

Act on the Securitization of Assets

(Act No. 105 of June 15, 1998)

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Part I General Provisions

(Purpose)

Article 1 The purpose of this Act is to facilitate investment by general investors, by establishing a system for implementing asset securitization through specified purpose companies and specified purpose trusts and by ensuring the proper implementation of asset securitization by specified purpose companies and specified purpose trusts, as well as by protecting the purchasers of various types of securities issued as a part of asset securitization, thereby contributing to the sound development of the national economy.

(Definitions)

Article 2 (1) The term "specified assets" as used in this Act means assets acquired by a specified purpose company or those acquired by a trustee trust

company or financial institution as a part of the business of asset securitization.

- (2) The term "asset securitization" as used in this Act means a specified purpose company acquiring assets with the monies obtained through the issuance of asset-backed securities or through specified borrowings, or wherein a trust company (meaning a trust company as defined in Article 2, paragraph (2) of the Trust Business Act (Act No. 154 of 2004); the same applies hereinafter), or a bank (meaning a bank as defined in Article 2, paragraph (1) of the Banking Act (Act No. 59 of 1981); the same applies hereinafter) or other financial institution engaged in trust business, holds assets in trust and issues beneficiary certificates, and with the monies obtained through the administration and disposition of those assets, takes an action that either of the following items prescribes with regard to the obligation or equity connected with the asset-backed securities, specified borrowings, or beneficiary certificates that are set forth in the item:
- (i) specified bonds, specified promissory notes, specified borrowings, or beneficiary certificates: performance of the obligations connected with them;
 - or
 - (ii) preferred equity: making acquisitions or distributing residual assets so as to distribute profits and cancel equity.
- (3) The term "specified purpose company" as used in this Act means an association incorporated under the provisions of Chapter II, Section 2 of the following Part.
- (4) The term "asset securitization plan" as used in this Act means a plan providing for the basic particulars of the asset securitization carried out by a specified purpose company.
- (5) The term "preferred equity" as used in this Act means a position of membership in a specified purpose company that has been subdivided into equal units, giving the member the right to be distributed profits or residual assets of the specified purpose company in preference to holders of specified equity (hereinafter referred to as "specified equity members").
- (6) The term "specified equity" as used in this Act means a position of membership in a specified purpose company that has been subdivided into equal units, which is issued at the incorporation of the specified purpose company (or issued pursuant to the provisions of Article 36).
- (7) The term "specified bond" as used in this Act means a monetary claim that has a specified purpose company as the obligee, which arises through an allotment made by that specified purpose company pursuant to the provisions of this Act, and which is redeemed in accordance with the particulars set forth in the items of Article 122, paragraph (1).
- (8) The term "specified short-term bond" as used in this Act means a specified

bond that satisfies all of the following requirements:

- (i) the amount of each specified bond is not less than one hundred million yen;
 - (ii) the principal is to be redeemed by a fixed due date that falls within one year from the date that the total amount is paid in for specified bonds for subscription (meaning specified bonds for subscription as prescribed in Article 122, paragraph (1)), and is not to be redeemed through installment payments;
 - (iii) the due date for the payment of interest is to be the same date as the due date for the redemption of the principal referred to in the preceding item; and
 - (iv) the specified bond is not secured pursuant to the provisions of the Secured Bond Trust Act (Act No. 52 of 1905).
- (9) The term "preferred equity security" as used in this Act means an investment security issued by a specified purpose company for preferred equity pursuant to the provisions of Article 215, paragraph (2) of the Companies Act (Act No. 86 of 2005) as applied mutatis mutandis pursuant to Article 48, paragraph (1) and paragraph (3); and the term "specified bond certificate" as used in this Act means a bond certificate issued by a specified purpose company for a specified bond pursuant to the provisions of Article 696 of the Companies Act as applied mutatis mutandis pursuant to Article 125.
- (10) The term "specified promissory note" as used in this Act means a promissory note as set forth in Article 2, paragraph (1), item (xv) of the Financial Instruments and Exchange Act (Act No. 25 of 1948), which is issued by a specified purpose company pursuant to the provisions of Article 205.
- (11) The term "asset-backed security" as used in this Act means preferred equity, a specified bond, or a specified promissory note.
- (12) The term "specified borrowing" as used in this Act means the borrowing of funds by a specified purpose company pursuant to the provisions of Article 210.
- (13) The term "specified purpose trust" as used in this Act means a trust that is created pursuant to the provisions of this Act for the purpose of implementing asset securitization, and so as to allow more than one person to acquire a beneficial interest in the trust held by the settlor at the time of conclusion of the trust agreement through a division of the beneficial interest therein.
- (14) The term "asset trust securitization plan" as used in this Act means a plan providing for the basic particulars of the asset securitization carried out by a specified purpose trust.
- (15) The term "beneficiary certificate" as used in this Act means a security that represents a beneficial interest in a trust based on a trust agreement with a specified purpose trust, which is issued by the trustee pursuant to the provisions of this Act.
- (16) The term "trustee trust company or financial institution" as used in this Act

means a trust company, or a bank or other financial institution engaged in trust business, that serves as the trustee of a specified purpose trust.

(17) The term "representative interest holder" as used in this Act means a person appointed at a meeting of interest holders pursuant to the provisions of Article 254, paragraph (1).

(18) The term "specified trust administrator" as used in this Act means a person appointed by a trustee trust company or financial institution pursuant to the provisions of Article 260, paragraph (1).

