article 10, paragraph (1), item (iv)	articles of incorporation	articles of incorporation or the articles of endowment
	custodial trust business	acceptance of a trust that falls under the category of a specified university technology transfer project
	stock company	corporation

Article 10, paragraph (1), item (v)	custodial trust business	acceptance of a trust that falls under the category of a specified university technology transfer project
	stock company	corporation

(3) If an approved firm accepts a trust after having been registered as referred to in paragraph (1), the approved firm is deemed to be a trust company (or a custodial trust company, as regards Article 12, paragraphs (2) and (3), Article 13, paragraph (2), Article 45, Article 46, paragraph (3), and Article 47) and the provisions of Article 11 (other than the parts that deal with the paragraph (10) non-renewal of a registration and revocation and loss of validity of license), Article 12, paragraphs (2) and (3), Article 13, paragraph (2), Article 21 through Article 24, Article 25 through Article 29-3, Article 33, Article 34, Article 41 (excluding paragraph (5)), Article 42 (excluding paragraph (2)), Article 43, Article 45, Article 46 (other than the part that involves loss of validity of license), Article 47 (other than the parts that deal with the non-renewal of a registration), Article 48 (other than the parts that deal with revocation of license), Article 49 (other than the parts that deal with the non-renewal of a registration and revocation of license), and Article 50, as well as the provisions of Chapter VII that are relevant to those provisions apply. In this case, the words set forth in the right-hand column of the following table are deemed to stand in place of the words set forth in the middle column of that table in the provisions set forth in the left-hand column thereof.

Article 11, paragraph (1)	head office	main business office or office
Article 11, paragraph (10)	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)
Article 12, paragraph (3)	custodial trust companies register	register of firms approved for specified university technology transfer projects

Article 21, paragraph (1)	In addition to trust business, a trust company may engage in trust agreement agency services, operations for the purchase and sale, etc. of beneficial interests in trusts, electronic payment instruments-related operations, and property management services	In addition to trust business (but only that which falls under the category of a specified university technology transfer project; the same applies hereinafter) and specified university technology transfer projects (other than those which fall under the category of trust business), a trust company may engage in trust agreement agency services, operations for the purchase and sale, etc. of beneficial interests in trusts, and property management services in connection with specified university technology transfer projects
Article 21, paragraph (6)	Article 4, paragraph (2), item (iii) or Article 8, paragraph (2), item (iii)	Article 8, paragraph (2), item (iii) as applied mutatis mutandis pursuant to Article 52, paragraph (2)
	for license as referred to in Article 3 or registration as referred to in Article 7, paragraph (1)	for registration under Article 52, paragraph (1)
	licensed or registered	registered
Article 24, paragraph (1)	the following conduct (other than the conduct set forth in item (v), if it accepts a trust under a specific trust agreement as prescribed in the following Article)	the following conduct
Article 25	trade name	trade name or name
	information set forth in paragraph (1), item (iii) through (xvi) of the following Article (if the company accepts a trust under a specific trust agreement, this excludes an explanation of the information set forth in that paragraph);	information set forth in paragraph (1), item (iii) through (xvi) of the following Article

Article 26, paragraph (1), item (ii)	trade name	trade name or name
Article 34, paragraphs (1) and (3)	business offices	business offices or offices
Article 41, paragraph (2), item (i)	it discontinues trust business (or has a person assume all of its trust business through a company split or transfers all of its trust business):	it discontinues trust business (or has a person assume all of its trust business through a company split or transfers all of its trust business) or has its approval as referred to in Article 4, paragraph (1) of the Act on the Promotion of Technology Transfer from Universities to the Private Sector rescinded pursuant to the provisions of Article 5, paragraph (2) of that Act:
	trust company	firm
Article 41, paragraph (2), item (ii)	the company	the firm
	former director or executive officer that represented the company or a former company auditor	former officer that represented the company
Article 41, paragraph (3)	business offices	business offices or offices
Article 42, paragraph (1)	a business office or any other facility of the trust company	a business office, office, or other facility of the approved firm
Article 45, paragraph (1)	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)
Article 45, paragraph (1), item (i)	Article 5, paragraph (2), item (i) or items (iv) through (vi) of that paragraph	Article 5, paragraph (2), item (v) or (vi)
Article 45, paragraph (1), item (ii)	has comes to fall under one of Article 10, paragraph (1), items (ii) through (v)	comes to fall under one of Article 10, paragraph (1), items (iii) through (v) as applied mutatis mutandis pursuant to Article 52, paragraph (2)
Article 45, paragraph (1), item (iii)	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)

Article 45, paragraph (2)	director, executive officer, accounting advisor, or company auditor	officer
Article 46, paragraph (1)	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)
Article 46, paragraph (3)	is licensed as referred to in Article 3 or is registered as referred to in Article 52, paragraph (1)	is licensed as referred to in Article 3 or Article 53, paragraph (1), or is registered as referred to in Article 7, paragraph (1) or Article 54, paragraph (1)
	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)
Article 47	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)
Article 48	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)
	Article 44, paragraph (1) or Article 45, paragraph (1)	Article 45, paragraph (1)
Article 49, paragraph (1)	registration as referred to Article 7, paragraph (1)	registration as referred to Article 52, paragraph (1)

### Chapter III Foreign Trust Business Operators

(License)

Article 53 (1) Notwithstanding the provisions of Article 3, a foreign trust business operator may engage in trust business at a branch office that it has established as a base of its trust service in Japan (hereinafter referred to as the "main branch office") and other branch offices that it has established in Japan, but only if it has been licensed for that main branch office by the Prime Minister.

(2) A person seeking to be licensed as referred to in the preceding paragraph (referred to as the "applicant" in paragraphs (5) and (6)) must designate a representative to be in charge of the operations of all branch offices engaged in trust business (hereinafter referred to as a "domestic representative") and submit a written application to the Prime Minister giving the following information:

(i) its trade name and the location of its head office;

- (ii) its amount of stated capital;
  - (iii) the names of the officers (meaning directors and executive officers, accounting advisors, and company auditors, or equivalent persons; the same applies hereinafter);
  - (iv) if it is engaged in operations other than trust business at any branch office, the type of operations;
  - (v) the names and locations of its main branch office and other branch offices;
  - (vi) the name and domestic address of its domestic representative.
- (3) The following documents must accompany the written application referred to in the preceding paragraph:
- (i) the articles of incorporation and a certificate of the company's registered information (or their equivalents);
  - (ii) a business rules;
  - (iii) a balance sheet;
  - (iv) a document stating expected income and expenditures;
  - (v) documents prescribed by Cabinet Office Order.
- (4) The provisions of Article 4, paragraph (3) apply mutatis mutandis to the business rules referred to in item (ii) of the preceding paragraph.
- (5) When an application as referred to in paragraph (1) is filed, the Prime Minister must examine whether the applicant conforms to the following criteria:
- (i) the provisions of its articles of incorporation (or documents equivalent thereto) and its business rules conform to laws and regulations and are also sufficient to allow it to perform trust business properly;
  - (ii) it has a sufficient financial basis to soundly perform trust business;
  - (iii) in light of the personnel structure of each branch office, it has the knowledge and experience to unerringly perform trust business, and also has sufficient social credibility.
- (6) If an applicant falls under a category referred to in one of the following items, or if the written application referred to in paragraph (2) or an accompanying document set forth in one of the items of paragraph (3) gives false statements or omits a material fact, the Prime Minister must not license the applicant:
- (i) a person that is not a corporation of the same kind as a stock company;
  - (ii) a corporation whose stated capital as referred to in paragraph (2), item (ii) is less than the amount that Cabinet Order prescribes as necessary and appropriate to protect the settlors or beneficiaries;
  - (iii) a corporation whose net assets are less than the amount prescribed in the preceding item;
  - (iv) a corporation seeking to use a name that is identical to a trade name or name being used by another trust company or foreign trust company, or a name that is likely to cause it to be mistaken for another trust company or

- foreign trust company, at any of its branch offices;
- (v) a corporation whose renewal of registration as referred to in Article 7, paragraph (3), as applied mutatis mutandis pursuant to paragraph (2) of the following Article, has been denied pursuant to the provisions of paragraph (6) of that Article; whose paragraph (1) license has been revoked pursuant to the provisions of Article 59, paragraph (1); whose registration as referred to in paragraph (1) of the following Article has been revoked pursuant to the provisions of Article 60, paragraph (1); whose Article 67, paragraph (1) registration has been revoked pursuant to the provisions of Article 82, paragraph (1); whose license as referred to in Article 3 of the Secured Bonds Trust Act has been revoked pursuant to the provisions of Article 12 of that Act; or whose authorization as referred to in Article 1, paragraph (1) of the Act on Engagement in Trust Business by Financial Institutions has been revoked pursuant to the provisions of Article 10 of that Act; or a corporation that had obtained the same kind of license, registration, or authorization in the state in which its head office is located, pursuant to the provisions of a law or regulation of that state that is equivalent to this Act, the Secured Bonds Trust Act, or the Act on Engagement in Trust Business by Financial Institutions (including permission or any other administrative disposition similar to the license, registration, or authorization) but that has had that license, registration, or authorization revoked or has been denied a renewal of its license, registration, or authorization, if it has not yet been five years since the date of revocation (or since the day on which the disposition denying a renewal was issued, if the stock company has been denied a renewal);
  - (vi) a corporation that has been sentenced to a fine (or become subject to an equivalent sentence under a foreign law or regulation) for violating the provisions of any of the laws prescribed in Article 5, paragraph (2), item (vi) or the provisions of an equivalent foreign law or regulation, if it has not yet been five years since the day that the sentence was completed or that the stock company ceased to be subject to its enforcement;
  - (vii) a corporation engaged in other operations at any of its branch offices which are unrelated to its trust business, or a corporation whose engagement in other operations is found likely to interfere with its proper and reliable engagement in trust business;
  - (viii) a corporation that has a person falling under one of clauses (a) through (h) of Article 5, paragraph (2), item (viii) as an officer (this includes any person, irrespective of title, that is found to have at least the same authority over the corporation as an officer; the same applies in Article 59, paragraph (2) and Article 60, paragraph (2)) or domestic representative;
  - (ix) a corporation whose major shareholders (including persons equivalent

thereto) have yet to be confirmed by the regulatory authorities for trust business in the relevant foreign state as unlikely to interfere with the sound and appropriate administration of trust business.

- (7) The amount of stated capital as referred to in paragraph (2), item (ii) is to be calculated pursuant to the provisions of Cabinet Office Order.
- (8) The amount of net assets as referred to in paragraph (6), item (iii) is to be calculated pursuant to the provisions of Cabinet Office Order.
- (9) On finding that it is necessary to do so in light of the criteria for examination under the provisions of paragraph (5), the Prime Minister, within the scope of that necessity, may attach conditions to the license referred to in paragraph (1) or change the conditions.

(Registration)

Article 54 (1) Notwithstanding the provisions of Article 3, Article 7, paragraph (1), and paragraph (1) of the preceding Article, if the main branch office of a foreign trust business operator is registered by the Prime Minister, it may engage in custodial trust business at that main branch office and other branch offices that it has established in Japan.

- (2) The provisions of Article 7, paragraphs (2) through (6) apply mutatis mutandis to the registration referred to in the preceding paragraph.
- (3) A person seeking registration as referred to in paragraph (1) (or renewal of registration as referred to in Article 7, paragraph (3) as applied mutatis mutandis pursuant to the preceding paragraph; the same applies in paragraph (6), Article 60, paragraph (1), item (iii) and Article 91, item (iii)) (referred to as the "applicant" in paragraph (6)) must designate a domestic representative and submit a written application to the Prime Minister, giving the following information:
  - (i) its trade name and the location of its head office;
  - (ii) its amount of stated capital;
  - (iii) the names of its officers;
  - (iv) if it is engaged in operations other than trust business at any branch office, the type of operations;
  - (v) the names and locations of its main branch office and other branch offices;
  - (vi) the name and domestic address of its domestic representative.
- (4) The following documents must accompany the written application referred to in the preceding paragraph:
  - (i) the articles of incorporation and a certificate of the company's registered information (or their equivalents);
  - (ii) a business rules;
  - (iii) a balance sheet;
  - (iv) documents prescribed by Cabinet Office Order.

