

# Order for Enforcement of the Act on Engagement in Trust Business Activities by Financial Institutions

(Cabinet Order No. 31 of March 3, 1993)

The Cabinet hereby enacts this Cabinet Order in line with the implementation of the Act on the Coordination, etc. of the Relevant Acts for the Reform of the Financial System and the Securities and Exchange System (Act No. 87 of 1992) and pursuant to the provisions of Article 1, paragraph (1), Article 5-2, Article 6 and Article 9-2 of the Act on Engagement in Trust Business Activities by Financial Institutions (Act No. 43 of 1943).

## (Definitions)

- Article 1 (1) Under this Cabinet Order, "Trust Business" means Trust Business under Article 1, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions (hereafter referred to as the "Act").
- (2) In this Cabinet Order, "Bank" means a Bank under Article 2, paragraph (1) of the Banking Act (Act No. 59 of 1981).
- (3) In this Cabinet Order, "Long-Term Credit Bank" means a Long-Term Credit Bank under Article 2 of the Long-Term Credit Bank Act (Act No. 187 of 1952).

## (Scope of Financial Institutions Engaging in Trust Business)

Article 2 Financial institutions specified by Cabinet Order, referred to in Article 1, paragraph (1) of the Act, shall be the following financial institutions:

- (i) Banks;
- (ii) Long-Term Credit Banks;
- (ii)-2 The Shoko Chukin Bank, Ltd.;
- (iii) Shinkin Banks;
- (iv) Labor banks;
- (v) Credit cooperatives;
- (vi) The Norinchukin Bank;
- (vii) Agricultural cooperatives that also engage in business set forth in Article 10, paragraph (1), items (ii) and (iii) of the Agricultural Cooperatives Act (Act No. 132 of 1947);
- (viii) Fisheries cooperatives that also engage in business set forth in Article 11, paragraph (1), items (iii) and (iv) of the Fisheries Cooperatives Act (Act No. 242 of 1948);
- (ix) Marine products processing cooperatives that also engage in business set forth in Article 93, paragraph (1), items (i) and (ii) of the Fisheries Cooperatives Act;

- (x) Federations of Shinkin Banks;
- (xi) Federations of labor banks;
- (xii) Federations of cooperatives that engage in business set forth in Article 9-9, paragraph (1), item (i) of the Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949);
- (xiii) Federations of agricultural cooperatives that also engage in business set forth in Article 10, paragraph (1), items (ii) and (iii) of the Agricultural Cooperatives Act;
- (xiv) Federations of fisheries cooperatives that also engage in business set forth in Article 87, paragraph (1), items (iii) and (iv) of the Fisheries Cooperatives Act; and
- (xv) Federations of marine product processing cooperatives that also engage in business set forth in Article 97, paragraph (1), items (i) and (ii) of the Fisheries Cooperatives Act.

(Business in Which a Financial Institution May Not Engage)

Article 3 Business specified by Cabinet Order, referred to in Article 1, paragraph (1) of the Act, shall be as follows:

- (i) Business involving trust property that includes land or land fixtures, superficies rights or the right to lease land (hereafter referred to as "Land, etc." in this item), the whole or part of whose purpose is the disposition of the Land, etc. (excluding the following trusts):
  - (a) A Specific Purpose Trust as prescribed in Article 2, paragraph (13) of the Act on Securitization of Assets (Act No. 105 of 1998); and
  - (b) A trust under which the transferee of the beneficial interest is limited to a Specific Purpose Company (meaning a Specific Purpose Company as prescribed in Article 2, paragraph (3) of the Act on Securitization of Assets) or a Registered Investment Corporation (meaning a Registered Investment Corporation as prescribed in Article 2, paragraph (13) of the Act on Investment Trusts and Investment Corporations (Act No. 198 of 1951)).
- (ii) Among agency services for trust contracts under Article 1, paragraph (1), item (i) of the Act, those that involve a trust set forth in the preceding item;
- (iii) Among business listed in Article 1, paragraph (1), item (vi) of the Act, that which involves agency or intermediation for the sale and purchase or lease and rental of real property; and
- (iv) Other business specified by Cabinet Office Ordinance.

(Amount of the Business Deposit of a Financial Institution Engaged in Trust Business)

Article 4 The amount specified by Cabinet Order, referred to in Article 11, paragraph (2) of the Trust Business Act (Act No. 154 of 2004) as applied

mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, shall be 25 million yen.

(Terms and Conditions of a Contract that Replaces a Business Deposit)

Article 5 Where a Financial Institution engaged in Trust Business intends to conclude a contract prescribed in Article 11, paragraph (3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, the other party to the contract shall be a Bank, Shinkin Bank, Insurance Company (meaning an Insurance Company as prescribed in Article 2, paragraph (2) of the Insurance Business Act (Act No. 105 of 1995), including Foreign Insurance Companies, etc. prescribed in paragraph (7) of that Article) or other Financial Institution specified by Cabinet Office Ordinance, and the terms of the contract shall conform to the following requirements:

- (i) When an order has been received from the Commissioner of the Financial Services Agency pursuant to the provisions of Article 11, paragraph (4) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, the business deposit in the amount specified by the Order shall be deposited without delay on behalf of the Financial Institution engaged in Trust Business;
- (ii) The contract shall be effective for one year or more; and
- (iii) Unless the approval of the Commissioner of the Financial Services Agency is obtained, the contract shall not be cancelled and the terms of the contract shall not be changed.