(Deemed Replacement of Terms for Application, Mutatis Mutandis, of the Companies Act)

Article 3 To apply the provisions of the Companies Act mutatis mutandis pursuant to the provisions of this Act (excluding Article 194, paragraph (4)), the term "electronic or magnetic record" in the provisions of the Companies Act is deemed to be replaced with "electronic or magnetic record (meaning an electronic or magnetic record as defined in Article 4, paragraph (4) of the Asset Securitization Act)"; the term "electronic or magnetic means" in the provisions of the Companies Act is deemed to be replaced with "electronic or magnetic means (meaning electronic or magnetic means as defined in Article 40, paragraph (3) of the Asset Securitization Act)"; and the term "Ministry of Justice Order" in the provisions of the Companies Act is replaced with "Cabinet Office Order".

Part II The Specified Purpose Company System

Chapter I Notifications

(Notifications)

Article 4 (1) A specified purpose company must file a notification with the Prime Minister in advance before engaging in the business of asset securitization.

(2) A specified purpose company filing a notification under the provisions of the preceding paragraph (hereinafter referred to as a "notification of commencement of business") must submit a written notification stating the following information to the Prime Minister:

(i) its trade name;

(ii) the names and localities of its business offices;

(iii) the names and addresses of its directors and company auditors, and if it has any employees prescribed by Cabinet Order, their names and addresses;

(iv) if it is a company with accounting advisors (meaning a specified purpose company that employs accounting advisors; the same applies hereinafter), an indication of this and the names and addresses of the accounting advisors;

(v) the date on which it obtained the approval of all specified equity members

- based on the provisions of Article 6; and
- (vi) other information that Cabinet Office Order prescribes.
- (3) The following documents must accompany the written notification referred to in the preceding paragraph:
- (i) the articles of incorporation;
 - (ii) the asset securitization plan;
 - (iii) a duplicate or certified copy of the written contract governing the promise to acquire specified assets (other than specified assets used in association with real property or other specified assets, and which Cabinet Office Order prescribes as having only a minor influence on investors' investment decisions in view of their value and the way they are used (hereinafter referred to as "secondary specified assets"); the same applies in the following item) and any other contract that Cabinet Office Order prescribes;
 - (iv) documents that Cabinet Office Order prescribes as concerning a trust or other contract created for the purpose of having a person engage in business involving the administration and disposition of specified assets;
 - (v) a document certifying that the approval referred to in Article 6 has been obtained; and
 - (vi) other documents that Cabinet Office Order prescribes.
- (4) In the case referred to in the preceding paragraph, if the articles of incorporation or the asset securitization plan is prepared as an electronic or magnetic record (meaning a record that Cabinet Office Order prescribes as used in computer data processing which is created in electronic form, magnetic form, or any other form that cannot be perceived through the human senses; the same applies hereinafter), the electronic or magnetic record may accompany the notification in lieu of the document.

(Asset Securitization Plans)

- Article 5 (1) The following information must be entered or recorded in asset securitization plans:
- (i) the planning period for the asset securitization plan and the information that Cabinet Office Order prescribes as concerning the planning period;
 - (ii) the following information concerning asset-backed securities and specified borrowings:
 - (a) the upper limit on the total number of units of preferred equity, the details of the preferred equity (including its precedence in distributions of profits or distributions of residual assets; the same applies hereinafter), and any other information that Cabinet Office Order prescribes as concerning its issuance and cancellation;
 - (b) the total amount of specified bonds (other than specified short-term bonds; hereinafter the same applies in this item, Article 40, paragraph (1),

- item (v); Article 67, paragraph (1); Article 122, paragraph (1), item (xix); Article 152, paragraph (1), item (i); and Article 153, paragraph (2)), the details of the specified bonds, and any other information that Cabinet Office Order prescribes as concerning their issuance and redemption;
- (c) the total amount of convertible specified bonds, conditions for conversion, details of the preferred equity that is to be issued upon conversion, the period during which a person may request their conversion, and any other information that Cabinet Office Order prescribes as concerning their issuance and redemption;
- (d) the following information regarding specified bonds with preferred equity subscription rights:
1. their total amount;
 2. the details of the rights to subscribe for new preferred equity (hereinafter referred to as a "subscription right" in this item) that is embedded in each specified bond with preferred equity subscription rights;
 3. the period during which subscription rights may be exercised;
 4. if arrangements are made to allow the transfer of subscription rights alone, an indication of this;
 5. an indication that, at the request of a person seeking to exercise a subscription right, the amount paid in (meaning the amount paid in prescribed in Article 122, paragraph (1), item (xiv)) for the specified bond with preferred equity subscription rights is deemed to have been paid in as referred to in Article 145, paragraph (2) in lieu of the bond being redeemed;
 6. an indication that, with regard to a distribution of profits, new preferred equity is deemed to have been issued in the business year in which the monies were paid in under the provisions of Article 145, paragraph (2) or on the last day of the previous business year; and
 7. other information that Cabinet Office Order prescribes as concerning their issuance and redemption.
- (e) the limit on the amount of specified short-term bonds and any other information that Cabinet Office Order prescribes as concerning their issuance and redemption;
- (f) the limit on the amount of specified promissory notes and any other information that Cabinet Office Order prescribes as concerning their issuance and redemption; and
- (g) the limit on the amount of specified borrowings and any other information that Cabinet Office Order prescribes as concerning those borrowings and their repayment.
- (iii) the details of the specified assets, the time of their acquisition, the