- (5) The provisions of Article 8, paragraph (3) apply mutatis mutandis to the business rules referred to in item (ii) of the preceding paragraph.
- (6) If an applicant falls under a category referred to in one of the following items, or if the written application referred to in paragraph (3) or an accompanying document set forth in one of the items of paragraph (4) gives false statements or omits a material fact, the Prime Minister must refuse to register the applicant:
- (i) a person falling under one of the items of paragraph (6) of the preceding Article (other than items (ii) and (iii));
  - (ii) a corporation whose stated capital as referred to in paragraph (3), item (ii) is less than the amount that Cabinet Order prescribes as necessary and appropriate for settlors' or beneficiaries' protection;
  - (iii) a corporation whose net assets are less than the amount prescribed in the preceding item;
  - (iv) a corporation with provisions in its articles of incorporation (including any document equivalent thereto) or business rules that do not conform to laws and regulations or that are insufficient to allow it to properly perform custodial trust business;
  - (v) a corporation with a branch office that is found, in light of personnel structure, not to have the knowledge and experience to unerringly perform custodial trust business.
- (7) The amount of stated capital as referred to in paragraph (3), item (ii) is to be calculated pursuant to the provisions of Cabinet Office Order.
- (8) The amount of net assets as referred to in paragraph (6), item (iii) is to be calculated pursuant to the provisions of Cabinet Office Order.
- (9) When an application is filed for registration as referred to in paragraph (1), the Prime Minister, if not refusing to register the applicant pursuant to the provisions of paragraph (6), must register the following information in the foreign custodial trust companies register:
- (i) the information set forth in the items of paragraph (3);
  - (ii) the date of registration and the registration number.
- (10) The Prime Minister must make the foreign custodial trust companies register available for public inspection.

(Loss Reserves)

Article 55 (1) Until the amount of loss reserves reaches the amount that Cabinet Order prescribes which is referred to in Article 53, paragraph (6), item (ii), a foreign trust company (other than a foreign custodial trust company) must set aside loss reserves at its main branch office in each accounting period, in at least the amount arrived at when the amount of profits from business at all branch offices is multiplied by the Cabinet Office Order-prescribed rate of no

more than one-tenth.

- (2) The provisions of the preceding paragraph apply *mutatis mutandis* to a foreign custodial trust company. In this case, the phrase "Article 53, paragraph (6), item (ii)" in that paragraph is deemed to be replaced with "Article 54, paragraph (6), item (ii)".
- (3) The loss reserves set aside pursuant to the provisions of the preceding two paragraphs must not be used other than with the approval of the Prime Minister, when allocated to compensate for a net loss from business at all branch offices for a single accounting period.
- (4) A foreign trust company, pursuant to the provisions of Cabinet Office Order, must retain assets in Japan equivalent to the sum total of the loss reserves set aside pursuant to the provisions of paragraph (1) or (2), the amount of business security deposits that Cabinet Office Order prescribes, and the part of the liabilities on the accounts of all branch offices which Cabinet Office Order prescribes.

(Notification of Changes to Information Given in a Written Application)

- Article 56 (1) If any of the information set forth in an item of Article 53, paragraph (2) changes, a foreign trust company (other than a foreign custodial trust company) must notify the Prime Minister of that effect within two weeks from the date of the change.
- (2) If any of the information set forth in an item of Article 54, paragraph (3) changes, within two weeks from the date of the change, a foreign custodial trust company must notify the Prime Minister of that effect.
  - (3) On receipt of a notification as referred to in the preceding paragraph, the Prime Minister must register that effect in the foreign custodial trust companies register.

(Notifications)

- Article 57 (1) If it comes to fall under one of the following items, a foreign trust company must notify the Prime Minister of that effect without delay:
- (i) it files a petition to commence bankruptcy proceedings, commence rehabilitation proceedings, or commence reorganization proceedings in Japan, or it files a petition for any proceedings of the same kind in the state where its head office is located, pursuant to the laws and regulations of that state;
  - (ii) it effects a merger (unless the foreign trust company disappears in the merger), has another person assume part of its trust business, succeeds to a trust business in whole or in part, transfers a part of its trust business, or acquires a trust business in whole or in part;
  - (iii) it falls under a case as prescribed by Cabinet Office Order.
- (2) If a foreign trust company comes to fall under one of the following items, the

person specified in the item must notify the Prime Minister of that effect without delay:

- (i) it discontinues trust business at all of its branch offices (or it discontinues all of its foreign trust business; has another person assume all of its foreign trust business; transfers all of its foreign trust business; has another person assume all of its branch offices' trust business; or transfers all of its branch offices' trust business): the foreign trust business operator or the former foreign trust business operator;
  - (ii) it disappears due to a merger: a former officer of the foreign trust business operator;
  - (iii) it becomes subject to an order commencing bankruptcy proceedings, or proceedings of the same kind as bankruptcy proceedings are commenced in the state where its head office is located pursuant to the laws and regulations of that state: the bankruptcy trustee or a person equivalent to a bankruptcy trustee in that state;
  - (iv) it is dissolved for a reason other than a merger or the commencement of bankruptcy proceedings (this includes if the liquidation of a branch office has begun): the liquidator or a person equivalent to a liquidator in the state where its head office is located.
- (3) A foreign trust company must issue public notice and post a notice at all of its business offices in a place easily seen by the public, pursuant to the provisions of Cabinet Office Order, by 30 days prior to discontinuing trust business at all branch offices (or discontinuing all trust business in foreign countries); effecting a merger (but only a merger due to which the foreign trust company in question disappears); dissolving for a reason other than a merger or the commencement of bankruptcy proceedings; having a person assume all of its branch offices' trust business (or having a person assume all of its foreign trust business); having a person assume a part of its branch offices' trust business; transferring all of its branch offices' trust business (or transferring all of its foreign trust business); or transferring a part of its branch offices' trust business.
- (4) Having issued a public notice as referred to in the preceding paragraph, a foreign trust company must notify the Prime Minister of that effect immediately.
- (5) Having been registered pursuant to Article 52, paragraph (1) or Article 54, paragraph (1), a foreign trust company (other than a foreign custodial trust company; hereinafter the same applies in this paragraph) must issue public notice of this and post a notice indicating the same at all of its business offices in a place easily seen by the public, without delay and pursuant to the provisions of Cabinet Office Order; and having been registered pursuant to Article 52, paragraph (1), a foreign custodial trust company must issue public

notice of that effect and post a notice indicating the same at all of its business offices in a place easily seen by the public, without delay and pursuant to the provisions of Cabinet Office Order.

- (6) The provisions of Article 940, paragraph (1) of the Companies Act (excluding item (ii)) and of 940, paragraph (3) (Public Notice Period for Electronic Public Notices), Article 941 (Electronic Public Notice Investigations), Article 946 (Duty to Investigate), Article 947 (When an Electronic Public Notice Cannot Be Investigated), Article 951, paragraph (2) (Keeping and Inspection of Financial Statements), Article 953 (Improvement Order), and Article 955 (Entries in Investigation Record Books) of that Act apply mutatis mutandis if a foreign trust company issues public notice pursuant to the provisions of this Act or any other Act (other than public notice under the provisions of the Companies Act) as an electronic public notice (meaning an electronic public notice as prescribed in Article 2, item (xxxiv) (Definitions) of that Act). In this case, the phrase "the preceding two paragraphs" in Article 940, paragraph (3) of that Act is deemed to be replaced with "paragraph (1)"; and beyond this, Cabinet Order provides for the necessary technical replacement of terms.

(On-Site Inspections)

- Article 58 (1) On finding that it is necessary to do so in order to ensure a foreign trust company's sound and appropriate administration of trust business, the Prime Minister may order the foreign trust company or a person that conducts transactions with a branch office of the foreign trust company in connection with its operations to give reports or submit materials that should serve as a reference with regard to the state of the branch office's operations or assets, and may have the relevant officials enter the branch office or any other facility, ask questions about the state of its operations and assets, and inspect its books, documents and any other articles.
- (2) On finding that it is particularly necessary to do so in order to ensure a foreign trust company's sound and appropriate administration of trust business, the Prime Minister, within the scope of that necessity, may order a person that the foreign trust company has entrusted with its operations (or a person entrusted with those operations by the person that the foreign trust company has entrusted with them (this includes entrustment at the second or higher degree of separation from the original entrustment); hereinafter the same applies in this paragraph and the following paragraph) to give reports or submit materials that should serve as a reference with regard to the foreign trust company's operations or assets, and may have the relevant officials enter the facility of a person that the foreign trust company has entrusted with its operations, ask questions about the state of the foreign trust company's operations and assets, and inspect its books, documents and any other articles.

- (3) A person that a foreign trust company entrusts with its operations as referred to in the preceding paragraph may refuse to give a report or submit materials, to be questioned, or to undergo an inspection as referred to in the provisions of that paragraph if it has a legitimate reason to do so.
- (4) An official carrying out an on-site inspection pursuant to the provisions of paragraph (1) or (2) must carry identification and present it to the persons concerned.
- (5) The authority for an on-site inspection under the provisions of paragraphs (1) and (2) must not be interpreted as having been accorded for the purpose of a criminal investigation.

(Supervisory Dispositions against an Investment-Based Foreign Trust Company)

Article 59 (1) If a foreign trust company (other than a foreign custodial trust company; hereinafter the same applies in this Article) falls under one of the following items, the Prime Minister may revoke its Article 53, paragraph (1) license or may order the suspension of all or part of the operations at its branch offices during a fixed period of no longer than six months:

- (i) it comes to fall under Article 53, paragraph (6), items (i) through (vi);
  - (ii) it is discovered to have fallen under one of the items of Article 53, paragraph (6) at the time it was licensed as referred to in paragraph (1) of that Article;
  - (iii) one of its branch offices ceases to have a sufficient personnel structure to unerringly perform trust business;
  - (iv) it is discovered to have gained its Article 53, paragraph (1) license by wrongful means;
  - (v) it violates a condition attached to its Article 53, paragraph (1) license;
  - (vi) it violates a law or regulation or a disposition by the Prime Minister which is based on a law or regulation;
  - (vii) it acts in a way that harms the public interest.
- (2) If a foreign trust company's domestic representative or a branch office's officer-in-residence comes to fall under one of clauses (a) through (h) of Article 5, paragraph (2), item (viii) or engages in conduct that falls under item (v) or (vi) of the preceding paragraph, the Prime Minister may order the foreign trust company to dismiss that representative or officer.

(Supervisory Dispositions against a Foreign Custodial Trust Company)

Article 60 (1) If a foreign custodial trust company falls under one of the following items, the Prime Minister may revoke its registration as referred to in Article 54, paragraph (1) or may order the suspension of all or part of the operations at its branch offices during a fixed period of no longer than six

months:

- (i) it comes to fall under Article 53, paragraph (6), item (i) or items (iv) through (vi) of that paragraph;
  - (ii) it comes to fall under Article 54, paragraph (6), items (ii) through (v);
  - (iii) it is discovered to have gained its registration as referred to in Article 54, paragraph (1) by wrongful means;
  - (iv) it violates a law or regulation or a disposition by the Prime Minister which is based on a law or regulation;
  - (v) it acts in a way that harms the public interest.
- (2) If a foreign custodial trust company's domestic representative or a branch office's officer-in-residence comes to fall under one of clauses (a) through (h) of Article 5, paragraph (2), item (viii) or engages in conduct that falls under item (iv) of the preceding paragraph, the Prime Minister may order the foreign custodial trust company to dismiss that representative or officer.

(Application Mutatis Mutandis of Provisions on Dismissal Procedures If Licensing Is Revoked)

Article 61 The provisions of Article 49 apply mutatis mutandis if the Prime Minister does not make registration renewal as referred to in Article 7, paragraph (3) as applied mutatis mutandis pursuant to Article 54, paragraph (2); revokes license as referred to in Article 53, paragraph (1) pursuant to the provisions of Article 59, paragraph (1); or revokes registration as referred to in Article 54, paragraph (1) pursuant to the provisions of paragraph (1) of the preceding Article.

(Opinion of the Prime Minister in Liquidation Proceedings)

- Article 62 (1) The court may ask for the opinion of the Prime Minister or request that the Prime Minister undertake an inspection or investigation in liquidation proceedings, bankruptcy proceedings, rehabilitation proceedings, reorganization proceedings, or recognition assistance proceedings conducted in Japan involving a foreign trust company.
- (2) The provisions of Article 50, paragraphs (2) and (3) apply mutatis mutandis to a case as prescribed in the preceding paragraph.

(Application of This Act)

Article 63 (1) A foreign trust company is deemed to be a trust company, a foreign custodial trust company is deemed to be a custodial trust company, a foreign trust company's domestic representative or a branch office's officer-in-residence (other than a company auditor or an equivalent person) is deemed to be the director of a trust company, and the provisions of the preceding Chapter (excluding the provisions of Article 3 through Article 10, Article 12, Article 14,

paragraph (2), Article 17 through Article 21, Article 32, Article 35 through Article 42, Article 44, Article 45, and Article 49 through Article 52) and the provisions of Chapters VII and VIII that are relevant to those provisions apply. In this case, the words set forth in the right-hand column of the following table are deemed to stand in place of the words set forth in the middle column of that table in the provisions set forth in the left-hand column thereof.