(Procedures for the Fulfillment of Rights in Connection with Business Deposits)

Article 6 (1) A person who holds rights pursuant to Article 11, paragraph (6) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act (hereafter referred to as "Right(s)" in this Article) may file a petition for the fulfillment of those Rights with the Commissioner of the Financial Services Agency.

- (2) Upon receiving a petition under the preceding paragraph, where the Commissioner of the Financial Services Agency finds the petition to have reasonable grounds, he/she shall give public notice notifying persons who have a Right to the business deposit that they should report their Rights within a specific period of time not shorter than sixty days and that they will be excluded from the distribution process if they fail to report their Rights within that period, and he/she shall also notify the person who filed the petition under the preceding paragraph (hereafter referred to as the "Petitioner" in this Article) and the depositor (including a Financial Institution engaged in Trust Business, where the depositor has deposited the entirety of the business

deposit under Article 11, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act on behalf of the Financial Institution engaged in Trust Business based on a contract under paragraph (3) of that Article in accordance with the order under paragraph (4) of that Article; hereinafter the same shall apply in paragraphs (4) and (5)) to that effect.

- (3) Once the public notice under the preceding paragraph has been given, even in the event that the Petitioner withdraws his/her petition, this shall not prevent the procedures from progressing.
- (4) After the period prescribed in paragraph (2) has elapsed, the Commissioner of the Financial Services Agency shall make an examination into the Rights without delay. In this case, the Commissioner of the Financial Services Agency shall, in advance, give public notice of the date and place, notify the depositor of such information, and shall give the Petitioner, any person who has reported his/her Rights within the designated period, and the depositor an opportunity to present evidence or state their opinions as to the existence of the Rights and the amount of claim secured by such Rights.
- (5) Based on the result of the examination under the preceding paragraph, the Commissioner of the Financial Services Agency shall prepare a distribution list, give public notice thereof, and notify the depositor thereof without delay.
- (6) After eighty days have elapsed since the date of public notice under the preceding paragraph, the distribution shall be implemented in accordance with the distribution list set forth in that paragraph.
- (7) Where any securities (including book-entry transfer bonds as prescribed in Article 278, paragraph (1) of Act on Book-Entry Transfer of Company Bonds, Shares, etc. (Act No. 75 of 2001)) have been deposited, and where it is necessary for fulfillment of the Rights, the Commissioner of the Financial Services Agency may liquidate the securities. In this case, the expenses required for the liquidation shall be deducted from the proceeds of the liquidation.

#### (Recovery of Business Deposits)

Article 7 (1) Where a Financial Institution engaged in Trust Business falls under any of the following categories, the Financial Institution engaged in Trust Business, its successor or the person who has deposited the business deposit on behalf of the Financial Institution engaged in Trust Business may recover the entirety of the business deposit that was deposited by obtaining the approval of the Commissioner of the Financial Services Agency.

- (i) When the official depository, as prescribed in Article 11, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, is changed due to a change in location of the head

office, etc. of the Financial Institution engaged in Trust Business (meaning the head office or principal office of the Financial Institution engaged in Trust Business; hereinafter the same shall apply in Article 18, paragraph (1), paragraph (2) and paragraph (4) and Article 19, paragraph (2)) and the entirety of the business deposit is deposited with the official depository to which the change was made.

- (ii) Where any of the following apply, when assignment to a new trustee or transfer to the holder of a vested right is completed for the trust property:
  - (a) Where authorization under Article 1, paragraph (1) of the Act has been rescinded pursuant to the provisions of Article 10 of the Act; or
  - (b) Where authorization under Article 1, paragraph (1) of the Act loses effect pursuant to the provisions of Article 11 of the Act.
- (2) Where a Financial Institution engaged in Trust Business a or a person who has deposited a business deposit on behalf of the Financial Institution engaged in Trust Business concludes a contract prescribed under Article 11, paragraph (3) of the Trust Business Act applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, or changes the terms of such contract, and notifies the Commissioner of the Financial Services Agency to that effect, when the amount of the business deposit (including the contract amount (meaning the contract amount as prescribed in Article 11, paragraph (3) of the Trust Business Act; hereinafter the same shall apply in this paragraph)) for the Financial Institution engaged in Trust Business exceeds the amount to be deposited pursuant to the provisions of paragraphs (1) and (2) of Article 11 of the Trust Business Act, the Financial Institution engaged in Trust Business a or the person who has deposited a business deposit on behalf thereof may recover all or part of the amount in excess thereof, only to the extent of the amount of the business deposit less the contract amount, with the approval of the Commissioner of the Financial Services Agency.