- transferor, and any other information that Cabinet Office Order prescribes as concerning specified assets;
- (iv) the manner of administering and disposing of specified assets, the trustee of the trust created for the purpose of having a person engage in business involving the administration and disposition of specified assets, and any other information that Cabinet Office Order prescribes as concerning the administration and disposition of specified assets;
 - (v) information that Cabinet Office Order prescribes as concerning the borrowing of funds (other than specified borrowings); and
 - (vi) other information that Cabinet Office Order prescribes.
- (2) The planning period for the asset securitization plan as referred to in item (i) of the preceding paragraph must not exceed the period that Cabinet Order prescribes as one in which a reasonable plan for the administration and disposition of specified assets can be formulated in accordance with the categories of specified assets that Cabinet Order prescribes.
- (3) An asset securitization plan may be prepared as an electronic or magnetic record.
- (4) The provisions of Article 31 (excluding paragraph (3)) (Keeping and Inspection of Articles of Incorporation) of the Companies Act apply mutatis mutandis to the asset securitization plan referred to in paragraph (1). In such a case, the term "incorporators (or the stock company after the establishment of such stock company)" in Article 31, paragraphs (1) and (2) of the Companies Act is deemed to be replaced with "specified purpose company"; the term "the place designated by the incorporators (or at the head office or branch office of the stock company after the establishment of such stock company)" in paragraph (1) of that Article is deemed to be replaced with "its head office or branch office"; the term "incorporators (or, after the establishment of such stock company, the shareholders and creditors of the stock company)" in paragraph (2) of that Article is deemed to be replaced with "members (meaning members as prescribed in Article 26 of the Asset Securitization Act) and creditors"; the term "the hours designated by the incorporators (or, after the establishment of such stock company, during the business hours of the stock company)" in Article 31, paragraph (2) of the Companies Act is replaced with "the business hours of the specified purpose company"; and the term "stock company" in paragraph (4) of that Article is deemed to be replaced with "specified purpose company".

(Specified Equity Members' Approval of Asset Securitization Plans)

Article 6 A specified purpose company must gain the approval of all the specified equity members in advance with regard to the asset securitization plan before filing a notification of commencement of business.

(Special Provisions on Notifications of Commencement of Business)

Article 7 (1) Notwithstanding the provisions of Article 5, if a specified purpose company engages in the business of asset securitization for the acquisition of specified assets or any other actions that Cabinet Office Order prescribes prior to the issuance of asset-backed securities, when filing a notification of commencement of business, the company may omit stating or recording the information set forth in paragraph (1), item (ii) of that Article that Cabinet Office Order prescribes as something whose omission does not jeopardize investor protection (referred to as "specified information" in the following paragraph). In such a case, attachment of documents set forth in Article 4, paragraph (3), items (iii) and (iv) that Cabinet Office Order prescribes may be omitted.

(2) A specified purpose company that has filed a notification of commencement of business in which it has omitted entering or recording specified information pursuant to the provisions of the preceding paragraph must submit materials in which that specified information has been entered or recorded and materials whose attachment has been omitted pursuant to the provisions of the second sentence of the preceding paragraph to the Prime Minister (if these materials are prepared as an electronic or magnetic record, the electronic or magnetic record that Cabinet Office Order prescribes or a document stating the information recorded in that electronic or magnetic record) in advance pursuant to Cabinet Office Order provisions, before issuing asset-backed securities based on an asset securitization plan.

(Register of Specified Purpose Companies)

Article 8 (1) The Prime Minister must keep a register of specified purpose companies and make it available for public inspection pursuant to Cabinet Office Order provisions.

(2) The Prime Minister must register the information set forth in Article 4, paragraph (2), item (i) through (iii), information concerning dispositions by the Prime Minister under the provisions of Article 218 and Article 219, and other information that Cabinet Office Order prescribes in the register of specified purpose companies.

(Changes to Information Given in Notifications)

Article 9 (1) If a piece of information set forth in one of the items of Article 4, paragraph (2) (excluding item (v), but including as applied mutatis mutandis pursuant to Article 11, paragraph (5)) is changed or the asset securitization plan is changed, the specified purpose company must file a notification with the Prime Minister within the period that Cabinet Office Order prescribes;

provided, however, that this does not apply to a change to the information entered or recorded in the asset securitization plan that Cabinet Office Order prescribes as a minor change, such as a change due to the final determination of the timing of acquisition of specified assets.

- (2) A specified purpose company filing a notification under the provisions of the preceding paragraph (hereinafter referred to as a "change notification") must submit a written notification stating the details of the change and the reason for the change to the Prime Minister.
- (3) If a change notification is about a change to the asset securitization plan, it must be accompanied by the following documents:
 - (i) the asset securitization plan after the change; and
 - (ii) the documents that Cabinet Office Order prescribes as certifying that the change to the asset securitization plan has been made based on the provisions of this Act.
- (4) The provisions of Article 4, paragraph (4) apply mutatis mutandis to the asset securitization plan after the change as referred to in the preceding paragraph.
- (5) Having received a change notification, the Prime Minister must register the following information in the register of specified purpose companies:
 - (i) the date on which the change notification was filed;
 - (ii) if the change notification is for a change to a piece of information set forth in one of the items of Article 4, paragraph (2) (excluding item (v), but including as applied mutatis mutandis pursuant to Article 11, paragraph (5)), the details of the change; and
 - (iii) if the change notification is for a change to the asset securitization plan, an indication that that change has been made and the date of the change.

(Notification of Completion of Business under Asset Securitization Plans)

Article 10 (1) Once a specified purpose company finishes cancelling preferred equity, distributing residual assets, and performing obligations associated with specified bonds, specified promissory notes, and specified borrowings in accordance with the asset securitization plan, the company must file a notification with the Prime Minister indicating this within thirty days from that date.

- (2) Having received a notification under the provisions of the preceding paragraph, the Prime Minister must make a registration in the register of specified purpose companies of the fact that business under the asset securitization plan referred to in that paragraph has been completed and of the date on which the notification was filed.

(Notification of New Asset Securitization Plans)

Article 11 (1) A specified purpose company must file a notification with the

Prime Minister in advance pursuant to Cabinet Office Order provisions before engaging in the business of asset securitization based on a new asset securitization plan.