Article 11, paragraph (1)	head office	main branch office
Article 11, paragraph (10)	renewal of registration as referred to in Article 7, paragraph (3)	renewal of registration as referred to in Article 7, paragraph (3) as applied mutatis mutandis pursuant to the provisions of Article 54, paragraph (2)
	Article 44, paragraph (1)	Article 59, paragraph (1)
	license as referred to in Article 3	license as referred to in Article 53, paragraph (1)
	Article 45, paragraph (1)	Article 60, paragraph (1)
Article 14, paragraph (1), Article 25 and Article 26, paragraph (1), item (ii)	registraion as referred to in Article 7, paragraph (1)	registration as referred to in Article 54, paragraph (1)
	its trade name	name of its branch offices
	Article 24-2	"the addresses of the branch offices
	"Article 26, paragraph (1) of the Trust Business Act";	"Article 26, paragraph (1) of the Trust Business Act"; the term "officer" in Article 38 of the Financial Instruments and Exchange Act is deemed to be replaced with "officer(or domestic representative)";
Article 33	for each business year	with respect to for each period from April of a given every year to March of the next year
	of the business year	of the period
Article 34	for each business year	for each period from April of a given year to March of the next year

	of the business year	of the period
	business offices	branch offices
Article 46, paragraph (1)	Article 41, paragraph (2)	Article 57, paragraph (2)
	license as referred to in Article 3	license as referred to Article 53, paragraph (1)
	registration as referred to Article 7, paragraph (1)	registration as referred to Article 54, paragraph (1)
Article 46, paragraph (2)	registered as referred to in Article 7, paragraph (1) or Article 52, paragraph (1)	registered as referred to in Article 52, paragraph (1) or Article 54, paragraph (1)
	license as referred to Article 3	license as referred to Article 53, paragraph (1)
Article 46, paragraph (3)	is licensed as referred to in Article 3 or is registered as referred to in Article 52, paragraph (1)	is registered as referred to in Article 52, paragraph (1) or is licensed as referred to in Article 53, paragraph (1)
	registration as referred to in Article 7, paragraph (1)	registration as referred to in Article 54, paragraph (1)
Article 47	renewal of registration as referred to in Article 7, paragraph (3)	renewal of registration as referred to in Article 7, paragraph (3) as applied mutatis mutandis pursuant to Article 54, paragraph (2)
	Article 45, paragraph (1)	Article 60, paragraph (1)
	registration as referred to in Article 7, paragraph (1)	registration as referred to in Article 54, paragraph (1)
Article 48	Article 44, paragraph (1)	Article 59, paragraph (1)
	license as referred to in Article 3	license as referred to in Article 53, paragraph (1)
	Article 45, paragraph (1)	Article 60, paragraph (1)
	registration as referred to in Article 7, paragraph (1)	registration as referred to in Article 54, paragraph (1)

(2) The provisions of Article 21 apply mutatis mutandis to the operations that a foreign trust company carries out at its branch offices, and the provisions of Article 39 apply mutatis mutandis if a foreign trust company transfers its branch office's trust business. In this case, the words set forth in the right-hand column of the following table are deemed to stand in place of the words set forth in the middle column of that table in the provisions set forth in the left-hand column thereof.

Article 21, paragraph (1)	Article 4, paragraph (2), item (iii)	Article 53, paragraph (3), item (ii)
	Article 8, paragraph (2), item (iii)	Article 54, paragraph (4), item (ii)
Article 21, paragraph (6)	license as referred to in Article 3	license as referred to in Article 53, paragraph (1)
	registration as referred to in Article 7, paragraph (1)	registration as referred to in Article 54, paragraph (1)

(Notification of a Foreign Trust Business Operator's Establishment of an Office with an Officer-In-Residence)

- Article 64 (1) Before establishing an office with an officer-in-residence or any other facility in Japan for the purpose of conducting the following operations (and before carrying out the operations at a facility that has been established for another purpose), a foreign trust business operator must first notify the Prime Minister of the content of the operations and the location of the facility, giving the information prescribed by Cabinet Office Order:
- (i) the collection or provision of information about trust business;
  - (ii) other operations related to trust business.
- (2) On finding that it is necessary to do so, the Prime Minister may request a foreign trust business operator to give a report or submit materials on the operations set forth in the items of the preceding paragraph that it carries out at the facility referred to in that paragraph.
- (3) If it closes a facility referred to in paragraph (1), discontinues the operations as set forth in the items of that paragraph that it carries out at that facility, or changes any of the information of which it has notified the relevant person pursuant to the provisions of that paragraph, a foreign trust business operator must notify that effect to the Prime Minister without delay.

#### **Chapter IV Persons with Authority to Give Instructions**

(Duty of Loyalty of Persons with Authority to Give Instructions)

Article 65 A person engaged in the business of giving instructions on how to manage or dispose of trust property (hereinafter referred to as a "person with the authority to give instructions" in the following Article) must work resolutely on behalf of the beneficiary in providing instructions on how to manage or dispose of trust property in accordance with the main purpose of the trust.

(Rules of Conduct for Persons with Authority to Give Instructions)

Article 66 A person with the authority to give instructions must not engage in the following conduct with regard to the trust property about which the person

gives instructions:

- (i) instructing the trustee to conduct a transaction under terms and conditions that are different from ordinary terms and conditions and that damage the trust property;
- (ii) instructing the trustee to conduct a transaction that is unnecessary in light of the purpose of the trust, the status of the trust property, or the policy for managing or disposing of trust property;
- (iii) instructing the trustee to conduct a transaction (other than one that Cabinet Office Order prescribes) in pursuit of its own interests or in the interests of a person other than the beneficiary of the trust property, using information about trust property;
- (iv) other conduct that Cabinet Office Order prescribes as being likely to damage trust property.

## **Chapter V Trust Agreement Agents**

### **Section 1 General Provisions**

(Registration)

Article 67 (1) A person may not engage in trust agreement agency services unless registered by the Prime Minister.

(2) A person engaged in trust agreement agency services must engage in trust agreement agency services for a trust company or a foreign trust company (hereinafter referred to as the "principal trust company") as entrusted by that trust company or foreign trust company.

(Application for Registration)

Article 68 (1) A person seeking to be registered as referred to in paragraph (1) of the preceding Article (referred to as the "applicant" in Article 70) must submit a written application to the Prime Minister giving the following information:

- (i) its trade name or name;
- (ii) the names of its officers, if it is a corporation;
- (iii) the names and locations of the business offices or offices where it engages in trust agreement agency services;
- (iv) the trade name of the principal trust company;
- (v) if it is engaged in other services, the type of services;
- (vi) the information prescribed by Cabinet Office Order.

(2) The following documents must accompany the written application referred to in the preceding paragraph:

- (i) a document in which the applicant swears that it does not fall under Article 70, item (i) or (ii);
- (ii) a business rules;

- (iii) if the applicant is a corporation, its articles of incorporation and a certificate of the company's registered information (or their equivalents);
  - (iv) documents prescribed by Cabinet Office Order.
- (3) The information that is required to be included in a business rules as referred to in item (ii) of the preceding paragraph is the information that Cabinet Office Order prescribes.

(Registration in the Register)

Article 69 (1) When an application is filed for registration as referred to in Article 67, paragraph (1), the Prime Minister, if not refusing to register the applicant pursuant to the provisions of the following Article, must register the following information in the trust agreement agents register:

- (i) the information set forth in the items of paragraph (1) of the preceding Article;
  - (ii) the date of the registration and the registration number.
- (2) The Prime Minister must make the trust agreement agents register available for public inspection.

(Refusing Registration)

Article 70 If an applicant falls under a category referred to in one of the following items, or if the written application referred to in Article 68, paragraph (1) or an accompanying document set forth in one of the items of paragraph (2) of that Article gives false statements or omits a material fact, the Prime Minister must refuse to register the applicant:

- (i) a person falling under one of the following, if the applicant is an individual:
  - (a) a person specified by Cabinet Office Order as being unable to properly perform trust agreement agency services due to mental or physical disorder;
  - (b) a person falling under any clause of (b) through (h) of Article 5, paragraph (2), item (viii);
- (ii) a person falling under one of the following, if the applicant is a corporation:
  - (a) a person falling under Article 5, paragraph (2), item (x), (a) or (b);
  - (b) a person that has a person falling under one of the following as its officer:
    - 1. a person specified by Cabinet Office Order as being unable to properly perform their duties subject to trust agreement agency services due to mental or physical disorder;
    - 2. a person falling under any clause of (b) through (h) of Article 5, paragraph (2), item (viii);
- (iii) a person found not to have in place the necessary system to unerringly perform services as a trust agreement agent;
- (iv) a person whose other operations are found to be contrary to the public

interest.

(Notification of Changes)

- Article 71 (1) If there is a change involving information set forth in the items of Article 68, paragraph (1), within 30 days from the date of the change, a trust agreement agent must notify the Prime Minister of that effect.
- (2) Having received a notification as referred to in the preceding paragraph, the Prime Minister must register that effect in the trust agreement agents register.
- (3) If it changes its business rules as referred to in Article 68, paragraph (2), item (ii), a trust agreement agent must notify the Prime Minister of that effect without delay.

(Posting of Signs)

- Article 72 (1) A trust agreement agent must post a sign in the format that Cabinet Office Order prescribes at all of the business offices and offices at which it engages in trust agreement agency services, in a place easily visible to the public.
- (2) A person other than a trust agreement agent must not post a sign as referred to in the preceding paragraph or any sign similar thereto.

(Prohibition on Lending One's Name)

- Article 73 A trust agreement agent must not allow another person to engage in trust agreement agency services using its name.

## **Section 2 Operations**

(Providing Explanations to Clients)

- Article 74 Before acting as an agent (but only as the agent of a trust company or foreign trust company; hereinafter the same applies in this Chapter) or intermediary to conclude a trust agreement, a trust agreement agent must first make the following information clear to the client:
- (i) the trade name of the principal trust company;
- (ii) whether it is acting as an agent or as an intermediary to conclude the trust agreement;
- (iii) the information prescribed by Cabinet Office Order.

(Separate Management)

- Article 75 If a trust agreement agent has property deposited with it by a client as part of its actions as an agent or intermediary to conclude a trust agreement, it must manage that property separately from its own property and separately from property deposited with it in connection with the conclusion of other trust

agreements.

(Application, Mutatis Mutandis)

Article 76 The provisions of Article 24 and Article 25 apply mutatis mutandis to actions that a trust agreement agent takes as an agent or intermediary to conclude a trust agreement. In this case, the phrase "the following conduct (other than the conduct set forth in item (v), if it accepts a trust under a specific trust agreement as prescribed in the following Article)" in Article 24, paragraph (1) is deemed to be replaced with "the following conduct"; the phrase "of the following Article (if the company accepts a trust under a specific trust agreement, this excludes an explanation of the information set forth in those items)" in Article 25 is deemed to be replaced with "of the following Article"; and the phrase "its trade name" in the same provisions is deemed to be replaced with "the trade name of the trustee".

### **Section 3 Accounting**

(Reports on Services as a Trust Agreement Agent)

Article 77 (1) A trust agreement agent must prepare a report on its services as a trust agreement agent for each business year and submit it to the Prime Minister within three months from the end of the business year.

(2) The Prime Minister must make reports on persons' services as trust agreement agents as referred to in the preceding paragraph available for public inspection, excluding information likely to compromise a secret of the settlor or beneficiary and information likely to place the trust agreement agent at an unreasonable disadvantage in the performance of its services.

(Public Inspection of Explanatory Documents of Principal Trust Companies)

Article 78 (1) A trust agreement agent must keep copies of the explanatory documents that the principal trust company prepares for each of its business years pursuant to the provisions of Article 34, paragraph (1) at all of the business offices and offices at which it engages in trust agreement agency services, and must make these available for public inspection.

(2) If an explanatory document as prescribed in the preceding paragraph is prepared in the form of an electronic or magnetic record, a trust agreement agent may take what Cabinet Office Order prescribes as measures to put the data forming the content of that explanatory document into a format that allows a large, non-exclusive audience to gain access to it through electronic or magnetic means at all of the business offices or offices at which it engages in trust agreement agency services. In doing so, it is deemed to have made the explanatory documents prescribed in that paragraph available for public

inspection.

#### **Section 4 Supervision**

(Notification of Business Discontinuation)

Article 79 If a trust agreement agent comes to fall under one of the following items, the person prescribed in that item must notify the Prime Minister of that effect within thirty days from that date:

- (i) the agent discontinues its trust agreement agency services (including if it has a person assume all of its trust agreement agency services in a company split or transfers all of its trust agreement agency services): the individual or corporation;
- (ii) the individual that constitutes the trust agreement agent dies: the individual's heir;
- (iii) the corporation that constitutes the trust agreement agent disappears due to a merger: a former officer that represented the corporation;
- (iv) the corporation that constitutes the trust agreement agent is dissolved due to an order commencing bankruptcy proceedings: the bankruptcy trustee;
- (v) the corporation that constitutes the trust agreement agent is dissolved for a reason other than a merger or an order commencing bankruptcy proceedings: the liquidator.

