

Secured Bond Trust Act

(Act No. 52 of March 13, 1905)

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Chapter I General Provisions

(Definitions)

Article 1 The term "trust company" as used in this Act means a company that has obtained a license from the Prime Minister as referred to in Article 3.

(Trust Agreement)

Article 2 (1) A company that intends to secure bonds must comply with a trust agreement between the party holding the property to be offered as collateral and the trust company (hereinafter simply referred to as a "trust agreement"). In this case, if the party holding the property to be offered as collateral is not the company that is to issue bonds or that has issued bonds (hereinafter referred to as the "issuing company), the trust agreement does not become effective without the consent of the issuing company.

(2) In the case referred to in the preceding paragraph, the trust company must perform the administration of bonds on behalf of bondholders.

(3) In the case referred to in paragraph (1), the provisions of Article 702 of the Companies Act (Act No. 86 of 2005) do not apply.

(License)

Article 3 No company may engage in trust business relating to secured bonds unless it obtains a license from the Prime Minister.

Article 4 A financial institution that has obtained authorization as referred to in

Article 1, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions (Act No. 43 of 1943; hereinafter referred to as the "Act on Trust Business by Financial Institutions") (limited to those that carry out the contracted service of administration of bonds and trust business activities relating to security interests) or a person that has obtained a license as referred to in Article 3 or Article 53, paragraph (1) of the Trust Business Act (Act No. 154 of 2004) is deemed to have obtained a license as referred to in the preceding Article.

(Scope of Business Activities)

Article 5 In addition to trust business relating to secured bonds, a trust company may carry out the following business activities:

- (i) the business activities of a bank as prescribed in Articles 10 and 11 of the Banking Act (Act No. 59 of 1981), and the business activities of a bank as prescribed in Article 12 of that Act (limited to business activities that a bank carries out pursuant to other laws as prescribed in that Article);
- (ii) the business activities of a long-term credit bank as prescribed in Article 6 of the Long-Term Credit Bank Act (Act No. 187 of 1952) and the business activities of a long-term credit bank as prescribed in Article 6-2 of that Act (limited to business activities that a long-term credit bank carries out pursuant to other laws as prescribed in that Article);
- (iii) the business activities of the Shoko Chukin Bank, Ltd. as prescribed in Article 21 (excluding paragraph (2) and paragraph (4), item (x)) of the Shoko Chukin Bank Limited Act (Act No. 74 of 2007);
- (iv) the business activities of Norinchukin Bank as prescribed in Article 54 (excluding paragraph (4), item (ix)) of the Norinchukin Bank Act (Act No. 93 of 2001);
- (v) the business activities of a credit cooperative as prescribed in Article 9-8 (excluding paragraph (7), item (vi)) of the Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949) or the business activities of a federation of cooperatives as prescribed in Article 9-9 of that Act (excluding the business set forth in paragraph (6), item (vi) of that Article (limited to the business set forth in Article 9-8, paragraph (7), item (vi) of that Act));
- (vi) the business activities of a credit union as prescribed in Article 53 (excluding paragraph (6), item (vi)) of the Credit Union Act (Act No. 238 of 1951) or the business activities of a federation of credit unions as prescribed in Article 54 (excluding paragraph (5), item (vi)) of that Act;
- (vii) the business activities of the Rokinren Bank as prescribed in Article 58-2 (excluding paragraph (3), item (vi)) of the Labor Bank Act (Act No. 227 of 1953);

- (viii) the business activities of an agricultural cooperative or a federation of agricultural cooperatives as prescribed in Article 10 (excluding paragraph (7), item (vi)) of the Agricultural Cooperatives Act (Act No. 132 of 1947);
- (ix) the business activities of an insurance company as prescribed in Article 97, Article 98, Article 99 (excluding paragraph (2), item (ii)), and Article 100 of the Insurance Business Act (Act No. 105 of 1995), or the business activities of a foreign insurance company, etc. as prescribed in Article 97, Article 98, Article 99, paragraph (1), paragraph (2) (excluding item (ii)), and paragraphs (4) to (6), and Article 100 of that Act as applied mutatis mutandis pursuant to Article 199 of that Act;
- (x) the business activities of a financial institution engaged in trust business activities as prescribed in Article 1, paragraph (1) of the Act on Trust Business by Financial Institutions;
- (xi) the business activities of a trust company as prescribed in Article 21, paragraph (1) of the Trust Business Act; and
- (xii) beyond what is set forth in the preceding items, business activities specified by Cabinet Order.

(Amount of Stated Capital)

Article 6 The amount of stated capital or total amount of contribution of a trust company must not be less than 10 million yen.

(Paid-In Amount of Contribution)

Article 7 If a trust company is a general partnership company or limited partnership company, it must not commence trust business relating to secured bonds until the paid-in amount of contribution reaches five million yen.

(Application Mutatis Mutandis of the Trust Business Act)

Article 8 The provisions of Article 15, Articles 22 to 24, Article 28, paragraph (3), and Article 29 of the Trust Business Act apply mutatis mutandis when a trust company (excluding a person that is deemed to have obtained a license as referred to in Article 3 pursuant to the provisions of Article 4 and a person that is registered as referred to in Article 7, paragraph (1) or Article 54, paragraph (1) of that Act) engages in trust business relating to secured bonds.

(Supervision of Trust Company)

Article 9 Trust business activities relating to secured bonds that a trust company carries out are subject to supervision by the Prime Minister.