- (2) The notification under the provisions of the preceding paragraph (hereinafter referred to as a "notification of a new plan" in this Part) may only be filed by a specified purpose company that has filed a notification under the provisions of paragraph (1) of the preceding Article.
- (3) If a specified purpose company files a notification of a new plan, the company must attach documents certifying that approval has been granted at a general meeting of members as referred to in Article 159, paragraph (1).
- (4) Having received a notification of a new plan, the Prime Minister must register the date on which the notification was filed in the register of specified purpose companies.
- (5) The provisions of Article 4, paragraph (2), paragraph (3) (excluding item (i)), and paragraph (4); Article 6, and Article 7 apply mutatis mutandis to the notification of a new plan. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Notification of Discontinuation of Business)

Article 12 (1) If a specified purpose company comes to fall under either of the following items, the person specified in that item must file a notification with the Prime Minister indicating this within thirty days from the date in question:

- (i) the specified purpose company is dissolved due to an order commencing bankruptcy proceedings: the bankruptcy trustee; or
 - (ii) the specified purpose company is dissolved due to circumstances other than an order commencing bankruptcy proceedings: the liquidator.
- (2) Having received a notification under the provisions of the preceding paragraph, the Prime Minister must delete the specified purpose company to which the notification pertains from the register of specified purpose companies.

Chapter II Specified Purpose Companies

Section 1 General Provisions

(Legal Personality and Address)

Article 13 (1) Specified purpose companies are to have legal personality.

- (2) The address of a specified purpose company is to be the address in the locality of its head office.

(Commercial Transactions)

Article 14 (1) Actions that a specified purpose company takes as part of its business and actions that it takes to benefit its business are to be commercial transactions.

(2) The provisions of Article 11 through Article 15 and Article 19 of the Commercial Code (Act No. 48 of 1899) do not apply to specified purpose companies.

(Trade Name)

Article 15 (1) The name of a specified purpose company is its trade name.

(2) A specified purpose company must use the letters "特定目的会社" (pronounced "tokutei mokuteki kaisha" and meaning "specified purpose company") in its trade name.

(3) A person that is not a specified purpose company must not use letters in its name or trade name that are likely to be mistaken for a specified purpose company.

(4) It is prohibited for any person to use with a wrongful purpose, a name or trade name that is likely to be mistaken for another specified purpose company.

(5) A specified purpose company whose business interests have been or are likely to be infringed upon by the use of a name or trade name that violates the provisions of the preceding paragraph may demand that the person infringing or likely to infringe upon those business interests cease or prevent such infringement.

Section 2 Incorporation

(Articles of Incorporation)

Article 16 (1) In order to incorporate a specified purpose company, the incorporators must prepare articles of incorporation, and all the incorporators must sign them or affix their names and personal seals to them.

(2) The following information must be entered or recorded in the articles of incorporation of a specified purpose company:

(i) its purpose;

(ii) its trade name;

(iii) the location of its head office;

(iv) the amount of specified capital (unless otherwise provided for by this Act, this means the amount of assets that the persons that is to be the specified equity members have paid or delivered to the specified purpose company upon issuance of specified equity; the same applies hereinafter);

(v) the names and addresses of the incorporators; and

(vi) the period of time during which it will exist or the grounds for its dissolution.

- (3) In incorporating a specified purpose company, the following particulars will not have effect unless they are entered or recorded in the articles of incorporation referred to in paragraph (1):
- (i) the names of persons contributing assets other than money, a description of the assets and their value, and the number of units of specified equity issued at incorporation (meaning specified equity that a specified purpose company issues at the time of its incorporation; hereinafter the same applies in this Section) that is to be allotted to those persons;
 - (ii) a description of assets other than specified assets that the specified purpose company are to acquire in accordance with the asset securitization plan and that the company has agreed to acquire after its establishment, the value of those assets, and the name of the transferor;
 - (iii) any compensation or other special benefit that the incorporators are to receive by the establishment of the specified purpose company, and the names of those incorporators; and
 - (iv) the costs of the incorporation that the specified purpose company is to bear (other than the fees for authentication of the articles of incorporation and other costs that Cabinet Office Order prescribes as being unlikely to cause damage the specified purpose company).
- (4) In addition to the information set forth in the items of paragraph (2) and the items of the preceding paragraph, pieces of information that, pursuant to the provisions of this Act, do not become effective unless provided for in the articles of incorporation and other information that does not violate the provisions of this Act may be entered or recorded in the articles of incorporation of a specified purpose company.
- (5) The articles of incorporation may be prepared as an electronic or magnetic record. In such a case, the measures that Cabinet Office Order prescribes in lieu of signatures or the affixing of names and personal seals must be taken with respect to the data recorded in an electronic or magnetic record.
- (6) The provisions of Article 30 (Certification of Articles of Incorporation) and Article 31 (excluding paragraph (3)) (Keeping and Inspection of Articles of Incorporation) of the Companies Act apply mutatis mutandis to the articles of incorporation of a specified purpose company. In such a case, the phrase "Article 33, paragraph (7) or (9), or Article 37, paragraph (1) or (2)" in Article 30, paragraph (2) of that Act is deemed to be replaced with "Article 33, paragraph (7) or (9) as applied mutatis mutandis pursuant to Article 18, paragraph (2) of the Act on Securitization of Assets (hereinafter referred to as the 'Asset Securitization Act')"; and the term "shareholders" in Article 31, paragraph (2) of the Companies Act is replaced with "members (meaning the members prescribed in Article 26 of the Asset Securitization Act)".