(On-Site Inspections)

Article 80 (1) On finding that it is necessary to do so in order to ensure a trust agreement agent's sound and appropriate administration of services as a trust agreement agent, the Prime Minister may order the trust agreement agent or a person that conducts transactions with the trust agreement agent in connection with its services to give reports or submit materials that should serve as a reference with regard to the operations of the trust agreement agent, and may have the relevant officials enter a business office or office of the trust agreement agent, ask questions about the state of its operations, and inspect its books, documents and any other articles.

- (2) An official carrying out an on-site inspection pursuant to the provisions of the preceding paragraph must carry identification and present it to the persons concerned.
- (3) The authority for an on-site inspection under the provisions of paragraph (1) must not be interpreted as having been accorded for the purpose of a criminal investigation.

(Operational Improvement Orders)

Article 81 On finding that it is necessary to do so in order to ensure a trust

agreement agent's sound and appropriate administration of services as a trust agreement agent in light of the state of those services, the Prime Minister, within the scope of that necessity, may order the trust agreement agent to change its business rules or to otherwise take measures that are necessary for improving the administration of its services.

(Supervisory Dispositions)

- Article 82 (1) If a trust agreement agent falls under one of the following items, the Prime Minister may revoke the trust agreement agent's registration as referred to in Article 67, paragraph (1) or may order the suspension of all or part of its services during a fixed period of no longer than six months:
- (i) it comes to fall under one of the items of Article 70 (excluding item (ii), (b));
  - (ii) it is discovered to have gained its registration as referred to in Article 67, paragraph (1) by wrongful means;
  - (iii) it violates a law or regulation or a disposition by the Prime Minister which is based on a law or regulation;
  - (iv) it acts in a way that harms the public interest.
- (2) If the officer of a trust agreement agent comes to fall under one of clauses (a) through (h) of Article 5, paragraph (2), item (viii), or engages in conduct that falls under item (iii) of the preceding paragraph, the Prime Minister may order the trust agreement agent to dismiss that officer.

(Loss of Validity of Registration)

Article 83 A trust agreement agent's registration as referred to in Article 67, paragraph (1) ceases to be valid if the agent comes to fall under one of the items of Article 79 or if all entrustment agreements it has concluded with principal trust companies have been terminated.

(Deletion of Registrations)

Article 84 If the Prime Minister revokes registration as referred to in Article 67, paragraph (1) pursuant to the provisions of Article 82, paragraph (1) or if registration as referred to in Article 67, paragraph (1) has ceased to be valid pursuant to the provisions of the preceding Article, the Prime Minister must delete that registration.

## **Section 5 Miscellaneous Provisions**

(Principal Trust Companies' Liability for Damages)

Article 85 The principal trust company of a trust agreement agent is liable to compensate for damage that a client incurs from the actions that a trust agreement agent takes as agent or intermediary to conclude a trust agreement;

provided, however, that this does not apply if the principal trust company exercises due care in entrustment with the trust agreement agent and endeavors to prevent the damages that the client incurs from the actions that a trust agreement agent takes as agent or intermediary to conclude a trust agreement.

## **Chapter V-2 Designated Dispute Resolution Organizations**

### **Section 1 General Provisions**

(Designating Persons to Conduct Dispute Resolution Services)

Article 85-2 (1) Prime Minister may, at the application of a person satisfying the following requirements, designate that person to conduct dispute resolution services:

- (i) it is a corporation (or an association or foundation without legal personality for which a representative person or administrator has been designated; this excludes a corporation established under foreign laws or regulations or any other foreign organization; the same applies in item (iv), (d));
- (ii) it does not fall under the category of a person that has had a designation under this paragraph revoked pursuant to Article 85-24, paragraph (1) and not yet had five years pass since the date of the revocation, nor does it fall under the category of a person that has had a designation under the provisions of other laws which Cabinet Order prescribes as being for operations equivalent to dispute resolution services revoked and not yet had five years pass since the date of the revocation;
- (iii) it does not fall under the category of a person that has been sentenced to a fine (including an equivalent sentence under a foreign law or regulation) for violating the provisions of this Act or the Attorney Act (Act No. 205 of 1949) or of any equivalent foreign law or regulation, and that has not yet had five years pass since the day that it finished serving the sentence or that it ceased to be subject to its enforcement;
- (iv) it does not have a person falling under one of the following categories as an officer:
  - (a) a person specified by Cabinet Office Order as being unable to properly perform their duties subject to dispute resolution services due to mental or physical disorder;
  - (b) a person who has not had their rights restored after receiving an order to commence bankruptcy proceedings or a person that is treated in the same manner under a foreign law or regulation;
  - (c) a person that has been sentenced to imprisonment without work or a heavier punishment (including an equivalent sentence under a foreign law or regulation), and not yet had five years pass since the day that the

- sentence was completed or that it ceased to be subject to its enforcement;
- (d) a person that, during the one month prior to the date of revocation, was the officer (including a person treated in the same manner under foreign laws and regulations; the same applies in this (d)) of a corporation and that has not yet had five years pass since the date of the revocation in a case in which a designation under this paragraph has been revoked pursuant to the provisions of Article 85-24, paragraph (1) or an administrative disposition which is similar to the relevant designation and which a corporation has received in a foreign state pursuant to the provisions of a foreign law or regulation that is equivalent to this Act has been voided; or a person that, during the one month prior to the date of revocation, was the officer of a corporation and that has not yet had five years pass since the date of the revocation in a case in which a designation under the provisions of other laws, which is specified by Cabinet Order as being for operations equivalent to dispute resolution services, has been revoked, or an administrative disposition which is similar to that designation, which is specified by Cabinet Order, and which a corporation has been issued in a foreign state pursuant to the provisions of a foreign law or regulation that is equivalent to one of the aforementioned other laws has been voided;
  - (e) a person that has been sentenced to a fine (including an equivalent sentence under a foreign law or regulation) for violating the provisions of this Act, the Attorney Act, or an equivalent foreign law or regulation, and has not yet had five years pass since the day that the sentence was completed or that the person ceased to be subject to its enforcement;
  - (v) it has a sufficient financial and technical basis to properly implement dispute resolution services;
  - (vi) the composition of its officers or employees is unlikely to compromise the fair implementation of dispute resolution services;
  - (vii) its rules for implementing dispute resolution services (hereinafter referred to as the "operational rules") conform to laws and regulations and are found to be sufficient to allow it to fairly and appropriately implement dispute resolution services pursuant to the provisions of this Act;
  - (viii) the result of a hearing of opinions pursuant to the following paragraph is that the number of trust companies and similar persons that have stated an objection to the information about cancelling the basic contract for the implementation of dispute resolution procedures, other content of the basic contract for the implementation of dispute resolution procedures (other than the particulars set forth in the items of Article 85-7, paragraph (2)), and other content of the operational rules (other than particulars that paragraph (3) of that Article requires to be among the content of those rules and the particulars that need to be among the content of the rules so that they

conform to the criteria set forth in the items of paragraph (4) of that Article and paragraph (5), item (i) of that Article) (limited to objections for which there are reasonable grounds) accounts for a proportion of the total number of trust companies and similar persons that is no greater than the proportion prescribed by Cabinet Order.

- (2) A person seeking to file an application as referred to in the preceding paragraph must first explain the content of the operational rules to trust companies and similar persons and hear their opinions to see whether they object to the content (and hear the reason for any objection that there is) and prepare a document giving the results, pursuant to the provisions of Cabinet Office Order.
- (3) Before granting a designation under paragraph (1), the Prime Minister must first consult with the Minister of Justice as to whether the relevant person satisfies the requirements set forth in items (v) through (vii) of that paragraph (but only the part that deals with the operations of dispute resolution procedures; with regard to the requirement set forth in item (vii), this means only as it is related to the criteria set forth in the items of Article 85-7, paragraph (4) and the items of paragraph (5) of that Article).
- (4) Having granted a designation under paragraph (1), the Prime Minister must issue public notice of the trade name or name and the location of the principal business office or office of the designated dispute resolution organization, as well as the day on which the Prime Minister granted the designation.

(Application for Designation)

Article 85-3 (1) A person seeking the designation under paragraph (1) of the preceding Article must submit a written application for designation to the Prime Minister giving the following information:

- (i) its trade name or name;
  - (ii) the names and locations of its principal business office or office and any other business office or office at which it will conduct dispute resolution services;
  - (iii) the names and trade names of its officers.
- (2) The following documents must accompany the written application for designation referred to in the preceding paragraph:
- (i) a document in which the applicant swears that it satisfies the requirements set forth in paragraph (1), items (iii) and (iv) of the preceding Article;
  - (ii) the articles of incorporation and a certificate of the corporation's registered information (including their equivalents);
  - (iii) the operational rules;
  - (iv) documents giving information about the organization;
  - (v) an inventory of assets, balance sheet, and other documents that Cabinet

- Office Order prescribes, evidencing that the applicant has the necessary financial basis to conduct dispute resolution services;
- (vi) the documents prescribed in paragraph (2) of the preceding Article and the documents that Cabinet Office Order prescribes as evidencing that the relevant person satisfies the requirements set forth in paragraph (1), item (viii) of that Article;
  - (vii) documents prescribed by Cabinet Office Order.
- (3) In a case as referred to in the preceding paragraph, if the articles of incorporation, inventory of assets, or balance sheet has been prepared as an electronic or magnetic record, the electronic or magnetic record may accompany the application in lieu of the paper documents.

(Duty of Confidentiality)

- Article 85-4 (1) It is prohibited for a dispute resolution mediator (meaning a dispute resolution mediator appointed pursuant to Article 85-13, paragraph (2); the same applies in the following paragraph, paragraph (2) of the following Article and Article 85-7, paragraphs (2) and (4)), the officer or employee of a designated dispute resolution organization, or a person that used to hold the relevant position to divulge confidential information learned during the course of dispute resolution services to another person, or to use that information in pursuit of its own interest.
- (2) In terms of the application of the Penal Code and other penal provisions, dispute resolution mediators and the officers and employees of designated dispute resolution organizations engaged in dispute resolution services are deemed to be officials engaged in public service pursuant to laws and regulations.

## **Section 2 Operations**

(Operations of a Designated Dispute Resolution Organization)

- Article 85-5 (1) A designated dispute resolution organization is to engage in dispute resolution services pursuant to the provisions of this Act and the operational rules.
- (2) A designated dispute resolution organization (or a dispute resolution mediator) may receive dues, fees, or any other remuneration for engaging in dispute resolution services, pursuant to a basic contract for the implementation of dispute resolution procedures or any other contract it has with a member trust company or similar person (meaning a trust company or similar person with which it has concluded a basic contract for the implementation of dispute resolution procedures; hereinafter the same applies in this Chapter) that is party to a complaint or dispute or with a client thereof

that is party to a complaint or dispute (hereinafter, to simplify, these persons are referred to as the "parties" in this Chapter) or with a person other than the parties.

(Entrusting Persons with the Operations of Complaint Processing Procedures or Dispute Resolution Procedures)

Article 85-6 A designated dispute resolution organization must not entrust a person other than another designated dispute resolution organization or a person with a designation under the provisions of other laws which Cabinet Order prescribes as being for operations equivalent to dispute resolution services (referred to as an "entrusted dispute resolution organization" in Article 85-13, paragraphs (4) and (5)) with the operations of complaint processing procedures or dispute resolution procedures.

(Operational Rules)

Article 85-7 (1) A designated dispute resolution organization must prescribe the following particulars in its operational rules:

- (i) the particulars of the content of the basic contract for the implementation of Dispute Resolution Procedures;
- (ii) the particulars of the conclusion of the basic contract for the implementation of dispute resolution procedures;
- (iii) the particulars of the implementation of dispute resolution services;
- (iv) the particulars of the dues shared by member trust companies and similar persons for the necessary costs of dispute resolution services;
- (v) the particulars of any fees it collects from the parties in connection with the implementation of dispute resolution services;
- (vi) the particulars of coordination with other designated dispute resolution organizations, national government organs, local governments, private businesses, and other persons that process complaints or resolve disputes;
- (vii) the particulars of processing complaints through dispute resolution services;
- (viii) particulars, beyond what is set forth in the preceding items, that Cabinet Office Order prescribes as necessary to the implementation of dispute resolution services.