(Persons Who Are Closely Related to the Settlor and the Trustee)

Article 8 (1) The persons specified by Cabinet Order as closely related to the settlor under Article 23, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, shall be as follows:

- (i) Any officer (including the director, executive officer, accounting advisor (including members of an accounting advisor who are to perform its duties, where the accounting advisor is a juridical person), company auditors or persons who hold a position similar thereto; hereinafter the same shall apply in this Article and Article 10) or employee of the settlor;
- (ii) Any Subsidiary Juridical Person, etc. of the settlor;
- (iii) The Parent Juridical Person, etc. that has the settlor as its Subsidiary

- Juridical Person, etc.;
- (iv) Any Subsidiary Juridical Person, etc. of the Parent Juridical Person, etc. that has the settlor as its Subsidiary Juridical Person, etc. (excluding the settlor and the persons listed in the preceding two items);
  - (v) Any Affiliated Juridical Person, etc. of the settlor;
  - (vi) Any Affiliated Juridical Person, etc. of the Parent Juridical Person, etc. that has the settlor as its Subsidiary Juridical Person, etc. (excluding the persons listed in the preceding item);
  - (vii) Any specified individual shareholder of the settlor; or
  - (viii) The following company, partnership, or any other business entity equivalent thereto (including those equivalent thereto in a foreign state, but excluding the settlor; hereinafter referred to as the "Juridical Person, etc." in this item) that is associated with the person listed in the preceding item:
    - (a) A Juridical Person, etc. (including the Subsidiary Juridical Person, etc. and the Affiliated Juridical Person, etc. of such Juridical Person, etc.) in which the person referred to in the preceding item holds voting rights that are in excess of fifty percent of the voting rights of all of the shareholders or equity investors (for a stock company, excluding the voting rights from shares when such voting rights cannot be exercised for all matters that are subject to resolution at a general meeting of shareholders, and including the voting rights from shares for which the shareholder shall be deemed to have voting rights under the provisions of Article 879, paragraph (3) of the Companies Act (Act No. 86 of 2005); hereinafter the same shall apply hereinafter); or
    - (b) A Juridical Person, etc. in which the person referred to in the preceding item holds voting rights that amount to at least twenty percent and up to fifty percent of the voting rights of all of the shareholders or equity investors.
- (2) The persons specified by Cabinet Order as closely related to the trustee under Article 23, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, shall be as follows:
- (i) Any officer or employee of the trustee;
  - (ii) Any Subsidiary Juridical Person, etc. of the trustee;
  - (iii) The Parent Juridical Person, etc. that has the trustee as its Subsidiary Juridical Person, etc.;
  - (iv) Any Subsidiary Juridical Person, etc. of the Parent Juridical Person, etc., that has the trustee as its Subsidiary Juridical Person, etc. (excluding the trustee himself/herself and persons listed in the preceding two items);
  - (v) Any Affiliated Juridical Person, etc. of the trustee;
  - (vi) Any Affiliated Juridical Person, etc. of the Parent Juridical Person, etc. that has the trustee as its Subsidiary Juridical Person, etc. (excluding

- persons listed in the preceding item);
- (vii) Any specified individual shareholder of the trustee; or
  - (viii) The following company, partnership, or any other business entity equivalent thereto (including those equivalent thereto in a foreign state, but excluding the trustee; hereinafter referred to as "Juridical Person, etc." in this item) that is associated with the person listed in the preceding item;
    - (a) A Juridical Person, etc. (including a Subsidiary Juridical Person, etc. and an Affiliated Juridical Person, etc. of such Juridical Person, etc.) in which the person referred to in the preceding item holds voting rights that are in excess of fifty percent of the voting rights of all of the shareholders or equity investors; or
    - (b) A Juridical Person, etc. in which the person referred to in the preceding item holds voting rights that amount to at least twenty percent and up to fifty percent of the voting rights of all of the shareholders or equity investors.
- (3) The "Parent Juridical Person, etc." prescribed in the preceding two paragraphs means the Juridical Person, etc. (meaning a company, partnership, or other business entity equivalent thereto (including those equivalent thereto in a foreign state); hereinafter the same shall apply in this paragraph and the following paragraph) specified by Cabinet Office Ordinance as the Juridical Person, etc. who has control over the body that makes decisions on the financial policy and operations or business of another Juridical Person, etc. (meaning the shareholders' meeting or other body equivalent thereto; referred to as "decision-making body" in this paragraph), and the "Subsidiary Juridical Person, etc." prescribed in the preceding two paragraphs and the following paragraph means such other Juridical Person, etc., whose decision-making body is controlled by the Parent Juridical Person, etc. In this case, if a Parent Juridical Person, etc. and its Subsidiary Juridical Person, etc. or a Subsidiary Juridical Person, etc. alone controls the decision-making body of another Juridical Person, etc., such other Juridical Person, etc. shall be deemed to be a Subsidiary Juridical Person, etc. of the Parent Juridical Person, etc.
- (4) The "Affiliated Juridical Person, etc." prescribed in paragraphs (1) and (2) means a Juridical Person, etc. specified by Cabinet Office Ordinance as another Juridical Person, etc. (excluding a Subsidiary Juridical Person, etc.) on which a first Juridical Person, etc. (including its Subsidiary Juridical Person, etc.) can have a material influence on the decisions on financial policy and operations or business, through contributions, assumption of office as a director or a position equivalent thereto by a person who is or was an officer or employee of the first Juridical Person, etc., guarantees of obligations or provision of collateral, provision of technology, or operational or business transactions, etc.
- (5) The "specified individual shareholder" prescribed in paragraphs (1) and (2)

means an individual who holds Subject Voting Rights (meaning Subject Voting Rights as prescribed in Article 5, paragraph (5) of the Trust Business Act) exceeding fifty percent of the voting rights of all of the shareholders or equity investors.