(Determination of Information about Specified Equity Issued at Incorporation)

Article 17 (1) Before the incorporators prescribe the following information (other than information provided for in the articles of incorporation) at the time of incorporation of a specified purpose company, they must obtain the consent of all the incorporators:

- (i) the number of units of specified equity issued at incorporation to be allotted to each incorporator; and
 - (ii) the amount of monies to be paid in exchange for the specified equity issued at incorporation referred to in the preceding item.
- (2) The incorporators must subscribe for all of the specified equity issued at incorporation.
- (3) Each incorporator must subscribe for one or more units of specified equity issued at incorporation at the time of incorporation of the specified purpose company.

(Appointment of Inspectors in Connection with Information Entered or Recorded in Articles of Incorporation)

Article 18 (1) If the information set forth in the items of Article 16, paragraph (3) is entered or recorded in the articles of incorporation, without delay after the authentication by a notary public referred to in Article 30, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 16, paragraph (6), the incorporators must file a petition with the court for the appointment of an inspector in order to have the inspector investigate that information.

- (2) The provisions of Article 33, paragraphs (2) through (11) (excluding paragraph (10), item (ii)) (Election of Inspector of Particulars Specified or Recorded in the Articles of Incorporation); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i) and item (iii)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to a case referred to in the preceding paragraph. In such a case, the term "each item of Article 28" in Article 33, paragraphs (7) and (8) of the Companies Act is deemed to be replaced with "each item of Article 16, paragraph (3) of the Asset Securitization Act"; the term "shares issued at incorporation" in Article 33, paragraph (8) of the Companies Act is deemed to be replaced with "specified equity issued at incorporation"; the term "the preceding nine paragraphs" in paragraph (10) of that Article is deemed to be replaced with "Article 33,

paragraph (2) through (9) as applied mutatis mutandis pursuant to Article 18, paragraph (1) of the Asset Securitization Act and pursuant to paragraph (2) of that Article"; the term "item (ii) and item (iii) of Article 28" in Article 33, paragraph (10), item (i) of the Companies Act is deemed to be replaced with "Article 16, item (i) or (ii) of the Asset Securitization Act"; the term "item (ii) of Article 28" in Article 33, paragraph (11), item (ii) of the Companies Act is deemed to be replaced with "Article 16, paragraph (3), item (ii) of the Asset Securitization Act"; the term "paragraph (1) of Article 38" in Article 33, paragraph (11), item (iii) of the Companies Act is deemed to be replaced with "Article 21, paragraph (1) of the Asset Securitization Act"; and the term "item (ii), paragraph (3) of such Article" in Article 33, paragraph (11) of the Companies Act is deemed to be replaced with "that paragraph".

(Performance of Contributions)

Article 19 (1) An incorporator must pay the full amount of monies for contribution or deliver all of the non-monetary assets for contribution in association with the specified equity issued at incorporation for which the incorporator has subscribed without delay after subscribing for specified equity issued at incorporation; provided, however, that, with the consent of all the incorporators, this does not preclude an incorporator from making a registration or otherwise taking the necessary action to duly assert the creation or transfer of rights against a third party after the establishment of the specified purpose company.

(2) A payment under the provisions of the preceding paragraph must be made at the place where the bank or equivalent entity (meaning a bank or trust company or an entity that Cabinet Office Order prescribes as being equivalent thereto; the same applies hereinafter) that the incorporators have specified for handling payments.

(Transfer of Right to Become Specified Equity Member through Specified Equity Issued at Incorporation)

Article 20 An incorporator must not transfer the right to become a specified equity member through specified equity issued at incorporation by making payment or delivery pursuant to the provisions of paragraph (1) of the preceding Article (hereinafter referred to as the "performance of contribution" in this Section).

(Appointment of Officers at Incorporation)

Article 21 (1) The incorporators must appoint directors at incorporation (meaning the persons that are to become the directors at the time of incorporation of the specified purpose company; the same applies hereinafter)

and company auditors at incorporation (meaning the persons that are to become the company auditors at the time of incorporation of the specified purpose company; the same applies hereinafter) without delay after they finish the performance of contributions.

(2) In a case as set forth in either of the following items, the incorporators must appoint the persons that the item prescribes without delay after they finish the performance of contributions:

(i) if the specified purpose company the incorporators seek to incorporate is a company with accounting advisors: the accounting advisors at incorporation (meaning the persons that are to become the accounting advisors at the time of incorporation of the specified purpose company; the same applies hereinafter); and

(ii) if the specified purpose company the incorporators seek to incorporate is a company with accounting auditors (meaning a specified purpose company that has accounting auditors or a specified purpose company that is required to have accounting auditors pursuant to the provisions of this Act; the same applies hereinafter): the accounting auditors at incorporation (meaning the persons that are to become the accounting auditors at the time of incorporation of the specified purpose company; the same applies hereinafter).

(3) The provisions of Article 38, paragraph (4) and Article 39, paragraph (4) (Election of Officers at Incorporation); Article 40, paragraph (1); the main text of Article 40, paragraph (2) (Method of Election of Officers at Incorporation); Article 42 (Dismissal of Officers at Incorporation); and Article 43, paragraph (1); and the main text of Article 43, paragraph (2) (Method of Dismissal of Officers at Incorporation) of the Companies Act apply mutatis mutandis to a specified purpose company's directors at incorporation, accounting advisors at incorporation, company auditors at incorporation, and accounting auditors at incorporation. In such a case, the term "Article 331, paragraph (1) (including as applied mutatis mutandis pursuant to Article 335, paragraph (1)), Article 333, paragraph (1) or (3), or Article 337, paragraph (1) or (3)" in Article 39, paragraph (4) of the Companies Act is deemed to be replaced with "Article 70, paragraph (1) of the Asset Securitization Act (including as applied mutatis mutandis pursuant to Article 72, paragraph (2) of the Asset Securitization Act), Article 71, paragraph (1) of the Asset Securitization Act, Article 333, paragraph (3) as applied mutatis mutandis pursuant to Article 71, paragraph (2) of the Asset Securitization Act or Article 73, paragraph (1) or (3) of the Asset Securitization Act"; and the term "each one share issued at incorporation" in the main text of Article 40, paragraph (2) and the main text of Article 43, paragraph (2) of the Companies Act is deemed to be replaced with "each unit of specified equity issued at incorporation".