(On-Site Inspection)

Article 10 (1) If the Prime Minister finds it necessary in order to ensure the

sound and appropriate management of the trust business of a trust company, the Prime Minister may order the trust company to submit reports or materials that should serve as a reference in connection with the business or property of the trust company, or may have relevant officials enter the business offices and other facilities of the trust company, ask questions concerning the status of its business and property, or inspect its books, documents, and any other articles.

(2) Officials who conduct an on-site inspection pursuant to the provisions of the preceding paragraph must carry their identification cards and present them when requested by a person concerned.

(3) The authority to conduct an on-site inspection pursuant to the provisions of paragraph (1) must not be construed as being granted for criminal investigation purposes.

(Suspension of Business Activities)

Article 11 If the Prime Minister finds it necessary in order to ensure the sound and appropriate management of the trust business of a trust company in light of the status of the business or property of the trust company, the Prime Minister may, to the necessary extent, order the trust company to suspend all or part of its business activities within a time limit set by the Prime Minister, to change its method of execution of business, or to take other measures as necessary for supervision.

(Revocation of License)

Article 12 If a trust company violates laws and regulations, its articles of incorporation or a disposition rendered by the Prime Minister based on laws and regulations, or commits an act that harms the public interest, the Prime Minister may order the trust company to suspend all or part of its business activities or to dismiss its director, executive officer or company auditor, or may revoke its license referred to in Article 3.

(Dissolution as a Result of Revocation of License)

Article 13 A trust company that exclusively engages in trust business relating to secured bonds (referred to as a "trust company specializing in secured bonds" in the following Article to Article 16) is to be dissolved if its license is revoked pursuant to the provisions of the preceding Article.

Article 14 If a trust company specializing in secured bonds is dissolved pursuant to the provisions of the preceding Article, the Prime Minister appoints a liquidator upon the petition of an interested person or ex officio.

(Appointment and Dismissal of Liquidator)

Article 15 (1) The Prime Minister takes charge of the appointment or dismissal of a liquidator prescribed in Article 478, paragraphs (2) to paragraph (4), Article 479, paragraph (2), Article 647, paragraphs (2) to (4), or Article 648, paragraph (3) of the Companies Act with regard to a trust company specializing in secured bonds.

(2) A petition pursuant to the provisions of Article 479, paragraph (2) of the Companies Act may be filed by the settlor, the issuing company, or a bondholders meeting (meaning a bondholders meeting regarding secured bonds; the same applies hereinafter).

(Supervision of Liquidation)

Article 16 (1) The liquidation of a trust company specializing in secured bonds is subject to supervision by the Prime Minister.

(2) If the Prime Minister finds it necessary for the supervision referred to in the preceding paragraph, the Prime Minister may have relevant officials enter the business offices and other facilities of a trust company specializing in secured bonds, ask questions concerning the status of its business and property, or inspect its books, documents, and any other articles.

(3) The provisions of Article 10, paragraphs (2) and (3) apply mutatis mutandis to an on-site inspection pursuant to the provisions of the preceding paragraph.

(Foreign Company)

Article 17 (1) If a company intends to issue secured bonds in a foreign country, the person holding the property to be offered as collateral may conclude a trust agreement with a foreign company, with permission from the Prime Minister.

(2) If a foreign company that has accepted a trust pursuant to the provisions of the preceding paragraph does not have a branch office in Japan, it must designate a representative in Japan.

(3) A corporation may become the representative in Japan referred to in the preceding paragraph.

(4) If a foreign company designates a representative in Japan pursuant to the provisions of paragraph (2), it must notify the Prime Minister of the name and address of the representative without delay.

(5) A foreign company's representative in Japan has the same authority as that of a trust company's director or executive officer, or a member who represents a trust company, with regard to trust affairs.

Chapter II Deed of Trust

(Form of Trust Agreement)

Article 18 (1) A trust agreement does not become effective unless it is executed

by means of a deed of trust.

- (2) A deed of trust may be created by means of electronic or magnetic records (meaning records specified by Cabinet Office Order and Ministry of Justice Order as those used in computerized information processing which are created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses; the same applies hereinafter).

(Information Required to Be Specified or Recorded in Deed of Trust)

Article 19 (1) The following information must be specified or recorded in a deed of trust:

- (i) the names of the settlor, the trustee company, and the issuing company;
- (ii) the total amount of secured bonds;
- (iii) the amount of each secured bond;
- (iv) the interest rate for the secured bonds;
- (v) the method and due date of redemption of secured bonds;
- (vi) the method and due date of payment of interest;
- (vii) in the case of issuing secured bond certificates (meaning bond certificates of secured bonds; the same applies hereinafter), a statement to that effect;
- (viii) in the case prescribed in the preceding item, the information required to be specified in a secured bond certificate;
- (ix) in the case prescribed in item (vii), if coupons are attached to secured bond certificates, a statement to that effect;
- (x) if it is to be arranged that bondholders may not make a demand pursuant to the provisions of Article 698 of the Companies Act in whole or in part, a statement to that effect;
- (xi) if it is to be arranged that the trustee company may carry out any of the acts set forth in Article 706, paragraph (1), item (ii) of the Companies Act without a resolution adopted at a bondholders meeting, a statement to that effect;
- (xii) if the issuing company solicits subscribers for secured bonds, the amount to be paid in for each secured bond (meaning the amount of money to be paid in in exchange for each secured bond) or the minimum amount thereof, or the method for calculating these amounts;
- (xiii) the type of collateral, the property to be offered as collateral, the order of priority of the security interest, the amount of claims secured by the security interest held by the security interest holder of prior rank, and any right that can be asserted against the security interest holder with regard to the property to be offered as collateral;
- (xiv) the date of creation of a deed of trust; and
- (xv) beyond what is set forth in the preceding items, information specified by Cabinet Office Order and Ministry of Justice Order.