- (6) In the case under paragraph (1), item (viii) or paragraph (2), item (viii), the voting rights held by the person prescribed in paragraph (1), item (vii) or the person prescribed in paragraph (2), item (vii) shall include voting rights pertaining to the shares or contributions 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 Company Bonds, Shares, etc. (including the cases where these provisions are applied mutatis mutandis pursuant to Article 228, paragraph (1), Article 235, paragraph (1), Article 239, paragraph (1) and Article 276 (limited to the portion pertaining to item (ii)) of the same Act).

(Methods That Use Information and Communications Technology)

Article 9 (1) Where a Financial Institution engaged in Trust Business seeks to provide the matters prescribed in Article 26, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act in accordance with said paragraph, the Financial Institution engaged in Trust Business shall, as provided by Cabinet Office Ordinance, indicate to the settlor the type and details of the Electromagnetic Means prescribed in Article 26, paragraph (2) of the Trust Business Act (hereafter referred to as "Electromagnetic Means" in this Article) that it will use, and shall obtain his/her consent in advance, in writing or by Electromagnetic Means.

- (2) A Financial Institution engaged in Trust Business that has obtained consent pursuant to the provisions of the preceding paragraph shall not provide the matters prescribed in Article 26, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act to the settlor by Electromagnetic Means where said settlor has indicated in writing or by Electromagnetic Means that he/she will not be provided with said matters by Electromagnetic Means; provided, however, that this shall not apply where said settlor has given his/her consent again pursuant to the provisions of the preceding paragraph.

- (3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to where Article 26, paragraph (2) of the Trust Business Act is applied mutatis mutandis under Article 27, paragraph (2) and Article 29, paragraph (4) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act. In this case, the term "settlor" in these provisions shall be deemed to be replaced with "beneficiary of the trust property".

(Scope of Persons Who Are Closely Related to a Financial Institution Engaged in Trust Business)

Article 10 (1) The person specified by Cabinet Order, referred to in Article 29, paragraph (2), item (i) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, shall be as follows:

- (i) Any officer or employee of the Financial Institution engaged in Trust Business;
- (ii) Any Subsidiary Juridical Person, etc. (meaning a Subsidiary Juridical Person, etc. as prescribed in Article 8, paragraph (3); hereinafter the same shall apply in this paragraph) of the Financial Institution engaged in Trust Business;
- (iii) The Parent Juridical Person, etc. (meaning a Parent Juridical Person, etc. as prescribed in Article 8, paragraph (3); hereinafter the same shall apply in this paragraph) that has the Financial Institution engaged in Trust Business as its Subsidiary Juridical Person, etc.;
- (iv) Any Subsidiary Juridical Person, etc. of the Parent Juridical Person, etc. that has the Financial Institution engaged in Trust Business as its Subsidiary Juridical Person, etc. (excluding the Financial Institution engaged in Trust Business itself and persons listed in the preceding two items);
- (v) Any Affiliated Juridical Person, etc. (meaning an Affiliated Juridical Person, etc. as prescribed in Article 8, paragraph (4); hereinafter the same shall apply in this paragraph) of the Financial Institution engaged in Trust Business;
- (vi) Any Affiliated Juridical Person, etc. of the Parent Juridical Person, etc. that has the Financial Institution engaged in Trust Business as its Subsidiary Juridical Person, etc. (excluding the person listed in the preceding item);
- (vii) Any specified individual shareholder (meaning a specified individual shareholder as prescribed in Article 8, paragraph (5)) of the Financial Institution engaged in Trust Business; or
- (viii) The following company, partnership, or any other business entity equivalent thereto (including those equivalent thereto in a foreign state, but excluding the Financial Institution engaged in Trust Business; referred to as the "Juridical Person, etc." in this item) that is associated with the person listed in the preceding item:
  - (a) A Juridical Person, etc. (including a Subsidiary Juridical Person, etc. and an Affiliated Juridical Person, etc. of the Juridical Person, etc.) in which the person referred to in the preceding item holds voting rights that are in excess of fifty percent of the voting rights of all of the shareholders or

equity investors; or

- (b) A Juridical Person, etc. in which the person referred to in the preceding item holds voting rights that amount to at least twenty percent and up to fifty percent of the voting rights held by all of the shareholders or equity investors.
- (2) With regard to the application of the provisions of the preceding paragraph to a person to whom Trust Business is entrusted by a Financial Institution engaged in Trust Business under the provisions of Article 22, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act, the term "Financial Institution engaged in Trust Business" in Article 22, paragraph (1) of the Trust Business Act shall be deemed to be replaced with "person to whom Trust Business has been entrusted by the Financial Institution engaged in Trust Business".
- (3) The provisions of Article 8, paragraph (6) shall be applied mutatis mutandis to the voting rights held by a person as prescribed in paragraph (1), item (vii) in the case of paragraph (1), item (viii).