(2) The following particulars must be among the content of the basic contract for the implementation of dispute resolution procedures referred to in item (i) of the preceding paragraph:

- (i) that the designated dispute resolution organization initiates complaint processing procedures based on a petition from the client of a member trust company or similar person to resolve a complaint involving trust business subject to dispute resolution procedures and initiates dispute resolution

- procedures based on a petition for dispute resolution procedures from a party;
- (ii) that when initiating complaint processing procedures or when initiating dispute resolution procedures based on a petition from the client of a member trust company or similar person, the designated dispute resolution organization or dispute resolution mediator may ask the member trust company or similar person to comply with these procedures, and that if the member trust company or similar person is asked to do so, it must not refuse without a legitimate reason;
  - (iii) that the designated dispute resolution organization or dispute resolution mediator may ask a member trust company or similar person to give a report or to submit books, documents and any other articles in the course of complaint processing procedures or dispute resolution procedures, and that if the member trust company or similar person is asked to do so, it must not refuse without a legitimate reason;
  - (iv) that the dispute resolution mediator may prepare the settlement proposal that is necessary for resolving a dispute involving trust business subject to dispute resolution procedures in the course of dispute resolution procedures and recommend that the parties accept it;
  - (v) that, if there is no prospect of reaching a settlement between the parties in dispute resolution procedures through a recommendation for the parties to accept the settlement proposal referred to in the preceding item, and the dispute resolution mediator finds it to be reasonable in light of the nature of the case, the intentions of the parties, the parties' pursuance of the procedures, or any other circumstances, the mediator may prepare the special conciliation proposal that is needed for resolving the dispute involving trust business subject to dispute resolution procedures and present it to the parties, giving them the reason for this;
  - (vi) that, if dispute resolution procedures are initiated for a claim involved in pending litigation, the member trust company or similar person must report to the designated dispute resolution organization that litigation is pending, indicating the grounds for the claim under litigation and the progress of the litigation;
  - (vii) that, if litigation is filed in connection with a claim subject to dispute resolution procedures, the member trust company or similar person must report to the designated dispute resolution organization that litigation has been filed, indicating the grounds for the claim under litigation;
  - (viii) that, beyond as provided in the preceding two items, if a member trust company or similar person is asked to report the progress of litigation connected to a claim that is subject to dispute resolution procedures or to report on any other matter, it must report that matter to the designated

- dispute resolution organization;
- (ix) that, if the litigation referred to in item (vi) or item (vii) comes to no longer be pending before the court or if the judicial decision in that litigation becomes final and binding, the member trust company or similar person must report that effect to the designated dispute resolution organization, giving the details thereof;
  - (x) that a member trust company or similar person must provide the necessary information or take other measures that are necessary for informing its clients of the implementation of dispute resolution services by the designated dispute resolution organization;
  - (xi) particulars, beyond what is set forth in the preceding items, that Cabinet Office Order prescribes as being necessary for furthering the processing of complaints involving trust business subject to dispute resolution procedures and the resolution of disputes involving trust business subject to dispute resolution procedures.
- (3) Operational rules respecting the particulars of the conclusion of a basic contract for the implementation of dispute resolution procedures referred to in paragraph (1), item (ii) must provide that a designated dispute resolution organization in receipt of an offer to conclude a basic contract for the implementation of dispute resolution procedures from a trust company or similar person must not refuse that offer unless the trust company or similar person is expected to be unreliable in its performance of the obligations under the basic contract for the implementation of dispute resolution procedures or of any other obligations connected with the implementation of dispute resolution services.
- (4) Operational rules respecting the particulars set forth in paragraph (1), item (iii) must conform to the following criteria:
- (i) measures have been taken to ensure coordination between complaint processing procedures and dispute resolution procedures;
  - (ii) they establish how a dispute resolution mediator is appointed and establish how to remove a dispute resolution mediator if that mediator has an interest in a party to a dispute involving trust business subject to dispute resolution procedures or in any other circumstances likely to interfere with the fair implementation of dispute resolution procedures;
  - (iii) if the designated dispute resolution organization is to engage in the operations of dispute resolution procedures in a dispute involving trust business subject to dispute resolution procedures to which its substantial controller, etc. (meaning a person specified by Cabinet Office Order as one that is related to the designated dispute resolution organization in a way that allows it to substantially control its business or to exert a material influence on its business due to its shareholdings in the designated dispute

- resolution organization, its financing of the designated dispute resolution organization, or any other circumstance) or its subsidiary company or similar person (meaning a person specified by Cabinet Office Order as one to which the designated dispute resolution organization is related in a way that allows it to substantially control its business due to its shareholdings or any other circumstance) is a party, measures have been taken to prevent the substantial controller, etc., subsidiary company or similar person, or designated dispute resolution organization from exercising undue influence on the dispute resolution mediator;
- (iv) they establish measures for receiving the advice of an attorney-at-law in the event that the dispute resolution mediator is not an attorney-at-law (unless the dispute resolution mediator is a judicial scrivener as prescribed in Article 3, paragraph (2) of the Judicial Scriveners Act (Act No. 197 of 1950) in dispute resolution procedures that are carried out for a dispute referred to in Article 3, paragraph (1), item (vii) of that Act) and the implementation of dispute resolution procedures necessitates expert knowledge with regard to the interpretation and application of laws and regulations;
  - (v) they establish an appropriate means of giving notice upon implementing dispute resolution procedures;
  - (vi) they establish a standard operation process from the initiation to the termination of dispute resolution procedures;
  - (vii) they establish the requirements and formalities for the client of a member trust company or similar person to file a petition to resolve a complaint involving trust business subject to dispute resolution procedures with the designated dispute resolution organization, or for a party to a dispute involving trust business subject to dispute resolution procedures to file a petition for dispute resolution procedures with the designated dispute resolution organization;
  - (viii) they establish procedures for the designated dispute resolution organization to promptly notify the client of a member trust company or similar person which is to be the other party to a dispute involving trust business subject to dispute resolution procedures if it receives a petition for dispute resolution procedures from a member trust company or similar person, and to confirm with the client whether or not it requests the implementation of dispute resolution procedures in response to this;
  - (ix) they establish procedures for the designated dispute resolution organization to promptly notify the member trust company or similar person that is to be the other party to a dispute involving trust business subject to dispute resolution procedures if it receives a petition for dispute resolution procedures as referred to in item (vii) from a client of the member trust

- company or similar person;
- (x) they establish the way of retaining, returning, and otherwise handling books, documents and any other articles submitted in the course of dispute resolution procedures;
  - (xi) they establish a method of handling for properly maintaining the confidentiality of information about the parties to a dispute involving trust business subject to dispute resolution procedures, or information about any third party, which is included in an opinion stated or books and documents or any other article submitted or presented in the course of dispute resolution procedures, in accordance with the nature of the confidential information; the same applies to confidential information appearing in the dispute resolution record referred to in Article 85-13, paragraph (9);
  - (xii) they establish the requirements and formalities for the parties to a dispute involving trust business subject to dispute resolution procedures to terminate dispute resolution procedures;
  - (xiii) they provide that if the dispute resolution mediator judges there to be no prospect of reaching a settlement between the parties to a dispute involving trust business subject to dispute resolution procedures through dispute resolution procedures, the mediator will promptly terminate the dispute resolution procedures and notify the parties to the dispute involving trust business subject to dispute resolution procedures of that effect;
  - (xiv) they establish measures for the dispute resolution mediator or the officer or employee of the designated dispute resolution organization to maintain the confidentiality of any information learned in the course of dispute resolution services.
- (5) Operational rules respecting the particulars set forth in paragraph (1), items (iv) and (v) must conform to the following criteria:
- (i) they establish the amount of dues provided for in paragraph (1), item (iv), of fees provided for in item (v) of that paragraph, or the way of calculating them, as well as the method of payment (collectively referred to as the "amount of dues, etc." in the following item);
  - (ii) the amount of dues, etc. is not grossly inappropriate.
- (6) The term "special conciliation proposal" as used in paragraph (2), item (v) means a settlement proposal that, except in the following cases, the member trust company or similar person must accept:
- (i) the client of the member trust company or similar person that is a party (hereinafter simply referred to as the "client" in this paragraph) does not accept the settlement proposal;
  - (ii) at the time the settlement proposal is presented, litigation has not been filed in connection with a claim subject to dispute resolution procedures, but by the last day in the one-month period after the day on which the member

trust company or similar person learns that the client accepts the settlement proposal, litigation has been filed in connection with the relevant claim and not withdrawn;

(iii) at the time the settlement proposal is presented, litigation has been filed in connection with a claim subject to dispute resolution procedures, and by the last day in the one-month period after the day on which the member trust company or similar person learns that the client accepts the settlement proposal, that litigation has not been withdrawn;

(iv) by the last day in the one-month period after the day on which the member trust company or similar person learns that the client accepts the settlement proposal, an arbitration agreement as defined in Article 2, paragraph (1) of the Arbitration Act (Act No. 138 of 2003) is entered into or a settlement or conciliation other than through the relevant settlement proposal is reached between the parties with regard to the dispute involving the trust business subject to dispute resolution procedures for which the dispute resolution procedures have been implemented.

(7) Changes to the operational rules are invalid without the authorization of the Prime Minister.

(8) Before granting the authorization under the preceding paragraph, the Prime Minister must first consult with the Minister of Justice as to whether the operational rules subject to authorization under the preceding paragraph conform to the criteria set forth in the items of paragraph (4) and the items of paragraph (5) (but only the part dealing with the operations of dispute resolution procedures).

(Disclosure of the Fact of a Breach of the Basic Contract for Implementation of Dispute Resolution Procedures)

Article 85-8 (1) If the obligations that a member trust company or similar person bears pursuant to a basic contract for the implementation of dispute resolution procedures are breached and, on hearing the opinion of the member trust company or similar person, the designated dispute resolution organization finds there to be no legitimate reason for the breach, the designated dispute resolution organization must disclose the trade name or name of the member trust company or similar person and the fact of the breach to the public, as well as reporting this to the Prime Minister, without delay.

(2) A designated dispute resolution organization must endeavor to provide information, consultation, and other support to member trust companies and similar persons and to other persons, in order to preemptively prevent complaints involving trust business subject to dispute resolution procedures and disputes involving trust business subject to dispute resolution procedures, and in order to facilitate the processing of complaints involving trust business

subject to dispute resolution procedures and the resolution of disputes involving trust business subject to dispute resolution procedures.

(Prohibition on Employing Members of Organized Crime Groups)

Article 85-9 A designated dispute resolution organization must not allow the member, etc. of an organized crime group (meaning a member of an organized crime group as defined in Article 2, item (vi) of the Act to Prevent Illegal Activities by Members of Organized Crime Groups (hereinafter referred to as a "member of an organized crime group" in this Article) or a person that has not yet gone five years without being a member of an organized crime group) to engage in dispute resolution services, nor may it employ the relevant person as an assistant in dispute resolution services.

(Prohibition on Differential Treatment)

Article 85-10 A designated dispute resolution organization must not subject any particular member trust company or similar person to unfairly differential treatment.

(Keeping Records on File)

Article 85-11 Beyond the preparation and filing under Article 85-13, paragraph (9), a designated dispute resolution organization must prepare and keep on file records of its dispute resolution services pursuant to the provisions of Cabinet Office Order.

(Complaint Processing Procedures by a Designated Dispute Resolution Organization)

Article 85-12 If the client of a member trust company or similar person files a request to resolve a complaint involving trust business subject to dispute resolution procedures, in addition to complying with any petition for a consultation about this, providing the client with the necessary advice, and investigating the circumstances of the complaint involving the trust business subject to dispute resolution procedures, the designated dispute resolution organization must notify the member trust company or similar person of the substance and content of the complaint involving the trust business subject to dispute resolution procedures, and ask the member trust company or similar person to process the complaint expeditiously.

(Dispute Resolution Procedures by a Designated Dispute Resolution Organization)

Article 85-13 (1) A party to a complaint may file a petition for dispute resolution procedures with the designated dispute resolution organization with which the

member trust company or similar person has concluded a basic contract for the implementation of dispute resolution procedures, for the purpose of resolving a dispute involving trust business subject to dispute resolution procedures which concerns the member trust company or similar person.