- (2) If a deed of trust is created by means of a paper-based document, the settlor (if the settlor is a corporation, its representative) and the representative of the trustee company must sign the document or affix their names and seals to the document.
- (3) If a deed of trust is created by means of electronic or magnetic records, the settlor (if the settlor is a corporation, its representative) and the representative of the trustee company must take measures specified by Cabinet Office Order and Ministry of Justice Order in lieu of signing or affixing their names and seals.

(Keeping and Inspection of Deed of Trust)

Article 20 (1) The settlor and the trustee company must keep a deed of trust at the domicile of the settlor (if the settlor is a corporation, its head office or principal office) and the head office of the trustee company during the period from the date of creation of the deed of trust until the date of conclusion of trust affairs.

- (2) A bondholder or a prospective subscriber for secured bonds, a creditor of the settlor, or if the settlor is a corporation, a shareholder or member thereof, may make the following requests at any time during the hours specified by the settlor (if the settlor is a corporation, its operating hours or business hours) or during the operating hours of the trustee company; provided, however, that in order to make the request set forth in item (ii) or item (iv), the requesting party must pay expenses specified by the settlor or the trustee company:
- (i) if the deed of trust is created by means of a paper-based document, a request for inspection of the document;
 - (ii) a request for issuance of a transcript or extract of the document referred to in the preceding item;
 - (iii) if the deed of trust is created by means of electronic or magnetic records, a request for inspection of any object which indicates the information recorded in the electronic or magnetic records by means specified by Cabinet Office Order or Ministry of Justice Order; and
 - (iv) a request for provision of the information recorded in the electronic or magnetic records referred to in the preceding item, using electronic or magnetic means (meaning a method of using information and communication technology specified by Cabinet Office Order or Ministry of Justice Order, including an electronic data processing system; hereinafter the same applies, excluding Article 59) specified by the settlor or the trustee company, or for delivery of a paper-based document containing the information.

(Information Required to Be Specified or Recorded in Deed of Trust in Case of Issue in Installments)

Article 21 (1) In the case of issuing the total amount of secured bonds in installments, the following information must be specified or recorded in a deed of trust, instead of the information set forth in Article 19, paragraph (1), items (iii) to (xii):

- (i) a statement to the effect that the total amount of secured bonds is to be issued in installments; and
 - (ii) the maximum limit of the interest rate for the secured bonds.
- (2) In the case prescribed in the preceding paragraph, the settlor and the trustee company must indicate the following information as a supplementary note in the deed of trust referred to in that paragraph with regard to each installment of the secured bonds to be issued, by the time of issuance of each installment of secured bonds:
- (i) the total amount of secured bonds to be issued in the relevant installment;
 - (ii) the information set forth in Article 19, paragraph (1), items (iii) to (xii) with regard to the secured bonds referred to in the preceding item; and
 - (iii) if any of the information set forth in the preceding items is indicated as a supplementary note after the date of creation of the deed of trust, the day on which the supplementary note is made.

(Time Limit for Issue in Case of Issue in Installments)

Article 22 In the case of issuing the total amount of secured bonds in installments, the last installment of secured bonds must be issued within five years from the date of creation of the relevant deed of trust.

(Reduction in Total Amount of Secured Bonds in Case of Issue in Installments)

- Article 23 (1) In the case of issuing the total amount of secured bonds in installments, the settlor may request the trustee company to reduce the total amount of secured bonds to be issued, if there are reasonable grounds for a reduction; provided, however, that the total amount of secured bonds after the reduction may not be less than the total amount of secured bonds already issued.
- (2) If a reduction is made as referred to in the preceding paragraph, the settlor and the trustee company must indicate the following information as a supplementary note in the deed of trust referred to in Article 21, paragraph (1):
- (i) a statement to the effect that the reduction referred to in the preceding paragraph has been made, and the total amount of secured bonds after the reduction; and
 - (ii) the day on which the information set forth in the preceding item is indicated as a supplementary note.
- (3) The settlor is liable to compensate the trustee company for damage incurred due to the reduction referred to in paragraph (1).

Chapter III Solicitation of Subscribers for Secured Bonds

(Application for Secured Bonds)

Article 24 (1) If the issuing company intends to solicit subscribers for secured bonds, it must give notice to persons who intend to apply for subscription for secured bonds in response to its solicitation, with regard to the following information beyond the information set forth in the items of Article 677, paragraph (1) of the Companies Act:

- (i) the names and addresses of the settlor and the trustee company;
 - (ii) a statement to the effect that the bonds to be issued are secured bonds;
 - (iii) information sufficient to identify the deed of trust;
 - (iv) the information set forth in Article 19, paragraph (1), item (xi);
 - (v) an outline of the information set forth in Article 19, paragraph (1), item (xiii) (limited to information that is necessary for notifying prospective applicants of the value of collateral);
 - (vi) the results of the investigation on the value of collateral conducted by the trustee company; and
 - (vii) the hours during which the request set forth in the items of Article 20, paragraph (2) may be made, and the method of making the request set forth in item (ii) or item (iv) of that paragraph.
- (2) With regard to the application of the provisions of the preceding paragraph when the issuing company intends to solicit subscribers for secured bonds that are bonds with share options, the phrase "the items of Article 677, paragraph (1)" in that paragraph is deemed to be replaced with "the items of Article 242, paragraph (1)".