(Provisions on Explanatory Documents)

Article 11 The provisions specified by Cabinet Order, referred to in Article 78, paragraph (1) of the Trust Business Act as applied by replacing the terms pursuant to the provisions of Article 2, paragraph (2) of the Act, shall be as follows:

- (i) Article 21, paragraphs (1) and (2) of the Banking Act (including the cases where applied mutatis mutandis pursuant to Article 17 of the Long-Term Credit Bank Act, Article 89, paragraph (1) of the Shinkin Bank Act (Act No. 238 of 1951), Article 6, paragraph (1) of the Act on Financial Business Conducted by Cooperative Associations (Act No. 183 of 1949) and Article 94, paragraph (1) of the Labor Bank Act (Act No. 227 of 1953));
- (ii) Article 53, paragraphs (1) and (2) of the Shoko Chukin Bank Limited Act (Act No. 74 of 2007);
- (iii) Article 81, paragraphs (1) and (2) of the Norinchukin Bank Act (Act No. 93 of 2001);
- (iv) Article 54-3, paragraphs (1) and (2) of the Agricultural Cooperatives Act; and
- (v) Article 58-3, paragraphs (1) and (2) of the Fisheries Cooperatives Act (including the cases where applied mutatis mutandis in Article 92, paragraph (3), Article 96, paragraph (3) and Article 100, paragraph (3) of the same Act).

(Provision of Information by Use of Information and Communications Technology)

Article 11-2 (1) Where a Financial Institution engaged in Trust Business seeks to provide the matters prescribed in Article 34-2, paragraph (4) of the Financial Instruments and Exchange Act (Act No. 25 of 1948) as applied mutatis mutandis pursuant to Article 2-2 of the Act (including the case where applied mutatis mutandis pursuant to Article 34-3, paragraph (12) (including the case where applied mutatis mutandis in Article 34-4, paragraph (6) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act), Article 34-4, paragraph (3) and Article 37-3, paragraph (2) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act; hereafter the same shall apply in this Article), pursuant to Article 34-2, paragraph (4) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act, it shall, as provided by Cabinet Office Ordinance, indicate to the other party the type and details of the Electromagnetic Means prescribed in Article 34-2, paragraph (4) of the Financial Instruments and Exchange Act (hereafter referred to as "Electromagnetic Means" in this Article) that it will use, and shall obtain his/her consent in advance, in writing or by Electromagnetic Means.

(2) A Financial Institution engaged in Trust Business who has obtained consent pursuant to the provisions of the preceding paragraph shall not provide the matters prescribed in Article 34-2, paragraph (4) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act to the other party by Electromagnetic Means where said person has indicated in writing or by Electromagnetic Means that he/she will not be provided with said matters by Electromagnetic Means; provided, however, that this shall not apply where said person has given his/her consent again pursuant to the provisions of the preceding paragraph.

(Acquisition of Agreement by Use of Information and Communications Technology)

Article 11-3 (1) When a Financial Institution engaged in Trust Business seeks to obtain agreement using a method specified by Cabinet Office Ordinance, as prescribed in Article 34-2, paragraph (12) of the Financial Instruments and Exchange Act (referred to as "Electromagnetic Means" in this Article), in lieu of the written agreement prescribed in Article 34-2, paragraph (11) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act, pursuant to Article 34-2, paragraph (12) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act (including the case where applied mutatis mutandis pursuant to Article 34-3, paragraph (3) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the

Act (including the case where applied mutatis mutandis in Article 34-4, paragraph (6) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act); hereafter the same shall apply in this Article), it shall, as provided by Cabinet Office Ordinance, indicate to the person whose agreement is sought, the type and details of the Electromagnetic Means that it will use, and shall obtain his/her consent in advance, in writing or by Electromagnetic Means.

- (2) A Financial Institution engaged in Trust Business that has obtained consent pursuant to the provisions of the preceding paragraph shall not obtain the agreement prescribed in Article 34-2, paragraph (12) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act of the other party by Electromagnetic Means where said other party has indicated in writing or by Electromagnetic Means that he/she will not give his/her agreement by Electromagnetic Means; provided, however, that this shall not apply where said person gives his/her consent again pursuant to the provisions of the preceding paragraph.

(Important Matters that May Have an Impact on Customers' Judgment)

Article 11-4 (1) The matters specified by Cabinet Order, referred to in Article 37, paragraph (1), item (iii) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act, shall be as follows:

- (i) Matters related to the fees, remuneration, or any other type of consideration payable by a customer under a specified trust contract (meaning a specified trust contract as prescribed in Article 24-2 of the Trust Business Act; hereafter the same shall apply), as specified by Cabinet Office Ordinance;
  - (ii) Where there is a risk of incurring losses with regard to the conclusion of a specified trust contract by a customer, as a direct result of fluctuations in the money rates, the value of currencies, quotations on a Financial Instruments Market as prescribed in Article 2, paragraph (14) of the Financial Instruments and Exchange Act, or other financial indicators, the following matters:
    - (a) The relevant financial indicators; and
    - (b) A statement to the effect that losses could be incurred due to fluctuations in the financial indicators and the reason therefor.
  - (iii) Any matters specified by Cabinet Office Ordinance as matters that are equivalent to those listed in the preceding two items.
- (2) Notwithstanding the provisions of the preceding paragraph, where the acts prescribed in Article 37, paragraph (1) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 2-2 of the Act are accomplished by causing a broadcast using the broadcasting facilities of a

general broadcasting organization (meaning a general broadcasting organization as prescribed in Article 2, item (iii)-3 of the Broadcast Act (Act No. 132 of 1950)) or by any other method specified by Cabinet Office Ordinance as equivalent thereto, the matters specified by Cabinet Order, referred to in Article 37, paragraph (1), item (iii) of the Financial Instruments and Exchange Act, shall be as follows:

- (i) Where there is any risk of losses being incurred in connection with the customer's conclusion of a specified trust contract, as the direct result of fluctuations in the money rate, the value of currencies, quotations on a Financial Instruments Market, or other financial indicators, a statement to the effect that there is such risk; and
- (ii) The matters specified by Cabinet Office Ordinance as equivalent to the matters listed in the preceding item.