- (2) On receipt of a petition request as referred to in the preceding paragraph, a designated dispute resolution organization is to appoint dispute resolution mediators.
- (3) Dispute resolution mediators are to be appointed from among persons of the highest moral character that fall under one of the following items (excluding any person that has an interest in a party connected with the petition referred to in paragraph (1)). In this case, at least one of the dispute resolution mediators must be a person falling under item (i) or (iii) (or under item (i), (iii), or (iv), if the petition is related to a dispute provided for in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act):
  - (i) an attorney-at-law that has been practicing for five years or more in total;
  - (ii) a person that has been engaged in trust business subject to dispute resolution procedures for ten years or more in total;
  - (iii) a person that Cabinet Office Order prescribes as having specialized knowledge of and experience in consulting on complaints that arise between consumers and businesses with regard to consumer affairs or on any other consumer affairs matters;
  - (iv) if the petition is related to a dispute prescribed in Article 3, paragraph (1), item (vii) of the Judicial Scriveners Act, a judicial scrivener as prescribed in paragraph (2) of that Article that has been engaged in summary court legal representation services, etc. as defined in that paragraph for five years or more in total;
  - (v) a person that Cabinet Office Order prescribes as being equivalent to a person set forth in the one of preceding items.
- (4) A designated dispute resolution organization is to send the petition referred to in paragraph (1) into dispute resolution procedures by the dispute resolution mediators appointed pursuant to paragraph (2) (hereinafter, to simplify, each of these persons is referred to as a "dispute resolution mediator" in this Article and paragraph (1) of the following Article); provided, however, that if the dispute resolution mediators find that it is not appropriate to carry out dispute resolution procedures due to the finding that the client of the member trust company or similar person that is a party to the petition has sufficient ability to properly resolve the dispute involving trust business subject to dispute resolution procedures or due to any other grounds, or if the dispute resolution mediators find that the party has filed the petition referred to in paragraph (1) for unjust purposes and without due cause, they are not to implement dispute resolution procedures; and if the dispute resolution mediators find it

- appropriate to send the petition into procedures equivalent to dispute resolution procedures at an entrusted dispute resolution organization, the designated dispute resolution organization is to entrust an entrusted dispute resolution organization with the operations of dispute resolution procedures.
- (5) If the dispute resolution mediators decide not to implement dispute resolution procedures pursuant to the proviso to the preceding paragraph, or if they decide to entrust an entrusted dispute resolution organization with the operations, the designated dispute resolution organization is to notify the person filing the petition referred to in paragraph (1), indicating that they have done so and giving the reasons therefor.
- (6) A dispute resolution mediator may hear the opinions of the parties and persons of reference, ask them to submit written reports, ask the parties to submit books, documents and any other articles that should serve as a reference, prepare a settlement proposal and recommend that the parties accept it, or implement a special conciliation (meaning presenting a special conciliation proposal as prescribed in Article 85-7, paragraph (6)).
- (7) Dispute resolution procedures are not open to the public; provided, however, that the dispute resolution mediators may allow the attendance of a person they find to be appropriate, with the consent of the parties.
- (8) Prior to the initiation of dispute resolution procedures and pursuant to the provisions of Cabinet Office Order, a designated dispute resolution organization must deliver a paper document giving the following information, or provide an electronic or magnetic record in which that information has been recorded, to the client of the member trust company or similar person that is a party to the dispute, and give an explanation of the same:
- (i) information about the fees to be paid by the client;
  - (ii) the standard operation process from the initiation to the termination of dispute resolution procedures as provided in Article 85-7, paragraph (4), item (vi);
  - (iii) the information prescribed by Cabinet Office Order.
- (9) A designated dispute resolution organization must prepare and keep on file a dispute resolution procedures record giving the following information with regard to the dispute resolution procedures it implements, pursuant to the provisions of Cabinet Office Order:
- (i) the date on which the party to a dispute involving trust business subject to dispute resolution procedures files the petition for dispute resolution procedures;
  - (ii) the names or trade names of the parties to a dispute involving trust business subject to dispute resolution procedures and their agents;
  - (iii) the names of the dispute resolution mediators;
  - (iv) the details of the implementation of dispute resolution procedures;

- (v) the results of the dispute resolution procedures (including the reasons for the termination of the dispute resolution procedures and the date thereof);
- (vi) information beyond what is set forth in the preceding items which Cabinet Office Order prescribes as being necessary in order to make the content of dispute resolution procedures clear.

(Postponement of Expiration of Prescription)

Article 85-14 (1) If dispute resolution mediators terminate the dispute resolution procedures on the grounds that there is no prospect of reaching a settlement between the parties to a dispute involving trust business subject to dispute resolution procedures through dispute resolution procedures, and the party to the dispute involving trust business subject to dispute resolution procedures that filed the petition for dispute resolution procedures files an action on a claim that was subject to the dispute resolution procedures within one month from the day on which that party receives notice of the termination, the action is deemed to have been filed at the time that the claim was filed in the dispute resolution procedures, in terms of the postponement of expiration of prescription.

(2) The provisions of the preceding paragraph also apply if the discontinuation of dispute resolution services by a designated dispute resolution organization is authorized pursuant to Article 85-23, paragraph (1) or if the designation under Article 85-2, paragraph (1) is revoked pursuant to Article 85-24, paragraph (1) and there is a dispute involving trust business subject to dispute resolution procedures for which dispute resolution procedures has been implemented as of the day of authorization or revocation, and the party to the dispute involving the trust business subject to dispute resolution procedures that has filed the petition for dispute resolution procedures files an action on a claim that was subject to the dispute resolution procedures within one month from the day on which the party receives the notice under Article 85-23, paragraph (3) or Article 85-24, paragraph (3), or within one month from the day on which the party learns of the authorization or revocation, whichever comes earlier.

(Suspension of Court Proceedings)

Article 85-15 (1) If litigation in a dispute involving trust business subject to dispute resolution procedures is pending between the parties to the dispute, and if any of the following grounds exist and the parties to the dispute file a joint petition, the court in charge of the case may decide to suspend court proceedings for a fixed period of no longer than four months:

- (i) dispute resolution procedures have been implemented for the dispute involving the trust business subject to dispute resolution procedures, between the parties to the dispute;

- (ii) beyond what is referred to in the preceding item, the parties to the dispute involving the trust business subject to dispute resolution procedures reach an agreement to resolve the dispute through dispute resolution procedures.
- (2) The court in charge of the case may set aside the decision referred to in the preceding paragraph at any time.
- (3) No appeal may be entered against a decision dismissing a petition referred to in paragraph (1) or a decision set aside a decision referred to in paragraph (1) pursuant to the provisions of the preceding paragraph.

(Public Inspection of the Register of Member Trust Companies and Similar Persons)

Article 85-16 A designated dispute resolution organization must make the register of member trust companies and similar persons available for public inspection.

(Restriction on the Use of Names)

Article 85-17 A person that is not a designated dispute resolution organization (other than a person designated as under Article 156-39, paragraph (1) of the Financial Instruments and Exchange Act or any other person that Cabinet Order prescribes as being similar thereto) must not use a character in its name or trade name which could give rise to the misconception that it is a designated dispute resolution organization.

### **Section 3 Supervision**

(Notification of Changes)

- Article 85-18 (1) If there is a change involving information set forth in one of the items of Article 85-3, paragraph (1), a designated dispute resolution organization must notify the Prime Minister of that effect.
- (2) The Prime Minister must issue public notice on receiving a notification pursuant to the provisions of the preceding paragraph of a change in the trade name or name of a designated dispute resolution organization or in the location of its principal business office or office.

(Notification of the Conclusion of a Basic Contract for Implementation of Dispute Resolution Procedures)

Article 85-19 If it falls under one of the following items, a designated dispute resolution organization must notify the Prime Minister of this pursuant to the provisions of Cabinet Office Order:

- (i) it concludes a basic contract for the implementation of dispute resolution procedures with a trust company or similar person or terminates the basic

contract for the implementation of dispute resolution procedures;  
(ii) it falls under any other case that Cabinet Office Order prescribes.

(Submission of Reports on Business)

- Article 85-20 (1) Each business year, a designated dispute resolution organization must prepare a report on dispute resolution services for that business year and submit it to the Prime Minister.
- (2) Cabinet Office Order provides for the information required to be given in the report referred to in the preceding paragraph, the submission date, and other necessary particulars.

(Collection of Reports and On-Site Inspections)

- Article 85-21 (1) On finding that it is necessary to do so in order for dispute resolution services to be performed fairly and appropriately, the Prime Minister may order a designated dispute resolution organization to give reports or submit materials relevant to its operations; and may have the relevant officials enter the business office, office, or any other facilities of the designated dispute resolution organization; ask questions about the state of its operations; and inspect its books, documents and any other articles.
- (2) On finding that it is particularly necessary to do so in order for dispute resolution services to be performed fairly and appropriately, the Prime Minister, within the scope of that necessity, may order a designated dispute resolution organization's member trust company or similar person or the person that a designated dispute resolution organization has entrusted with its operations to give reports or submit materials that should serve as a reference with regard to the designated dispute resolution organization's operations; and may have the relevant officials enter the business office, office, or other facilities of the relevant persons; ask questions about the state of the designated dispute resolution organization's operations; and inspect its books, documents and any other articles.
- (3) An official carrying out an on-site inspection pursuant to the provisions of the preceding paragraph must carry identification and present it to the persons concerned.
- (4) The authority for an on-site inspection under the provisions of paragraphs (1) and (2) must not be interpreted as having been accorded for the purpose of a criminal investigation.

(Operational Improvement Orders)

- Article 85-22 (1) On finding that it is necessary to do so in connection with a designated dispute resolution organization's administration of dispute resolution services in order to ensure the fair and appropriate performance of

dispute resolution services, the Prime Minister, within the scope of that necessity, may order the designated dispute resolution organization to take the measures that are necessary for improving the administration of its services.

- (2) If a designated dispute resolution organization falls under one of the following items, the Prime Minister must first consult with the Minister of Justice before issuing the order under the preceding paragraph:
- (i) it comes to no longer satisfy the requirements set forth in Article 85-2, paragraph (1), items (v) through (vii) (but only the part that deals with the operations of dispute resolution procedures; with regard to the requirement set forth in item (vii) of that paragraph, this means only as it is related to the criteria set forth in the items of Article 85-7, paragraph (4) or the items of paragraph (5) of that Article; hereinafter the same applies in this item) or it is found to be likely that it will come to no longer satisfy the requirements set forth in Article 85-2, paragraph (1), items (v) through (vii);
  - (ii) it violates the provisions of Article 85-5, Article 85-6, Article 85-9, or Article 85-13 (but only if the violation is related to the operations of dispute resolution procedures).

(Suspension or Discontinuation of Dispute resolution Services)

- Article 85-23 (1) A designated dispute resolution organization must have the authorization of the Prime Minister to suspend (excluding suspension on the grounds prescribed in the following paragraph) or discontinue all or part of its dispute resolution services.
- (2) A designated dispute resolution organization must notify the Prime Minister immediately on suspending all or part of its dispute resolution services due to a natural disaster or for any other compelling reason, indicating that it has done so and giving the reason. The same applies when the designated dispute resolution organization recommences all or a part of dispute resolution services so suspended.
- (3) A designated dispute resolution organization that obtains the authorization for suspension or discontinuation under paragraph (1) or that implements the suspension referred to in the preceding paragraph must notify any party for which complaint processing procedures or dispute resolution procedures have been implemented as of the day of the suspension or discontinuation (if the designated dispute resolution organization has been entrusted with operations by another designated dispute resolution organization or by a person that has obtained a designation under the provisions of other laws which Cabinet Order prescribes as being for operations equivalent to dispute resolution services (hereinafter collectively referred to as an "entrusting dispute resolution organization" in this paragraph), this includes procedures for processing complaints or procedures for resolving disputes for the entrusting dispute

resolution organization that has so entrusted it; the same applies in paragraph (3) of the following Article), the member trust companies and similar persons that are not parties, and other designated dispute resolution organizations, of the suspension or discontinuation, within two weeks from the day of the suspension or discontinuation. The same applies if the designated dispute resolution organization recommences all or part of the dispute resolution services so suspended.

(Revocation of a Designation)

Article 85-24 (1) If a designated dispute resolution organization falls under one of the following items, the Prime Minister may revoke the designation under Article 85-2, paragraph (1) or order the suspension of all or part of its operations during a fixed period of no longer than six months:

- (i) it comes to no longer satisfy the requirements set forth in Article 85-2, paragraph (1), items (ii) through (vii), or it is discovered not to have fallen under one of the items of that paragraph at the time it was designated;
- (ii) it is discovered to have gained its designation under Article 85-2, paragraph (1) by wrongful means;
- (iii) it violates a law or regulation or a disposition based on a law or regulation.

(2) If a designated dispute resolution organization falls under one of the following items, the Prime Minister must first consult with the Minister of Justice before issuing a disposition or order under the preceding paragraph:

- (i) it comes to no longer satisfy the requirements set forth in Article 85-2, paragraph (1), items (v) through (vii) (but only the part that deals with the operations of dispute resolution procedures; with regard to the requirement set forth in item (vii) of that paragraph, this means only as it is related to the criteria set forth in the items of Article 85-7, paragraph (4) or the items of paragraph (5) of that Article; hereinafter the same applies in this item), or it is discovered not to have satisfied the requirements set forth in Article 85-2, paragraph (1), items (v) through (vii) at the time it obtained the designation under Article 85-2, paragraph (1);
- (ii) it violates the provisions of Article 85-5, Article 85-6, Article 85-9, or Article 85-13 (but only if that violation is related to the operations of dispute resolution procedures).

(3) A person subject to a disposition revoking a designation under Article 85-2, paragraph (1) or an order to suspend all or a part of its operations pursuant to the provisions of paragraph (1) must notify any party for which complaint processing procedures or dispute resolution procedures have been implemented as of the day of the disposition or order, member trust companies and similar persons that are not parties, and other designated dispute resolution organizations, that it is subject to the disposition or order, within two weeks

from the day of the disposition or order.

- (4) The Prime Minister must issue public notice on revoking a designation under Article 85-2, paragraph (1) pursuant to the provisions of paragraph (1).