(Application for Secured Bonds in Case of Issue in Installments)

Article 25 In the case of issuing the total amount of secured bonds in installments, the issuing company must give notice to persons who intend to apply for subscription for secured bonds in response to its solicitation referred to in paragraph (1) of the preceding Article, with regard to the following information beyond the information set forth in the items of that paragraph:

- (i) a statement to the effect that the total amount of secured bonds is to be issued in installments; and
- (ii) the total amount of secured bonds already issued in each installment, the unredeemed amount of these bonds, the interest rate, and the due date of redemption of these bonds.

Chapter IV Secured Bond Certificates

(Information Required to Be Specified in Secured Bond Certificate)

Article 26 The following information must be specified in a secured bond certificate, beyond the information required to be specified pursuant to the provisions of Article 697, paragraph (1) of the Companies Act (the information required to be specified pursuant to the provisions of Article 292, paragraph (1) of that Act in the case of a secured bond certificate for a bond with share option):

- (i) the information set forth in Article 24, paragraph (1), items (i) to (iv); and
- (ii) if the total amount of secured bonds is to be issued in installments, a statement to that effect.

(Proof of Secured Bond Certificate)

Article 27 (1) When a secured bond certificate complies with the provisions of a trust agreement, the representative of the trustee company must state to that effect in the secured bond certificate, and sign the certificate or affix the representative's name and seal to the certificate.

(2) A secured bond certificate does not become effective unless it carries the statement made, and the signature or the name and seal affixed pursuant to the provisions of the preceding paragraph.

Chapter V Bond Register

(Information Required to Be Specified or Recorded in Bond Register of Secured Bonds)

Article 28 The issuing company must specify or record in the bond register the following information beyond the information set forth in the items of Article 681 of the Companies Act, without delay after the date of issue of secured bonds:

- (i) the information set forth in Article 19, paragraph (1), item (xiii);
- (ii) the information set forth in Article 24, paragraph (1), items (i) to (iv); and
- (iii) if the total amount of secured bonds is to be issued in installments, a statement to that effect.

(Submission of Copy of Bond Register to Trustee Company)

Article 29 The issuing company must submit or provide a copy of the bond register to the trustee company, pursuant to the provisions of Cabinet Office Order and Ministry of Justice Order.

(Keeping and Inspection of Copy of Bond Register)

Article 30 (1) The trustee company must keep a copy of the bond register referred to in the preceding Article at its head office during the period from the

date of submission or provision of the copy pursuant to the provisions of that Article until the date of conclusion of trust affairs.

- (2) A bondholder may make the following requests at any time during the operating hours of the trustee company, and when doing so, must disclose the reasons for the request:
- (i) if the copy of the bond register referred to in the preceding Article is created by means of a paper-based document, a request for inspection or copying of the document; and
 - (ii) if the copy of the bond register referred to in the preceding Article is created by means of electronic or magnetic records, a request for inspection or copying of any object which indicates the information recorded in the electronic or magnetic records by means specified by Cabinet Office Order or Ministry of Justice Order.
- (3) A trustee company may not refuse a request referred to in the preceding paragraph, unless the request falls under any of the following:
- (i) the requesting bondholder has made the request for a purpose other than an investigation for securing or exercising the bondholder's rights;
 - (ii) the requesting bondholder has made the request in order to report to a third party, for profit, any fact that the bondholder may learn by inspecting or copying a copy of the bond register; or
 - (iii) the requesting bondholder has reported to a third party, for profit, any fact that the bondholder learned by inspecting or copying a copy of the bond register within the past two years.

Chapter VI Bondholders Meetings

(Convocation of Bondholders Meetings)

Article 31 With regard to the application of the provisions of Article 717, paragraph (2), Article 718, paragraphs (1) and (4), Article 720, paragraph (1), Article 729, paragraph (1), and Article 731, paragraph (3) of the Companies Act to a bondholders meeting, the term "bond administrator" in these provisions is deemed to be replaced with "trustee company under a trust agreement prescribed in Article 2, paragraph (1) of the Secured Bond Trust Act".

(Resolutions Adopted at Bondholders Meetings)

Article 32 Notwithstanding the provisions of Article 724, paragraph (1) of the Companies Act, in order to approve the following matters at a bondholders meeting, consent must be obtained from persons who hold not less than one-fifth of the total amount of voting rights of voting rights holders (meaning bondholders who are entitled to exercise voting rights), being not less than two-thirds of the total amount of voting rights of voting rights holders present

at the meeting:

- (i) a change of collateral pursuant to the provisions of Article 41; and
- (ii) a change in the order of priority of a security interest, or assignment or waiver of a security interest or its order of priority pursuant to the provisions of Article 41 as applied mutatis mutandis pursuant to Article 42.

(Minutes of Bondholders Meetings)

Article 33 (1) The trustee company must keep a copy of the minutes referred to in Article 731, paragraph (1) of the Companies Act at its head office for a period of ten years from the date of a bondholders meeting.

- (2) A bondholder may make the following requests at any time during the operating hours of the trustee company:
- (i) if the copy of the minutes referred to in the preceding Article is created by means of a paper-based document, a request for inspection or copying of the document; and
 - (ii) if the copy of the minutes referred to in the preceding Article is created by means of electronic or magnetic records, a request for inspection or copying of any object which indicates the information recorded in the electronic or magnetic records by means specified by Cabinet Office Order or Ministry of Justice Order.