(4) The provisions of Article 46, paragraphs (1) and (2) (Investigation by Directors at Incorporation) of the Companies Act apply mutatis mutandis to a specified purpose company's directors at incorporation and company auditors at incorporation. In such a case, the term "item (i) or item (ii) of Article 33, paragraph (10)" in Article 46, paragraph (1), item (i) of the Companies Act is deemed to be replaced with "Article 33, paragraph (10), item (i) as applied mutatis mutandis pursuant to Article 18, paragraph (2) of the Asset Securitization Act"; the term "the properties contributed in kind in the cases set forth in item (i) or item (ii) of Article 33, paragraph (10) (if set forth in the item, limited to the securities under the item)" in Article 46, paragraph (1), item (i) of the Companies Act is deemed to be replaced with "the assets contributed in kind in a case as set forth in Article 33, paragraph (10), item (i) or item (ii)"; and the term "item (iii) of Article 33, paragraph (10)" in Article 46, paragraph (1), item (ii) of the Companies Act is deemed to be replaced with "Article 33, paragraph (10), item (iii) as applied mutatis mutandis pursuant to Article 18, paragraph (2) of the Asset Securitization Act".

(Registration of Incorporation)

Article 22 (1) The incorporation of a specified purpose company must be registered in the locality of its head office within two weeks after either of the following dates, whichever comes later:

- (i) the date the investigation under the provisions of Article 46, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (4) of the preceding Article was finished; or
- (ii) the date specified by the incorporators.

(2) The following information must be registered in the registration referred to in the preceding paragraph:

- (i) the company's purpose;
- (ii) its trade name;
- (iii) the locations of its head office and branch offices;
- (iv) the period of time during which the specified purpose company is to exist or grounds for its dissolution;
- (v) the amount of specified capital;
- (vi) the total number of units of specified equity issued;
- (vii) if there is an administrator of the register of specified equity members (meaning a person that handles the preparation and keeping of the specified equity member register and other administrative processes associated with the register on behalf of the specified purpose company; the same applies hereinafter), the name, address, and business office of the administrator;
- (viii) the names and addresses of its directors and company auditors;
- (ix) if any of the directors do not represent the specified purpose company, the

- names of its representative directors (meaning the directors that represent the specified purpose company; the same applies hereinafter);
- (x) if the specified purpose company is a company with accounting advisors, an indication of this, the names of the accounting advisors, and the place referred to in Article 378, paragraph (1) of the Companies Act as applied *mutatis mutandis* pursuant to Article 86, paragraph (2);
 - (xi) if the specified purpose company is a company with accounting auditors, an indication of this and the names of the accounting auditors;
 - (xii) if the company employs a person who is to temporarily perform the duties of an accounting auditor as appointed pursuant to the provisions of Article 76, paragraph (4), the name of that person;
 - (xiii) if the company has decided to take the measures prescribed in Article 104, paragraph (7), the necessary particulars that Cabinet Office Order prescribes to enable many and unspecified persons to be provided with the information contained in the balance sheet and profit and loss statement prescribed in paragraph (5) of that Article;
 - (xiv) if the articles of incorporation provide for a means of public notice under the provisions of Article 194, paragraph (1) (meaning the means by which the specified purpose company issues public notices (other than public notices required to be given by means of publication in the Official Gazette pursuant to the provisions of this Part or other laws); hereinafter the same applies in this Part), those provisions of the articles of incorporation;
 - (xv) if the provisions of the articles of incorporation referred to in the preceding paragraph indicate electronic public notice (meaning electronic public notice prescribed in Article 194, paragraph (1), item (iii); the same applies in sub-item (a) to be the means of public notice, the following particulars:
 - (a) the necessary particulars in order for electronic public notices to be used to enable many and unspecified persons to be provided with the information that public notices should give, which are provided in Article 911, paragraph (3), item (xxviii), sub-item (a); and
 - (b) if there are provisions in the articles of incorporation as prescribed in the second sentence of Article 194, paragraph (2), those provisions.
 - (xvi) if there are no provisions in the articles of incorporation as referred to in item (xiv), an indication that, pursuant to Article 194, paragraph (3), the means set forth in paragraph (1), item (i) of that Article is the means of public notice.
- (3) The provisions of Article 915, paragraphs (1) and (2) (Registration of a Change); Article 916 (but only the part that involves item (i)) (Registration of Relocation of the Head Office to the Jurisdictional District of Another Register); Article 917 (but only the part that involves item (i)) (Registration of a Provisional Disposition, etc. Suspending Execution of Duties); and Article

918 (Registration of a Manager) of the Companies Act apply mutatis mutandis to registration of a specified purpose company in the locality of its head office. In such a case, the phrase "in the items of Article 911, paragraph (3) or in the items of the preceding three Articles" in Article 915, paragraph (1) of the Companies Act is deemed to be replaced with "in the items of Article 22, paragraph (2) of the Asset Securitization Act"; the term "Article 199, paragraph (1), item (iv)" in Article 915, paragraph (2) of the Companies Act is deemed to be replaced with "Article 36, paragraph (1), item (iv) of the Asset Securitization Act" and the term "share" in that paragraph is deemed to be replaced with "specified equity"; the term "the items of Article 911, paragraph (3)" in Article 916, item (i) of the Companies Act is deemed to be replaced with "the items of Article 22, paragraph (2) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(4) The provisions of Article 930, paragraph (1) (but only the part that involves item (i) and (v)), paragraph (2), and paragraph (3) (Registration at the Location of a Branch Office); Article 931 (Registration of Relocation of a Branch Office to the Jurisdictional District of Another Register); and the main text of Article 932 (Registration of a Change with Regard to a Branch Office) of the Companies Act apply mutatis mutandis to registration of a specified purpose company in the locality of its branch office. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Establishment of Specified Purpose Companies)

Article 23 A specified purpose company is established by a registration of its incorporation being made in the locality of its head office.