## **Chapter VI Miscellaneous Provisions**

(Submission of Materials to the Minister of Finance)

Article 86 (1) On finding it to be necessary to do so, so that planning or policymaking can be undertaken for systems in the trust business that are linked with the system for handling failed financial institutions and financial risk management under the jurisdiction thereof, the Minister of Finance may ask the Prime Minister to provide the necessary materials and explanations.

(2) On finding it to be particularly necessary to do so, so that planning or policymaking can be undertaken for systems in the trust business that are linked with the system for handling failed financial institutions and financial risk management under the jurisdiction thereof, the Minister of Finance, within the scope of that necessity, may ask trust companies, foreign trust companies, and trust agreement agents to provide materials and explanations and to otherwise cooperate.

(Delegation of Authority)

Article 87 (1) The Prime Minister delegates the authority accorded thereto under this Act (other than what Cabinet Order prescribes) to the Commissioner of the Financial Services Agency.

(2) The Commissioner of the Financial Services Agency may delegate part of the authority delegated thereto pursuant to the provisions of the preceding paragraph to the Directors-General of the Local Finance Bureaus or the Directors-General of the Local Finance Branch Bureaus, pursuant to Cabinet Order.

(Application)

Article 88 Except as otherwise provided, the term "trust company" as used in laws and regulations other than this Act and orders issued based thereon includes foreign trust companies.

(Delegation to Cabinet Office Order)

Article 89 Beyond what is provided for in this Act, Cabinet Office Order prescribes the process of applying for license, registration, authorization, approval, and designation under the provisions of this Act, the process for submitting documents, the information required to be given in them, the period for keeping them on file, and other particulars necessary for implementing this

Act.

(Transitional Measures)

Article 90 If an order is established, revised, or abolished pursuant to the provisions of this Act, the necessary transitional measures (including transitional measures for penal provisions) may be prescribed by in that order to the extent considered to be reasonably necessary for the establishment, revision, or abolishment of that order.

### **Chapter VII Penal Provisions**

Article 91 A person falling under one of the following is subject to imprisonment for not more than three years, a fine of not more than three million yen, or both:

- (i) a person that, in violation of the provisions of Article 3, engages in trust business without being licensed;
- (ii) a person that has gained its Article 3 or Article 53, paragraph (1) license by wrongful means;
- (iii) a person that has gained its registration as referred to in Article 7, paragraph (1), Article 50-2, paragraph (1), Article 52, paragraph (1) or Article 54, paragraph (1) by wrongful means;
- (iv) a person that violates the provisions of Article 15 in allowing another person to engage in trust business;
- (v) a person that, in violation of the provisions of Article 24, paragraph (1), item (i) (including as applied mutatis mutandis pursuant to Article 76; hereinafter the same applies in this item), engages in conduct set forth in item (i) of that paragraph (other than as it involves the acceptance of a trust set forth in the items of Article 2, paragraph (3));
- (vi) a person that fails to deliver a report under the provisions of Article 27, paragraph (1) (other than as it involves the acceptance of a trust set forth in the items of Article 2, paragraph (3); hereinafter the same applies in this item) or that delivers a report giving a false statement;
- (vii) a person that, in violation of the provisions of Article 50-2, paragraph (1), places property in trust in the way set forth in Article 3, item (iii) of the Trust Act without being registered;
- (viii) a person that, in violation of the provisions of Article 67, paragraph (1), engages in trust agreement agency services without being registered;
- (ix) a person that has gained its registration as referred to in Article 67, paragraph (1) by wrongful means;
- (x) a person that violates the provisions of Article 73 in allowing another person to engage in trust agreement agency services.

Article 92 A person falling under one of the following items is subject to imprisonment for not more than two years, a fine of not more than three million yen, or both:

- (i) a person that violates any of the conditions attached pursuant to the provisions of Article 5, paragraph (8) or Article 53, paragraph (9);
- (ii) a person that violates an order of operational suspension under the provisions of Article 44, paragraph (1) or Article 45, paragraph (1);
- (iii) a person that violates an order of operational suspension under the provisions of Article 59, paragraph (1) or Article 60, paragraph (1);
- (iv) a person that violates an order of operational suspension under the provisions of Article 82, paragraph (1).

Article 93 A person falling under one of the following items is subject to imprisonment for not more than one year, a fine of not more than three million yen, or both:

- (i) a person that includes a false statement in a written application under the provisions of Article 4, paragraph (1) or in a document required to accompany it pursuant to the provisions of paragraph (2) of that Article, and submits it;
- (ii) a person that includes a false statement in a written application under the provisions of Article 8, paragraph (1) (including as applied mutatis mutandis pursuant to Article 52, paragraph (2)) or Article 50-2, paragraph (3) or in a document required to accompany it pursuant to the provisions of Article 8, paragraph (2) (including as applied mutatis mutandis pursuant to Article 52, paragraph (2)) or Article 50-2, paragraph (4), and submits it;
- (iii) a person that violates the provisions of Article 21, paragraph (2) (including as applied mutatis mutandis pursuant to Article 63, paragraph (2)) in engaging in services other than trust business, trust agreement agency services, operations for the purchase and sale, etc. of beneficial interests in trusts, electronic payment instruments-related business, and property management services without obtaining approval;
- (iv) a person that, in violation of the provisions of Article 24, paragraph (1), item (i) (including as applied mutatis mutandis pursuant to Article 76; hereinafter the same applies in this item), engages in the conduct set forth in item (i) of that paragraph (but only as it involves the acceptance of a trust set forth in the items of Article 2, paragraph (3)), or a person that, in violation of the provisions of Article 24, paragraph (1), item (iii) or item (iv) (including as applied mutatis mutandis pursuant to Article 76), engages in the conduct set forth in those provisions;
- (v) a person that fails to deliver a report under the provisions of Article 27, paragraph (1) (but only as it involves the acceptance of a trust set forth in

- the items of Article 2, paragraph (3); hereinafter the same applies in this item) or that delivers a report giving a false statement;
- (vi) a person that violates the provisions of Article 29, paragraph (2);
  - (vii) a person that fails to submit a report under the provisions of Article 33 or that submits a false report;
  - (viii) a person that fails to make the explanatory document under the provisions of Article 34, paragraph (1) available for public inspection or that fails to take what Cabinet Office Order prescribes as measures to put the data forming the content of an electronic or magnetic record under the provisions of paragraph (3) of that Article into a format that allows a large, non-exclusive audience to gain access to it through electronic or magnetic means; or a person that makes an explanatory document giving a false statement available for public inspection or that takes measures to put the data forming the content of an electronic or magnetic record into which a false record has been recorded into a format that allows a large, non-exclusive audience to gain access to it through electronic or magnetic means;
  - (ix) a person that includes a false statement in a written application under the provisions of Article 36, paragraph (2) or in a document required to accompany it pursuant to the provisions of paragraph (3) of that Article, and submits it;
  - (x) a person that includes a false statement in a written application under the provisions of Article 37, paragraph (2) or in a document required to accompany it pursuant to the provisions of paragraph (3) of that Article, and submits it;
  - (xi) a person that includes a false statement in a written application under the provisions of Article 38, paragraph (2) or in a document required to accompany it pursuant to the provisions of paragraph (3) of that Article, and submits it;
  - (xii) a person that includes a false statement in a written application under the provisions of Article 39, paragraph (2) (including as applied *mutatis mutandis* pursuant to paragraph (5) of that Article (including as applied *mutatis mutandis* pursuant to Article 63, paragraph (2)) and Article 63, paragraph (2)) or in a document required to accompany it pursuant to the provisions of Article 39, paragraph (3) (including as applied *mutatis mutandis* pursuant to paragraph (5) of that Article (including as applied *mutatis mutandis* pursuant to Article 63, paragraph (2)) and Article 63, paragraph (2)), and submits it;
  - (xiii) a person that fails to issue a public notice under the provisions of Article 41, paragraph (3) or (5), or that issues a false public notice;
  - (xiv) a person that fails to give a report or submit a material under the provisions of Article 42, paragraph (1) (including as applied *mutatis*

- mutandis pursuant to Article 50, paragraph (3) (including as applied mutatis mutandis pursuant to Article 62, paragraph (2))) or Article 42, paragraph (2) or (3), or that gives a false report or submits a false material under those provisions;
- (xv) a person that fails to respond to questioning by officials under the provisions of Article 42, paragraph (1) (including as applied mutatis mutandis pursuant to Article 50, paragraph (3) (including as applied mutatis mutandis pursuant to Article 62, paragraph (2))) or Article 42, paragraph (2) or (3) or gives a false response to that questioning; or a person that refuses, obstructs, or evades an inspection under those provisions;
- (xvi) a person that fails to make a notification under the provisions of Article 51, paragraph (2) or that includes a false statement in a written notice referred to in that paragraph or in a document required to accompany it pursuant to the provisions of paragraph (3) of that Article and submits it;
- (xvii) a person that violates an order under the provisions of Article 51, paragraph (4);
- (xviii) a person that fails to make a notification under the provisions of Article 51, paragraph (5) or that makes a false notification;
- (xix) a person that fails to give a report or submit a material under the provisions of Article 51, paragraph (6), or that gives a false report or submits a false material under those provisions;
- (xx) a person that fails to respond to questioning by the officials under the provisions of Article 51, paragraph (6) or gives a false response to that questioning; or a person that refuses, obstructs, or evades an inspection under those provisions;
- (xxi) a person that violates the provisions of Article 51, paragraph (8) or (9);
- (xxii) a person that includes a false statement in a written application under the provisions of Article 53, paragraph (2) or in a document required to accompany it pursuant to the provisions of paragraph (3) of that Article, and submits it;
- (xxiii) a person that includes a false statement in a written application under the provisions of Article 54, paragraph (3) or in a document required to accompany it pursuant to the provisions of paragraph (4) of that Article, and submits it;
- (xxiv) a person that fails to issue public notice under the provisions of Article 57, paragraph (3) or (5) or that issues a false public notice;
- (xxv) a person that fails to give a report or submit a material under the provisions of Article 58, paragraph (1) or (2), or that gives a false report or submits a false material under those provisions;
- (xxvi) a person that fails to respond to questioning by officials under the provisions of Article 58, paragraph (1) or (2) or gives a false response to that

- questioning; or a person that refuses, obstructs, or evades an inspection under those provisions;
- (xxvii) a person that includes a false statement in a written application under the provisions of Article 68, paragraph (1) or in a document required to accompany it pursuant to the provisions of paragraph (2) of that Article, and submits it;
- (xxviii) a person that fails to submit a report under the provisions of Article 77, paragraph (1), or that submits a false report;
- (xxix) a person that fails to make an explanatory document under the provisions of Article 78, paragraph (1) available for public inspection, that fails to take what Cabinet Office Order prescribes as measures to put the data forming the content of an electronic or magnetic record under the provisions of paragraph (2) of that Article into a format that allows a large, non-exclusive audience to gain access to it through electronic or magnetic means; or a person that makes an explanatory document giving a false statement available for public inspection or that takes measures to put the data forming the content of an electronic or magnetic record into which a false record has been recorded into a format that allows a large, non-exclusive audience to gain access to it through electronic or magnetic means;
- (xxx) a person that fails to give a report or submit a material under the provisions of Article 80, paragraph (1), or that gives a false report or submits a false material under those provisions;
- (xxxii) a person that fails to respond to questioning by officials under the provisions of Article 80, paragraph (1) or gives a false response to that questioning; or a person that refuses, obstructs, or evades an inspection under those provisions;
- (xxxiii) a person that includes a false statement or a false record in an application for designation under Article 85-3, paragraph (1) or in a document or electronic or magnetic record required to accompany it pursuant to the provisions of paragraph (2) of that Article, and submits it;
- (xxxiv) a person that violates the provisions of Article 85-9;
- (xxxv) a person that fails to submit a report under the provisions of Article 85-20, paragraph (1) or that submits a report giving a false statement;
- (xxxvi) a person that fails to give a report or submit materials under the provisions of Article 85-21, paragraph (1) or paragraph (2), or that gives a false report or submits a false material under those provisions; a person that fails to respond to questioning by the officials under these provisions or responds falsely to that questioning; or a person that refuses, obstructs, or evades an inspection under those provisions;
- (xxxvii) a person that violates an order under the provisions of Article 85-22, paragraph (1).

Article 94 A person falling under one of the following items is subject to imprisonment for not more than one year, a fine of not more than one million yen, or both:

- (i) a person that, in violation of the provisions of Article 6, reduces the amount of its stated capital without authorization;
- (ii) a person that violates the provisions of Article 11, paragraph (5) in beginning trust business;
- (iii) a person that, in violation of the provisions of Article 13, paragraph (1), changes its business rules without authorization;
- (iv) a person that, in violation of the provisions of Article 16, paragraph (1), is involved in the day-to-day operations of another company or engaged in business without approval;
- (v) a person that violates an order under the provisions of Article 18 (including as applied mutatis mutandis pursuant to Article 20);
- (vi) a person that, in violation of the provisions of Article 21, paragraph (4) (including as applied mutatis mutandis pursuant to Article 63, paragraph (2)), changes the details or methods of operations without approval;
- (vii) a person that violates the provisions of Article 39, paragraph (2) (excluding item (ii)) of the Financial Instruments and Exchange Act, as applied mutatis mutandis pursuant to Article 24-2 (hereinafter referred to as the "Financial Instruments and Exchange Act as Applied Mutatis Mutandis");
- (viii) a person that, in violation of the provisions of Article 85-4, paragraph (1), divulges confidential information learned during the course of duties to another person or uses that information in pursuit of its own interest.