(Technical Replacement of Terms in the Mutatis Mutandis Application of the Financial Instruments and Exchange Act)

Article 11-5 The technical replacement of terms pursuant to Article 2-2 of the Act shall be as follows:

Provisions of the Financial Instruments and Exchange Act whose terms are to be replaced	Original terms	Terms to replace the original terms
Article 34	Article 2, paragraph (31), item (iv)	Article 2, paragraph (31), item (iv)
Article 37, paragraph (1), item (i)	the trade name or name	the trade name or name
Article 40, item (ii)	what is listed in the preceding item	a situation in which the provisions of Article 24, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions are found to have been violated

(Granting of Credit to One Person)

Article 12 Where a Financial Institution engaged in Trust Business concludes a trust agreement for a cash trust with a contractual clause for the compensation of losses in principal (meaning a cash trust (including a loan trust) in which

compensation of losses in principal is promised under the terms of the contract pursuant to Article 6 of the Act; hereafter the same shall apply), the loan monies prescribed in the following items in connection with the Financial Institutions listed in each of those items shall include loan monies (meaning loan monies specified by Cabinet Office Ordinance) related to investment of the trust property in a cash trust with a contractual clause for compensation of losses in principal:

- (i) Financial Institution listed in Article 2, item (i): loan monies prescribed in Article 4, paragraph (4), item (i) of the Order for Enforcement of the Banking Act (Cabinet Order No. 40 of 1982);
- (ii) Financial Institution listed in Article 2, item (ii): loan monies prescribed in Article 4, paragraph (4), item (i) of the Order for Enforcement of the Banking Act as applied mutatis mutandis pursuant to Article 6, paragraph (1) of the Order for Enforcement of the Long-Term Credit Bank Act (Cabinet Order No. 42 of 1982);
- (ii)-2 Financial Institution listed in Article 2, item (ii)-2: loan monies prescribed in Article 6, paragraph (5), item (i) of the Order for Enforcement of the Shoko Chukin Bank Act (Cabinet Order No. 367 of 2007);
- (iii) Financial Institution listed in Article 2, item (iii) or item (x): loan monies prescribed in Article 11, paragraph (5), item (i) of the Order for Enforcement of the Shinkin Bank Act (Cabinet Order No. 142 of 1968);
- (iv) Financial Institution listed in Article 2, item (iv) or item (xi): loan monies prescribed in Article 5, paragraph (5), item (i) of the Order for Enforcement of the Labor Bank Act (Cabinet Order No. 46 of 1982);
- (v) Financial Institution listed in Article 2, item (v) or item (xii): loan monies prescribed in Article 3, paragraph (5), item (i) of the Order for Enforcement of the Act on Financial Businesses by Cooperatives (Cabinet Order No. 44 of 1982);
- (vi) Financial Institution listed in Article 2, item (vi): loan monies prescribed in Article 7, paragraph (5), item (i) of the Order for Enforcement of the Norinchukin Bank Act (Cabinet Order No. 285 of 2001);
- (vii) Financial Institution listed in Article 2, item (vii) or item (xiii): loan monies prescribed in Article 1-10, paragraph (5), item (i) of the Order for Enforcement of the Agricultural Cooperatives Act (Cabinet Order No. 271 of 1962); and
- (viii) Financial Institution listed in Article 2, item (viii), (ix), (xiv) or (xv): loan monies prescribed in Article 10, paragraph (5), item (i) of the Order for Enforcement of the Fisheries Cooperatives Act (Cabinet Order No. 328 of 1993) (including the cases where applied mutatis mutandis pursuant to paragraphs (11) and (15) of that Article).

(Designation under the Provisions of Other Acts as Concerning Business  
Equivalent to Dispute Resolution Services, etc.)

Article 13 The designation specified by Cabinet Order, referred to in Article 85-6 and Article 85-23, paragraph (3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-2, paragraph (1), item (ii) and item (iv), sub-item (d) and Article 12-4 of the Act, shall be as follows:

- (i) Designation pursuant to Article 156-39, paragraph (1) of the Financial Instruments and Exchange Act; and
- (ii) Designation under the items of Article 15.

(Ratio of the Number of Financial Institutions Engaged in Trust Business who  
Have Stated Their Objections, to the Total Number of Financial Institutions  
Engaged in Trust Business)

Article 14 The ratio specified by Cabinet Order, referred to in Article 12-2, paragraph (1), item (viii) of the Act, shall be one-third.