(Execution of Resolution Adopted at Bondholders Meetings)

Article 34 (1) Notwithstanding the provisions of Article 737, paragraph (1) of the Companies Act, a resolution adopted at a bondholders meeting is executed by the trustee company; provided, however, that if there is a conflict of interest between the bondholders and the trustee company, resolutions are executed by the person specified in each of the following items according to the cases set forth in the respective items:

- (i) if a resolution administrator (meaning the resolution administrator prescribed in Article 737, paragraph (2) of the Companies Act) has been appointed: the resolution administrator; and
 - (ii) in cases other than the case set forth in the preceding paragraph, if a representative bondholder has been appointed: the representative bondholder.
- (2) The representative bondholder referred to in item (ii) of the preceding Article may personally execute the matters entrusted thereto pursuant to the provisions of Article 736, paragraph (1) of the Companies Act or may have another execute these matters.

Chapter VII Effect of Trust Agreements

(Authority of Trustee Companies for Administration of Secured Bonds)

Article 35 Unless otherwise provided for in this Act, the trustee company holds the same authority and assumes the same obligation as those of the bond administrator with regard to the administration of secured bonds.

(Obligation of Trustee Companies for Management or Disposal of Security Interest)

Article 36 The trustee company assumes an obligation to preserve and exercise a security interest under a trust agreement on behalf of all bondholders.

(Rights of Bondholders)

Article 37 (1) Bondholders enjoy the benefits of collateral equally in proportion to the amount of their bonds.

(2) A security interest under a trust agreement may be exercised only on behalf of all bondholders.

(Effect of Security Interests under Trust Agreements)

Article 38 A security interest under a trust agreement becomes effective even before bonds are issued.

(Exclusion from Application of Provisions of the Civil Code to Security Interests under Trust Agreements)

Article 39 (1) The provisions of Article 348 and Article 376 (excluding the part concerning the assignment and waiver of a mortgage or order of priority thereof) of the Civil Code (Act No. 89 of 1896) and the provisions of Article 515 of the Commercial Code (Act No. 48 of 1899) do not apply to a security interest under a trust agreement.

(2) The provisions of Article 298, paragraph (3) of the Civil Code as applied mutatis mutandis pursuant to Article 350 of that Code do not apply to a pledge under a trust agreement.

(3) The provisions of 354 of the Civil Code do not apply to a pledge on movables under a trust agreement.

(4) Notwithstanding the provisions of the preceding three paragraphs, the provisions of a trust agreement that provides otherwise prevail.

(Addition of Collateral)

Article 40 Collateral for secured bonds may be added by making a modification to a trust by agreement between the trustee company and the settlor.

(Change of Collateral)

Article 41 (1) Collateral for secured bonds may be changed by making a

modification to a trust by agreement among the trustee company, the settlor, and the bondholders who are beneficiaries.

- (2) A decision by beneficiaries regarding the agreement referred to in the preceding paragraph is to be made by resolution at a bondholders meeting.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if the value of collateral after the change of collateral is adequate to secure the principal and interest of the unredeemed secured bonds, the change of collateral for secured bonds may be made by agreement between the trustee company and the settlor.
- (4) If the change of collateral for secured bonds is made pursuant to the provisions of the preceding paragraph, the trustee company must, without delay, give public notice to that effect and also give notice to each known bondholder to that effect.

(Change in Order of Priority of Security Interest)

Article 42 The provisions of the preceding Article apply mutatis mutandis to a change in the order of priority of a security interest, or assignment or waiver of a security interest or order of priority thereof with regard to secured bonds.

(Obligation to Exercise Security Interest)

- Article 43 (1) If secured bonds are not paid when they are due or the issuing company is dissolved without completing payment of secured bonds, the trustee company must, without delay, take necessary measures regarding the secured bonds such as exercising the security interest.
- (2) The trustee company may, on behalf of all bondholders, enforce compulsory execution against collateral, file a petition for exercise of a security interest, or file a petition for exercise of an enterprise mortgage, based on an enforceable title of obligation given to the trustee company.
 - (3) In the case referred to in the preceding paragraph, an objection to a creditor may be submitted to the trust company.

(Obligation of Trustee Company That Has Received Payment)

- Article 44 (1) If a trustee company receives payment on behalf of bondholders, it must, without delay, deliver the property received (if the property is realized, including the proceeds from realization) to the bondholders in proportion to the amount of their bonds.
- (2) The provisions of Article 647 of the Civil Code apply mutatis mutandis when a trustee company consumes the property referred to in the preceding paragraph for its own benefit.
 - (3) If a trustee company is unable to ascertain a bondholder, or a bondholder refuses to receive or is unable to receive the delivery of property, the trustee

company must deposit the property referred to in paragraph (1) for that bondholder with an official depository.

(Appointment of Special Agent)

Article 45 (1) In the following cases, a court may appoint a special agent upon a petition of a bondholders meeting:

- (i) if the trustee company is negligent in the processing of trust affairs and administration of secured bonds that it is obliged to perform on behalf of all bondholders; and
 - (ii) if there is a conflict of interest between the bondholders and the trustee company, and it is necessary for the trustee company to carry out acts in or out of court in relation to the processing of trust affairs and administration of secured bonds on behalf of bondholders.
- (2) A judicial decision dismissing the petition referred to in the preceding paragraph must include the reasons therefor.
- (3) No appeal may be entered against a judicial decision on the appointment of a special agent pursuant to the provisions of paragraph (1).
- (4) A non-contentious case relating to the petition referred to in paragraph (1) is under the jurisdiction of the district court that has jurisdiction over the location of the head office of the issuing company.
- (5) The provisions of Article 40 and Article 57, paragraph (2), item (ii) of the Non-Contentious Case Procedures Act (Act No. 51 of 2011) do not apply to a non-contentious case pursuant to the provisions of paragraph (1).