Article 95 (1) In the case referred to in item (vii) of the preceding Article, any economic benefit that the offender or a third party in bad faith has received is confiscated. If all or part of the economic benefit cannot be confiscated, the offender or third party in bad faith is subject to the collection of an equivalent sum.

(2) The provisions of Article 209-2 of the Financial Instruments and Exchange Act (Confiscation of Comingled Assets) and of Article 209-3, paragraph (2) of that Act (Requirements for Confiscation) apply mutatis mutandis to confiscation under the preceding paragraph. In this case, the phrase "Article 198-2, paragraph (1) or Article 202" in Article 209-2, paragraph (1) of that Act is deemed to be replaced with "Article 95, paragraph (1) of the Trust Business Act", the phrase "this Article, paragraph (1) of the following Article, an Article 209-4, paragraph (1)" in that paragraph is deemed to be replaced with "this paragraph", the phrase "the following paragraph and paragraph (1) of the

following Article" in that paragraph is deemed to be replaced with "the following paragraph", the phrase "comingled assets (but only those comingled with illegal assets connected with the provisions of Article 200-2)" in paragraph (2) of that Article is deemed to be replaced with "comingled assets", 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 95, paragraph (1) of the Trust Business Act".

Article 96 A person falling under one of the following items is subject to imprisonment for not more than six months, a fine of not more than five hundred thousand yen, or both:

- (i) a person that, in violation of the provisions of Article 11, paragraph (8), fails to make a deposit;
- (ii) a person that fails to submit a written notice under the provisions of Article 17, paragraph (1) (including as applied mutatis mutandis pursuant to Article 20) or a document required to accompany it pursuant to the provisions of Article 17, paragraph (2) (including as applied mutatis mutandis pursuant to Article 20), or that submits a false written notice or document required to accompany it;
- (iii) a person that includes a false statement in a written application under the provisions of Article 21, paragraph (3) (including as applied mutatis mutandis pursuant to Article 63, paragraph (2)) or in a document required to accompany it and submits it;
- (iv) a person that fails to indicate a piece of information as prescribed in Article 37, paragraph (1) (excluding item (ii)) of the Financial Instruments and Exchange Act as Applied Mutatis Mutandis, or that gives a false indication;
- (v) a person that violates the provisions of Article 37, paragraph (2) of the Financial Instruments and Exchange Act as Applied Mutatis Mutandis;
- (vi) a person that, in violation of the provisions of Article 37-3, paragraph (1) (excluding items (ii) through (iv) and item (vi)) of the Financial Instruments and Exchange Act as Applied Mutatis Mutandis, fails to deliver a document, delivers a document that fails to give a piece of information prescribed in that paragraph, delivers a document that gives a false statement, or uses the means prescribed in Article 34-2, paragraph (4) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 37-3, paragraph (2) to provide something that lacks the information prescribed in that paragraph or to provide false information;
- (vii) a person failing to deliver a document as referred to in Article 26, paragraph (1), or, if an electronic or magnetic means referred to in paragraph (2) of that Article is used, a person failing to provide the electronic or

- magnetic record made by that means; or a person delivering a false document or providing a false electronic or magnetic record;
- (viii) a person that fails to deliver a document under the provisions of Article 29, paragraph (3) or that delivers a false document.

Article 96-2 A person that fails to prepare or keep on file the records under Article 85-11 or Article 85-13, paragraph (9) or that prepares a false record is subject to a fine of not more than one million yen.

Article 96-3 A person that suspends or discontinues all or a part of its dispute resolution services without the authorization referred to in Article 85-23, paragraph (1) is subject to a fine of not more than five hundred thousand yen.

Article 97 A person falling under one of the following items is subject to a fine of not more than three hundred thousand yen:

- (i) a person that fails to make a notification under the provisions of Article 12, paragraph (1) or (2) or that makes a false notification;
- (ii) a person that fails to make a notification under the provisions of Article 13, paragraph (2) or that makes a false notification;
- (iii) a person that violates the provisions of Article 14, paragraph (2);
- (iv) a person that fails to make a notification under the provisions of Article 19 (including as applied mutatis mutandis pursuant to Article 20) or that makes a false notification;
- (v) a person that fails to make a notification under the provisions of Article 41, paragraph (1), (2) or (4) or that makes a false notification;
- (vi) a person that fails to make a notification under the provisions of Article 56, paragraph (1) or (2) or that makes a false notification;
- (vii) a person that fails to make a notification under the provisions of Article 57, paragraph (1), (2) or (4) or that makes a false notification;
- (viii) a person that, in violation of the provisions of Article 955, paragraph (1) (Entries in Investigation Record Books) of the Companies Act, as applied mutatis mutandis pursuant to Article 57, paragraph (6), fails to include or record the information that Ministry of Justice Order prescribes concerning an investigation of an electronic public notice as prescribed in Article 955, paragraph (1) of that Act in the investigation record books, etc. (meaning the investigation record books, etc. prescribed in that paragraph; hereinafter the same applies in this item) or that includes a false statement or record therein; or a person that, in violation of the provisions of that paragraph, fails to keep investigation record books, etc. on file;
- (ix) a person that fails to make a notification under the provisions of Article 71, paragraph (1) or (3) or that makes a false notification;

- (x) a person that violates the provisions of Article 72, paragraph (1);
- (xi) a person that violates the provisions of Article 72, paragraph (2) in posting a sign referred to in paragraph (1) of that Article or a sign similar thereto;
- (xii) a person that fails to make a notification under the provisions of Article 79 or that makes a false notification;
- (xiii) a person that fails to give a report under the provisions of Article 85-8, paragraph (1), or that gives a false report;
- (xiv) a person that fails to make a notification under the provisions of Article 85-18, paragraph (1), or that makes a false notification;
- (xv) a person that fails to make a notification under the provisions of Article 85-19, or that makes a false notification;
- (xvi) a person that fails to make a notification under the provisions of Article 85-23, paragraph (2), or that makes a false notification;
- (xvii) a person that, in violation of the provisions of Article 85-23, paragraph (3), fails to issue a notice or issues a false notice;
- (xviii) a person that, in violation of the provisions of Article 85-24, paragraph (3), fails to issue a notice or issues a false notice.

Article 98 (1) If the representative of a corporation (or non-corporate entity for which a representative or an administrator has been designated; hereinafter the same applies in this paragraph) or the agent, employee, or any other worker of a corporation or individual violates one of the provisions set forth in the following items in connection with the business or assets of the corporation or individual, in addition to the offender being subject to punishment, the corporation is subject to the fine prescribed in the item, and the individual is subject to the fine prescribed in the Article referred to in the item:

- (i) Article 91, item (v) or item (vi) or Article 92: a fine of not more than three hundred million yen;
  - (ii) Article 93 (excluding items (iii), (xiii), (xxiv) and (xxxiii)): a fine of not more than two hundred million yen;
  - (iii) Article 94, item (v) or (vii): a fine of not more than one hundred million yen;
  - (iv) Article 91 (excluding items (v) and (vi)), Article 93, item (iii), item (xiii), item (xxiv) or item (xxxiii), Article 94 (excluding items (v) and (vii)), or Article 96 through the preceding Article: the fine prescribed in the relevant Article.
- (2) If a non-corporate entity is to be punished pursuant to the provisions of the preceding paragraph, its representative or administrator represents it with regard to procedural acts, and the provisions of the laws on criminal proceedings that have a corporation as the defendant or suspect apply *mutatis mutandis*.

Article 99 In a case that falls under one of the following items, the officer or liquidator of a trust company, the domestic representative or liquidator of a foreign trust company, or the trust agreement agent (if a trust agreement agent is a corporation, this means the officer or liquidator thereof) is subject to a civil fine of not more than one million yen:

- (i) it violates an order under the provisions of Article 43;
- (ii) it fails to set aside reserves, in violation of the provisions of Article 55, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (2)), or it uses reserves in violation of Article 55, paragraph (3);
- (iii) it violates the provisions of Article 55, paragraph (4) in failing to keep assets in Japan;
- (iv) it fails to request an investigation under Article 941 (Electronic Public Notice Investigations) of the Companies Act, in violation of the provisions of that Article, as applied mutatis mutandis pursuant to Article 57, paragraph (6);
- (v) it fails to manage property as it is required to be managed pursuant to the provisions of Article 75;
- (vi) it violates an order under the provisions of Article 81;
- (vii) it fails to manage property as it is required to be managed pursuant to the provisions of Article 34 of the Trust Act.

Article 100 A person falling under one of the following items is subject to a civil fine of not more than one million yen:

- (i) a person that violates an order under the provisions of Article 11, paragraph (4) in failing to make a deposit;
- (ii) a person that violates the provisions of Article 29-2 in making a material modification to a trust, consolidating trusts, or splitting a trust;
- (iii) a person that, in violation of the provisions of Article 50-2, paragraph (10), does not allow an inspection;
- (iv) a person that, in violation of the provisions of Article 946, paragraph (3) (Duty to Inspect) of the Companies Act as applied mutatis mutandis pursuant to Article 57, paragraph (6), fails to give a report or gives a false report;
- (v) a person that refuses a request set forth in the items of Article 951, paragraph (2) (Keeping and Inspection of Financial Statements) or the items of Article 955, paragraph (2) (Entries in Investigation Record Books) of the Companies Act, as applied mutatis mutandis pursuant to Article 57 (6), without a legitimate reason;
- (vi) a person that fails to make a notification under the provisions of Article 64, paragraph (1) or (3), or that makes a false notification;

- (vii) a person that fails to give a report or submit a material under the provisions of Article 64, paragraph (2), or that gives a false report or submits a false material under those provisions;
- (viii) a person that violates the provisions of Article 66;
- (ix) a person that violates the provisions of Article 85-16.

Article 101 A person that violates the provisions of Article 85-17 is subject to a civil fine of not more than one hundred thousand yen.

### **Chapter VIII Special Provisions on Confiscation Procedures**

(Procedure for Confiscating Third-Party Assets)

- Article 102 (1) If the claim or similar asset (meaning an asset other than real property or movables; the same applies in the following Article and Article 104) that is subject to confiscation pursuant to the provisions of Article 95, 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, it is not permissible to reach a judicial decision in favor of confiscation.
- (2) If there is a right of superficies, a mortgage, or any other third-party right on property that a person seeks to confiscate pursuant to the provisions of Article 95, paragraph (1) and the third party is not allowed to participate in the proceedings of the case under public prosecution, the preceding paragraph also applies.
- (3) The provisions of Article 209-4, paragraphs (3) through (5) (Procedure for Confiscating Third-Party Assets) of the Financial Instruments and Exchange Act apply mutatis mutandis if there is a right of superficies, a mortgage, or any other third-party right on property that will be confiscated and that right must be allowed to continue to exist pursuant to the provisions of Article 209-3, paragraph (2) (Requirements for Confiscation) of that Act as applied mutatis mutandis pursuant to Article 95, 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 95, paragraph (2) of the Trust Business Act".
- (4) Beyond what is specifically provided for in this Act, the provisions of the Act on Emergency Measures in Criminal Procedure to Confiscate Items Owned by Third Parties (Act No. 138 of 1963) apply mutatis mutandis to the procedures for confiscation of property prescribed in paragraphs (1) and (2).

(Disposing of Confiscated Claims and Similar Assets)

Article 103 The provisions of Article 209-5, paragraph (1) (Disposing of Confiscated Claims and Similar Assets) of the Financial Instruments and Exchange Act apply mutatis mutandis to a claim or similar asset that has been confiscated in connection with the crime referred to in Article 94, item (vii); the provisions of Article 209-5, paragraph (2) of that Act apply mutatis mutandis when a judicial decision to confiscate a claim that must be confiscated in connection with the crime referred to in that item becomes final and binding; and the provisions of Article 209-6 (Registration Based on a Judicial Decision in Favor of Confiscation) of that Act apply mutatis mutandis if the relevant institution is commissioned to register a transfer of rights based on a judicial decision in favor of confiscation in connection with the crime referred to in that item, for property requiring registration for a transfer of rights.

(Special Provisions on Criminal Compensation)

Article 104 The provisions of Article 4, paragraph (6) (Contents of Compensation) of the Criminal Compensation Act (Act No. 1 of 1950) apply mutatis mutandis to the content of compensation under that Act for executing the confiscation of a claim or similar asset that must be confiscated in connection with the crime referred to in Article 94, item (vii).