(Exemption from Restrictions on Name Use)

Article 15 The person specified by Cabinet Order, referred to in Article 85-17 of the Trust Business Act as applied mutatis mutandis pursuant to Article 12-4 of the Act, shall be a person who receives any of the following designations:

- (i) Designation pursuant to Article 35-2, paragraph (1) of the Mutual Loan Business Act (Act No. 42 of 1931);
- (ii) Designation pursuant to Article 92-6, paragraph (1) of the Agricultural Cooperatives Act;
- (iii) Designation pursuant to Article 121-6, paragraph (1) of the Fisheries Cooperatives Act;
- (iv) Designation pursuant to Article 69-2, paragraph (1) of the Small and Medium-Sized Enterprise Cooperatives Act;
- (v) Designation pursuant to Article 85-4, paragraph (1) of the Shinkin Bank Act;
- (vi) Designation pursuant to Article 16-8, paragraph (1) of the Long-Term Credit Bank Act;
- (vii) Designation pursuant to Article 89-5, paragraph (1) of the Labor Bank Act;
- (viii) Designation pursuant to Article 52-62, paragraph (1) of the Banking Act;
- (ix) Designation pursuant to Article 41-39, paragraph (1) of the Money Lending Business Act (Act No. 32 of 1983);
- (x) Designation pursuant to Article 308-2, paragraph (1) of the Insurance Business Act;
- (xi) Designation pursuant to Article 95-6, paragraph (1) of the Norinchukin Bank Act;

(xii) Designation pursuant to Article 85-2, paragraph (1) of the Trust Business Act; and

(xiii) Designation pursuant to Article 99, paragraph (1) of the Act on Financial Settlements (Act No. 59 of 2009);

(Technical Replacement of Terms for the Mutatis Mutandis Application of the Trust Business Act)

Article 16 The technical replacement of terms pursuant to Article 12-4 of the Act shall be as follows:

Provisions of the Trust Business Act whose terms are to be replaced	Original terms	Terms to replace the original terms
Article 85-3, paragraph (1), item (ii)	Business of Dispute Resolution, etc.	Dispute Resolution Services, etc. (meaning Dispute Resolution Services, etc. as prescribed in Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions; hereafter the same shall apply)
Article 85-4, paragraph (1)	Designated Dispute Resolution Organization	Designated Dispute Resolution Organization (meaning a Designated Dispute Resolution Organization as prescribed in Article 12-2, paragraph (1), item (viii) of the Act on Engagement in Trust Business Activities by Financial Institutions; hereafter the same shall apply)
Article 85-5, paragraph (2)	Member Trust Company, etc. (meaning the Trust Company, etc. with whom a Basic Contract for Implementation of Dispute Resolution Procedures has been concluded	Member Financial Institution (meaning a Financial Institution engaged in Trust Business with whom a Basic Contract for the Implementation of Dispute Resolution Procedures (meaning a Basic Contract for the Implementation of Dispute Resolution Procedures prescribed in Article 12-2, paragraph (1), item (viii) of the Act on Engagement in Trust Business Activities by Financial Institutions; hereafter the same shall apply) has been concluded

Article 85-6	Complaint Processing Procedures	Complaint Processing Procedures (meaning Complaint Processing Procedures as prescribed in Article 12-2, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions; hereafter the same shall apply)
	Dispute Resolution Procedures	Dispute Resolution Procedures (meaning Dispute Resolution Procedures as prescribed in that paragraph; hereafter the same shall apply)
Article 85-7, paragraph (2), item (i)	complaints related to trust business subject to dispute resolution procedure	Complaints Related to Specific Concurrent Business (meaning Complaints Related to Specific Concurrent Business as prescribed in Article 12-2, paragraph (4) of the Act on Engagement in Trust Business Activities by Financial Institutions; hereafter the same shall apply)
Article 85-7, paragraph (2), item (iv)	complaints related to trust business subject to dispute resolution procedure	Complaints Related to Specific Concurrent Business (meaning Complaints Related to Specific Concurrent Business as prescribed in Article 12-2, paragraph (4) of the Act on Engagement in Trust Business Activities by Financial Institutions; hereafter the same shall apply)
Article 85-7, paragraph (3)	Trust Company, etc.	Financial Institution engaged in Trust Business
Article 85-13, paragraph (3), item (ii)	trust business subject to dispute resolution procedure	Specific Concurrent Business as prescribed in Article 12-2, paragraph (4) of the Act on Engagement in Trust Business Activities by Financial Institutions
Article 85-19, item (i)	Trust Company, etc.	Financial Institution engaged in Trust Business

(Authority Excluded from the Scope of Delegation to the Commissioner of the Financial Services Agency)

Article 17 The matters specified by Cabinet Order, referred to in Article 14, paragraph (1) of the Act, shall be as follows:

- (i) Authorization under Article 1, paragraph (1) of the Act; and
- (ii) Rescission of authorizations under Article 1, paragraph (1) of the Act pursuant to Article 10 of the Act.