(Methods of Acts of Trustee Companies)

Article 46 If a trustee company or the special agent referred to in paragraph (1) of the preceding Article performs acts in or out of court on behalf of all bondholders pursuant to the provisions of this Act, the company or agent is not required to identify individual bondholders.

(Remuneration for Trustee Companies)

- Article 47 (1) Notwithstanding the provisions of Article 54 of the Trust Act (Act No. 108 of 2006) and Article 741, paragraph (1) of the Companies Act, the trustee company may demand a reasonable amount of remuneration from the settlor or the issuing company for the processing of trust affairs and administration of secured bonds; provided, however, that the provisions of a trust agreement that provides otherwise prevail.
- (2) The provisions of Article 648, paragraphs (2) and (3) of the Civil Code apply mutatis mutandis to the remuneration that the trustee company receives from the settlor or the issuing company pursuant to the provisions of the preceding paragraph; provided, however, that the provisions of a trust agreement that

provides otherwise prevail.

- (3) The provisions of Article 741, paragraph (3) of the Companies Act do not apply to the remuneration that the trustee company receives from the settlor or the issuing company pursuant to the provisions of paragraph (1).

(Expenses for Trustee Companies)

Article 48 (1) Notwithstanding the provisions of the main clause of Article 48, paragraph (1) and the main clause of Article 53, paragraph (1) of the Trust Act and Article 741, paragraph (1) of the Companies Act, the settlor or the issuing company is liable to reimburse all expenses duly incurred by the trustee company that are deemed as necessary expenses for the processing of trust affairs and administration of secured bonds, as well as interest accrued on the expenses on or after the date of payment, and to compensate for all damages suffered by the trustee company in the absence of the company's own negligence; provided, however, that the provisions of a trust agreement that provides otherwise prevail.

- (2) Notwithstanding the provisions of the main clause of Article 48, paragraph (2) of the Trust Act, the trustee company may demand advance payment of expenses from the settlor or the issuing company as required for performing the processing of trust affairs and administration of secured bonds; provided, however, that the provisions of a trust agreement that provides otherwise prevail.
- (3) The provisions of Article 741, paragraph (3) of the Companies Act do not apply to the reimbursement of expenses and interest thereon or the compensation for damages as referred to in paragraph (1).
- (4) A security interest under a trust agreement is also effective to cover claims that may arise for the trustee company pursuant to the provisions of paragraph (1).
- (5) The trustee company is entitled to receive payment from collateral for the claims referred to in the preceding paragraph prior to bondholders.

(Inspection of Status of Custody of Collateral)

- Article 49 (1) The settlor, a representative bondholder, or a bondholder who holds secured bonds that account for not less than one-tenth of the total amount of secured bonds (excluding the amount already redeemed) may inspect the status of custody of collateral by the trustee company at any time.
- (2) Bondholders who hold secured bond certificates in bearer form may not conduct the inspection referred to in the preceding paragraph unless they present their certificates to the trustee company.

Chapter VIII Succession and Conclusion of Trust Affairs

(Resignation of Trustee Companies)

Article 50 (1) With regard to the application of the provisions of Article 57 of the Trust Act to a trustee company, the phrase "and a beneficiary" in paragraph (1) of that Article is deemed to be replaced with ", the issuing company, and a bondholders meeting".

(2) If the trustee company resigns from office pursuant to the provisions of Article 57, paragraph (1) of the Trust Act as applied by replacing terms pursuant to the provisions of the preceding paragraph, it must designate a company to succeed to its trust affairs.

(3) The provisions of Article 17, paragraph (1) apply mutatis mutandis if the company to succeed to the trust affairs is a foreign company.

(Dismissal of Trustee Company)

Article 51 With regard to the application of the provisions of Article 58 of the Trust Act to a trustee company, the phrase "and the beneficiary" in paragraph (1) of that Article is deemed to be replaced with ", the issuing company, and a bondholders meeting", the phrase "When the settlor and the beneficiary" in paragraph (2) of that Article is deemed to be replaced with "If the settlor, the issuing company, and a bondholders meeting", the phrase "the settlor and the beneficiary shall" in the same paragraph is deemed to be replaced with "the settlor and the issuing company must", the phrase "has caused a substantial detriment to the trust property through a breach of the duties", in paragraph (4) of that Article is deemed to be replaced with "breaches the duties, is unsuitable for the processing of trust affairs or administration of secured bonds", and the phrase "or the beneficiary" in paragraphs (4) and (7) of that Article is deemed to be replaced with ", the issuing company or a bondholders meeting".

(Authority of the Prime Minister)

Article 52 If the license granted to the trustee company as referred to in Article 3 ceases to be effective due to revocation pursuant to the provisions of Article 12 or any other grounds, the Prime Minister may file a petition pursuant to the provisions of Article 58, paragraph (4), Article 62, paragraph (4), or Article 63, paragraph (1) of the Trust Act.

(Succession in Relation to Trust Affairs)

Article 53 (1) Succession in relation to trust affairs pursuant to the provisions of Article 50, paragraph (2) becomes effective upon the creation of a contract for that purpose by the settlor, the company that has been the trustee company (hereinafter referred to as the "former trustee company"), and the company

that is to succeed to the trust affairs (hereinafter referred to as the "new trustee company").