(Liability to Guarantee Subscriptions for Specified Equity Issued at Incorporation)

Article 24 (1) If any part of the specified equity issued at incorporation remains unsubscribed for at the time of the establishment of a specified purpose company, the incorporators and the directors at incorporation of the specified purpose company are deemed to have jointly subscribed for that part of the equity. The same applies if a subscriber for specified equity rescinds its manifestation of intention to subscribe for specified equity issued at incorporation after the establishment of the specified purpose company.

(2) If there is specified equity issued at incorporation for which contributions have not been performed at the time of the establishment of a specified purpose company, the incorporators and the directors at incorporation of the specified purpose company have a joint and several obligation to pay the amount that has not been paid in or the value of the non-monetary assets that have not been delivered.

(3) The provisions of Article 64 (Certificate of Deposit of Paid Monies) of the Companies Act apply mutatis mutandis to a bank or equivalent entity that handles payment pursuant to the provisions of Article 19, paragraph (1). In such a case, the phrase "If solicitation under Article 57, paragraph (1) has been carried out, the incorporators" in Article 64, paragraph (1) of the Companies Act is deemed to be replaced with "the incorporators"; and the term "stock company" in paragraph (2) of that Article is deemed to be replaced with "specified purpose company".

(Application, Mutatis Mutandis, of the Companies Act)

Article 25 (1) The provisions of Article 50 (Right of Subscribers of Shares) of the Companies Act apply mutatis mutandis to the right of a subscriber of specified equity issued at incorporation of a specified purpose company, and the provisions of Article 51 (Restrictions on Invalidation or Rescission of Subscription) of the Companies Act apply mutatis mutandis to the invalidation or rescission of a subscription for specified equity issued at incorporation. In such a case, the term "shareholder" in Article 50 of the Companies Act is deemed to be replaced with "specified equity member".

(2) The provisions of Part II, Chapter I, Section 8 (excluding Article 52-2) (Liability of Incorporators) of the Companies Act apply mutatis mutandis to a specified purpose company. In such a case, the term "Article 28, item (i)" in Article 52, paragraph (2) of the Companies Act is deemed to be replaced with "Article 16, paragraph (3), item (i) of the Asset Securitization Act" and the term "Article 33, paragraph (2)" in that paragraph is deemed to be replaced with "Article 33, paragraph (2) as applied mutatis mutandis pursuant to Article 18, paragraph (2) of the Asset Securitization Act"; the term "Article 33, paragraph (10), item (iii)" in Article 52, paragraph (3) of the Companies Act is deemed to be replaced with "Article 33, paragraph (10), item (iii) as applied mutatis mutandis pursuant to Article 18, paragraph (2) of the Asset Securitization Act"; and the term "all shareholders" in Article 55 of the Companies Act is deemed to be replaced with "all members".

(3) The provisions of Article 828, paragraph (1) (but only the part that involves item (i)) and paragraph (2) (but only the part that involves item (i)) (Actions to Invalidate Acts Concerning the Organization of a Company); Article 834 (but only the part that involves item (i)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Article 836, paragraphs (1) and (3) (Order to Provide Security); Articles 837 through 839 (Mandatory Consolidation of Oral Arguments; Persons Affected by an Upholding Judgment; Effects of a Judgment of Invalidation, Revocation or Rescission); Article 846 (Liability for Damages in Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (a))

(Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action to invalidate the incorporation of a specified purpose company. In such a case, the term "shareholder, etc. (meaning a shareholder, director or liquidator (or, for a company with company auditors, this means a shareholder, director, company auditor or liquidator, and for a company with a nominating committee, etc., this means a shareholder, director, executive officer or liquidator); hereinafter the same applies in this Section)" in Article 828, paragraph (2), item (i) of the Companies Act is deemed to be replaced with "member, director, company auditor, or liquidator"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (4) The provisions of Article 97, paragraph (3) and the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2); Article 847-2; Article 847-3; Article 849, paragraph (2), paragraph (3), and paragraphs (6) through (11); Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Action to Enforce Liability at a Stock Company) of the Companies Act apply mutatis mutandis to an action to enforce the liability of an incorporator, director at incorporation, or company auditor at incorporation. In such a case, the phrase "A shareholder (excluding a holder of shares less than one unit who is unable to exercise rights pursuant to the provisions of the articles of incorporation as referred to in Article 189, paragraph (2)) having the shares consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, that period or more)" in Article 847, paragraph (1) of the Companies Act is deemed to be replaced with "A specified equity member or preferred equity member (meaning a preferred equity member as prescribed in Article 26 of the Asset Securitization Act) that has held preferred equity continuously for the preceding six months (or, if a shorter period is prescribed in the articles of incorporation, that period)"; the term "shareholder" in Article 847, paragraph (3) of the Companies Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 847, paragraph (4) of the Companies Act is deemed to be replaced with "Specified equity member or preferred equity member"; the term "shareholder" in Article 847, paragraph (5) of the Companies Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article 847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849, paragraph (1) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term

"shareholder, etc." in Article 849, paragraph (4) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholders" in Article 849, paragraph (5) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

Section 3 Rights and Obligations of Members

Subsection 1 General Provisions

(Members)

Article 26 The members of a specified purpose company (but only a specified purpose company that does not issue preferred equity) are specified equity members, and the members of a specified purpose company that issues preferred equity are specified equity members and preferred equity members (meaning persons that hold preferred equity; the same applies hereinafter).