(Delegation of Authority Over Financial Institutions Engaged in Trust Business to the Head of Local Finance Bureaus)

Article 18 (1) The authority delegated to the Commissioner of the Financial Services Agency pursuant to Article 14, paragraph (1) of the Act and the authority of the Commissioner of the Financial Services Agency under this Cabinet Order (hereafter referred to as the "Commissioner's Authority") that is listed in any of the following items (excluding authority over a Financial Institution engaged in Trust Business that is designated by the Commissioner of the Financial Services Agency) shall be delegated to the Director-General of the Local Finance Bureau (including the Director General of the Fukuoka Local Finance Branch Bureau; hereafter the same shall apply) that has jurisdiction over the area in which the head office, etc. of the Financial Institution engaged in Trust Business is located; provided that this shall not preclude the Commissioner of the Financial Services Agency from exercising the authority listed in items (iv) and (vi) himself/herself:

- (i) Authorization prescribed in Article 3 and Article 5, paragraph (1) of the Act;
  - (ii) The acceptance of notifications prescribed in Article 11, paragraphs (3), (5) and (8) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act and Article 8, paragraphs (1), (2) and (4) of the Act;
  - (iii) Orders prescribed in Article 11, paragraph (4) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act;
  - (iv) Orders to submit reports or materials and questioning and on-site inspections prescribed in Article 42, paragraph (1) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act;
  - (v) The acceptance of business reports prescribed in Article 7 of the Act;
  - (vi) Orders prescribed in Article 9 of the Act (excluding orders to suspend the whole or part of Trust Business);
  - (vii) The approval prescribed in Article 5, item (iii) and Article 7, paragraphs (1) and (2); and
  - (viii) The acceptance of petitions, public notices, notices, examinations, granting of opportunities to state opinions, preparation of distribution lists, and liquidation prescribed in Article 6.
- (2) The authority prescribed in item (iv) of the preceding paragraph (excluding authority over the Financial Institution engaged in Trust Business that is designated by the Commissioner of the Financial Services Agency) over branch offices, other business offices, or offices other than the head office, etc. of the Financial Institution engaged in Trust Business; a person who maintains business transactions with the Financial Institution engaged in Trust Business; or a Holding Company prescribed in Article 5, paragraph (2), item (ix) of the Trust Business Act that has the Financial Institution engaged in

Trust Business as its Subsidiary Company (meaning a Subsidiary Company as prescribed in Article 5, paragraph (6) of the Trust Business Act) (hereafter referred to as "Branch Office, etc.") may, in addition to being exercised by the Director-General of the Local Finance Bureau referred to in the preceding paragraph, be exercised by the Director-General of the Local Finance Bureau that has jurisdiction over the area in which the Branch Office, etc. is located (or, where the person who maintains business transactions with the Financial Institution engaged in Trust Business is an individual, the domicile or residence of such individual).

- (3) The authority prescribed in paragraph (1), item (iv) over the Branch Office, etc. of a Financial Institution engaging in Trust Business that is designated by the Commissioner of the Financial Services Agency, as prescribed in the paragraph (1), shall be delegated to the Director-General of the Local Finance Bureau that has jurisdiction over the area in which the Branch Office, etc. is located (or, where the person who maintains transactions with the Financial Institution engaged in Trust Business is an individual, the domicile or residence of such individual); provided that this shall not preclude the Commissioner of the Financial Services Agency from exercising that authority himself/herself.
- (4) The Director-General of a Local Finance Bureau who has issued an order for the submission of reports or materials, asked questions, or conducted on-site inspections (hereafter referred to as "Inspection, etc." in this paragraph) at a Branch Office, etc. under the preceding two paragraphs may, when he/she finds it necessary to conduct an Inspection, etc. at the head office, etc. or at any Branch Office, etc. other than the first-mentioned Branch Office, etc. of the Financial Institution engaged in Trust Business, conduct such Inspection, etc. at the head office, etc. or at such other Branch Office, etc.
- (5) When the Commissioner of the Financial Services Agency makes a designation under paragraph (1), he/she shall issue a public notice thereof. The same shall apply where he/she rescinds this designation.

(Delegation of Authority Over the Major Shareholders of a Financial Institution Engaged in Trust Business to the Director-General of the Local Finance Bureau)

Article 19 (1) Among the Commissioner's Authority, the authority to order the submission of reports and materials and for questions and on-site inspections as prescribed in Article 42, paragraph (2) of the Trust Business Act as applied mutatis mutandis pursuant to Article 2, paragraph (1) of the Act shall be, where this authority is over a resident (meaning a resident as prescribed in Article 6, paragraph (1), item (v) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949); hereinafter the same shall apply in this paragraph

and paragraph (3)), delegated to the Director-General of the Local Finance Bureau that has jurisdiction over the area in which the principal business office or office of the resident is located (or, where the resident is an individual, the domicile or residence of such individual), or, where this authority is over a non-resident (meaning a non-resident as prescribed in Article 6, paragraph (1), item (vi) of the Foreign Exchange and Foreign Trade Act), delegated to the Director-General of the Kanto Local Finance Bureau; provided that this shall not preclude the Commissioner of the Financial Services Agency from exercising this authority himself/herself.

- (2) The authority prescribed in the preceding paragraph may, in addition to being exercised by the Director-General of the Local Finance Bureau prescribed in the preceding paragraph, be exercised by the Director-General of the Local Finance Bureau that has jurisdiction over the area in which the head office, etc. of the Financial Institution engaged in Trust Business is located.
- (3) The authority prescribed in paragraph (1) over business offices or offices other than the principal business office or principal office (referred to as "secondary business office, etc." in this paragraph) of a resident who is a juridical person, may, in addition to being exercised by the Director-Generals of the Local Finance Bureaus prescribed in paragraph (1) and the preceding paragraph, be exercised by the Director-General of the Local Finance Bureau that has jurisdiction over the area in which the secondary business office, etc. is located.