- (2) The contract referred to in the preceding paragraph may be created by means of electronic or magnetic records.
- (3) If the contract referred to in paragraph (1) is created by means of a paper-based document, the settlor (if the settlor is a corporation, its representative) and the representatives of the former trustee company and the new trustee company must sign the document or affix their names and seals to the document.
- (4) If the contract referred to in paragraph (1) is created by means of electronic or magnetic records, the settlor (if the settlor is a corporation, its representative) and the representatives of the former trustee company and the new trustee company must take measures specified by Cabinet Office Order and Ministry of Justice Order in lieu of signing or affixing their names and seals.

(Public Notice of Succession)

Article 54 If succession in relation to trust affairs takes place, the issuing company and the new trustee company must, without delay, respectively give public notice to that effect and also give notice to each known bondholder to that effect.

(Rights and Obligations of New Trustee Companies)

Article 55 Rights and obligations that belonged to the former trustee company on behalf of bondholders, the settlor or the issuing company are to be transferred to the new trustee company retroactively as of the time of the resignation, dismissal, revocation of license or dismissal of the former trustee company; provided, however, that this does not apply to the former trustee company's liability for any breach of contract or tort.

(Transfer of Documents)

Article 56 The former trustee company's director (its executive officer if it is a company with a nominating committee, etc.), a member who represents it, or its liquidator or bankruptcy trustee must, without delay, transfer articles that it takes custody of on behalf of the settlor, the issuing company or bondholders and documents relating to trust affairs to the new trustee company, and take any and all acts necessary for handing over its trust affairs to the new trustee company.

(Supervision of Affairs Concerning Succession)

Article 57 (1) Affairs concerning succession in relation to trust affairs are subject to supervision by the Prime Minister.

- (2) If the Prime Minister finds it necessary for the supervision referred to in the preceding paragraph, the Prime Minister may have the relevant officials enter the business offices and other facilities of the former trustee company or the new trustee company, ask questions concerning the status of their business and property, or inspect their books, documents, and any other articles.
- (3) The provisions of Article 10, paragraphs (2) and (3) apply mutatis mutandis to an on-site inspection pursuant to the provisions of the preceding paragraph.

(Conclusion of Trust Affairs)

- Article 58 (1) If a trustee company concludes trust affairs, it must prepare a general accounting statement and give public notice thereof.
- (2) The general accounting statement referred to in the preceding paragraph may be prepared by means of electronic or magnetic records.

Chapter IX Miscellaneous Provisions

(Public Notice)

- Article 59 Public notice pursuant to the provisions of this Act (excluding public notice pursuant to the provisions of the following Article) must be given by the method of public notice used by the issuing company; provided, however, that if the party that is obliged to give public notice is not the issuing company, and the method used thereby is electronic public notice (meaning a method of public notice wherein measures are taken to make the information that must be contained in a public notice available to many and unspecified persons by electronic or magnetic means (meaning an electronic or magnetic means prescribed in Article 2, item (xxxiv) of the Companies Act), which is prescribed in that item), public notice must be given by publication in an official gazette.

(Public Notice of Supervisory Disposition)

- Article 60 If the Prime Minister orders suspension of all or part of business activities pursuant to the provisions of Article 11 or Article 12, or revokes a license referred to in Article 3 pursuant to the provisions of Article 12, the Prime Minister must give public notice to that effect.

(Person Entitled to Register Regarding Registration of Creation of Security Interest)

- Article 61 With regard to a registration of creation of a security interest under a trust agreement, the trustee company is the person entitled to register.

(Entry of Amount of Claim in Registration of Creation of Security Interest)

- Article 62 (1) In a registration of creation of a security interest under a trust

agreement, it is sufficient to record the total amount of secured bonds as the amount of claim set forth in Article 83, paragraph (1), item (i) of the Real Property Registration Act (Act No. 123 of 2004).

- (2) Notwithstanding the provisions of Article 83, paragraph (1), item (i), Article 88, and Article 95 of the Real Property Registration Act, if the total amount of secured bonds is to be issued in installments, the information required to be registered with regard to the secured bonds in the registration referred to in the preceding paragraph is limited to the total amount of secured bonds, a statement to the effect that the total amount of secured bonds is to be issued in installments, and the maximum limit of the interest rate for the secured bonds.
- (3) The information prescribed in the preceding two paragraphs is to be contained in the application information regarding the registration referred to in paragraph (1).

(Registration Concerning Issue of Bonds in Case of Issue in Installments)

- Article 63 (1) In the case of issuing the total amount of secured bonds in installments, when an installment of secured bonds is issued, the total amount of secured bonds issued in that installment and the information set forth in Article 19, paragraph (1), item (iv) concerning the issued secured bonds must be registered within two weeks from the date of completion of the issue of the total amount of secured bonds in that installment.
- (2) In the case of issuing the total amount of secured bonds in installments, if the secured bonds are issued in a foreign country and any matter that is required to be registered arises in the foreign country, the period for registration is to be counted from the day on which notice of that matter has arrived.
 - (3) The registration referred to in paragraph (1) is to be made as a supplement to a registration of the right to secure the secured bonds.

(Exclusion from Application of the Real Property Registration Act)

Article 64 The provisions of Chapter IV, Section 3, Subsection 5 of the Real Property Registration Act do not apply to a registration based on a trust agreement.

(Submission of Materials to the Minister of Finance)

- Article 65 (1) If the Minister of Finance finds it necessary for planning or designing systems for trust business relating to secured bonds in connection with the system for resolution of failed financial institutions and the financial risk management under the minister's jurisdiction, the minister may request the Prime Minister to provide the necessary materials and explanations.
- (2) If the Minister of Finance finds it particularly necessary for planning or designing systems for trust business relating to secured bonds in connection

with the system of resolution of failed financial institutions and the financial crisis management under the minister's jurisdiction, the minister may request a trust company to provide materials, explanations and any other cooperation to the necessary extent.

(Delegation of Authority)

Article 66 (1) The Prime Minister delegates the Prime Minister's authority pursuant to this Act (excluding the authority for what is set forth in the following) to the Commissioner of the Financial Services Agency:

- (i) granting a license referred to in Article 3; and
- (ii) revoking a license pursuant to the provisions of Article 12.

(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 local finance bureaus or local finance branch bureaus, pursuant to the provisions of Cabinet Order.

(Delegation to Cabinet Office Order)

Article 67 Beyond what is provided for in this Act, an application for a license, a notification, and other matters necessary for the implementation of this Act are specified by Cabinet Office Order.

Chapter X Penal Provisions

Article 68 (1) A person who falls under any of the following items is subject to imprisonment for not more than three years or a fine of not more than three million yen, or both:

- (i) a person who, in violation of the provisions of Article 3, engages in trust business relating to secured bonds without a license; or
- (ii) a person who, in violation of the provisions of Article 15 of the Trust Business Act as applied mutatis mutandis pursuant to Article 8, has another person engage in trust business relating to secured bonds.

(2) A person who falls under any of the following items is subject to imprisonment for not more than one year or a fine of not more than three million yen, or both:

- (i) a person who, in violation of the provisions of Article 24, paragraph (1), item (i), item (iii) or item (iv) of the Trust Business Act as applied mutatis mutandis pursuant to Article 8, commits any of the acts set forth in those provisions; or
- (ii) a person who violates the provisions of Article 29, paragraph (2) of the Trust Business act as applied mutatis mutandis pursuant to Article 8.

(3) A person who fails to deliver a document pursuant to the provisions of Article

29, paragraph (3) of the Trust Business Act as applied mutatis mutandis pursuant to Article 8 or delivers a false document is subject to imprisonment for not more than six months or a fine of 500,000 yen, or both.

Article 69 (1) If the representative of a corporation (including an unincorporated association or foundation for which a representative or administrator is appointed; hereinafter the same applies in this paragraph) or the agent, an employee or any other worker of a corporation or an individual commits an act of violation referred to in the preceding Article in connection with the business of the corporation or individual, in addition to the offender being subject to punishment, the corporation or individual is subject to the fine referred to in the relevant Article.

(2) If an unincorporated association or foundation is subject to punishment pursuant to the provisions of the preceding paragraph, its representative or administrator represents the association or foundation in connection with its procedural acts, and the provisions of laws concerning criminal procedure of cases in which a corporation is the accused or suspect apply mutatis mutandis.

Article 70 In any of the following cases, the settlor (if the settlor is a corporation, its member in charge of executing its business, its director, executive officer, liquidator or any person in charge of executing its business) or a bankruptcy trustee of the settlor, a member in charge of executing the business of the trustee company or issuing company or its director, executive officer, liquidator or bankruptcy trustee, a representative bondholder, a special agent referred to in Article 45, paragraph (1), or a representative of a foreign company is subject to a civil fine of not more than one million yen:

- (i) failing to make a notification or to give public notice or notice as prescribed in this Act, or giving inappropriate public notice or notice;
- (ii) refusing, without reasonable grounds, to allow the inspection or copying of a document or an object which indicates the information recorded in electronic or magnetic records by means specified by Cabinet Office Order or Ministry of Justice Order, or to deliver a transcript or extract of a document, provide by electronic or magnetic means information recorded in electronic or magnetic records, or deliver a paper-based document containing that information, in violation of the provisions of this Act;
- (iii) failing to keep documents or electronic or magnetic records that are required to be kept under this Act, failing to specify or record information that is required to be specified or recorded in them, or making a false statement or record of that information;
- (iv) violating an order issued by the Prime Minister pursuant to the provisions of this Act;

- (v) obstructing an inspection conducted by the Prime Minister pursuant to the provisions of this Act;
- (vi) failing to have a matter passed by a resolution adopted at a bondholders meeting when a resolution is necessary, or violating a resolution adopted at a bondholders meeting;
- (vii) failing to make a report at a bondholders meeting or to a representative bondholder, or making a false report;
- (viii) violating the provisions of Article 5;
- (ix) violating the provisions of Article 7;
- (x) violating the provisions of Article 17, paragraph (1) (including as applied mutatis mutandis pursuant to Article 50, paragraph (3));
- (xi) failing to specify the information that is required to be specified in a secured bond certificate in violation of the provisions of Article 26, or making a false statement of that information;
- (xii) issuing a secured bond certificate without following the procedure prescribed in Article 27, paragraph (1);
- (xiii) failing to submit or provide a copy of the bond register in violation of the provisions of Article 29, or making a false statement or record in a copy of the bond register;
- (xiv) failing to preserve or exercise a security interest pursuant to the provisions of Article 36;
- (xv) violating the provisions of Article 44, paragraph (1) or paragraph (3);
- (xvi) obstructing an inspection conducted pursuant to the provisions of Article 49, paragraph (1);
- (xvii) failing to transfer affairs pursuant to the provisions of Article 56; or
- (xviii) failing to make a registration pursuant to the provisions of Article 63.