(Member's Liability and Rights)

Article 27 (1) A member's liability is limited to the subscription price of the specified equity or preferred equity that the member holds.

(2) A member has the following rights and other rights recognized pursuant to the provisions of this Act with respect to the specified equity or preferred equity that the member holds:

(i) the right to receive distributions of profits; and

(ii) the right to receive distributions of residual assets.

(3) A specified equity member has a voting right at general meetings of members in association with the specified equity that the member holds.

(4) Unless otherwise provided for in this Act, a preferred equity member does not have a voting right at general meetings of members in association with the preferred equity that the member holds; provided, however, that this does not apply if otherwise provided for in the articles of incorporation.

(5) The provisions of the articles of incorporation indicating that members are not granted all of the rights set forth in paragraph (2), items (i) and (ii) are null and void.

(6) The provisions of Article 106 (Exercise of Rights by Co-owners) and Article 109, paragraph (1) (Equality of Shareholders) of the Companies Act apply

mutatis mutandis to specified equity or preferred equity in a specified purpose company. In such a case, the term "shareholders" in that paragraph is deemed to be replaced with "members"; and the term "number" in that paragraph is deemed to be replaced with "number of units".

Subsection 2 Specified Equity Members

(Specified Equity Member Registers)

Article 28 (1) A specified purpose company must prepare a register of specified equity members and enter or record the following information in the register:

- (i) the name and address of each specified equity member;
- (ii) the number of units of specified equity held by each specified equity member referred to in the preceding item;
- (iii) the day on which each specified equity member referred to in item (i) acquired the specified equity; and
- (iv) if a specified equity trust has been created, an indication of this, the names and addresses of the trustee and the beneficiaries, and any other information that Cabinet Office Order prescribes with respect to the specified equity trust.

(2) A specified purpose company may fix a specific date (hereinafter referred to as the "reference date" in this Subsection) and specify that the specified equity members entered or recorded in the register of specified equity members as of the reference date are the persons that may exercise their rights.

(3) The provisions of Article 122 (excluding paragraph (4)) (Delivery of Documents Showing Information Entered in Shareholder Register); Article 124, paragraphs (2) and (3) (Record Date); Article 125, paragraphs (1) through (3) (Keeping and Making Available for Inspection of Shareholder Register); and Article 126 (Notice to Shareholders) of the Companies Act apply mutatis mutandis to a register of specified equity members listing the specified equity members of a specified purpose company; the provisions of Article 123 (Administrator of Shareholder Register) of that Act apply mutatis mutandis to the administrator of a register of specified equity members at a specified purpose company; and the provisions of Article 196, paragraphs (1) and (2) (Omission of Notices to Shareholders) of that Act apply mutatis mutandis to a notice to the specified equity member of a specified purpose company. In such a case, the terms "item (i) of the preceding article" and "information required to be entered in the shareholder register" in Article 122, paragraph (1) of the Companies Act are deemed to be replaced with "Article 28, paragraph (1), item (i) of the Asset Securitization Act" and "information set forth in the items of Article 28, paragraph (1) of the Asset Securitization Act", respectively; the term "Shareholders as of the Record Date" in Article 124, paragraph (2) of the

Companies Act is deemed to be replaced with "specified equity members stated or recorded in the register of specified equity members as of the reference date"; the term "administrator of shareholder register" in Article 125, paragraph (1) of the Companies Act is deemed to be replaced with "administrator of the register of specified equity members"; the terms "shareholder" and "shareholders" in paragraph (3), items (i) and (ii) of that Article are deemed to be replaced with "member" and "members", respectively; the term "If a share" in Article 126, paragraph (3) of the Companies Act is deemed to be replaced with "If specified equity"; the term "of the share" in paragraph (4) of that Article is deemed to be replaced with "of the specified equity"; the term "Article 299, paragraph (1) (including as applied mutatis mutandis pursuant to Article 325)" in Article 126, paragraph (5) of the Companies Act is deemed to be replaced with "Article 55, paragraph (1) or Article 56, paragraph (1) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (4) The provisions of paragraph (2); Article 124, paragraphs (2) and (3) of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph, and Article 196, paragraph (3) of that Act apply mutatis mutandis to a pledgee for which the information set forth in the items of Article 32, paragraph (3) has been entered or recorded in the register of specified equity members (hereinafter referred to as a "registered pledgee of specified equity").

(Transfer of Specified Equity)

- Article 29 (1) A specified equity member may transfer all or part of their specified equity to another specified equity member.
- (2) A person other than a specified equity member must have the approval of the specified purpose company in order to acquire specified equity through a transfer.

(Requirements to Duly Assert Transfers of Specified Equity against Third Parties)

- Article 30 (1) A transfer of specified equity may not be asserted against a specified purpose company or any other third party unless the name and address of the person acquiring the specified equity have been entered or recorded in the register of specified equity members.
- (2) The provisions of Article 132, paragraph (1) and (2); Article 133; and Article 134 (Entry or Recording of Information Required to Be Entered in the Shareholder Register Not Requested by Shareholders) of the Companies Act apply mutatis mutandis to specified equity in a specified purpose company. In such a case, the term "shareholders" in those provisions is deemed to be replaced with "specified equity members"; the phrase "information that is

required to be entered in the shareholder register" in those provisions is deemed to be replaced with "information set forth in the items of Article 28, paragraph (1) of the Asset Securitization Act"; the term "shareholder register" in those provisions is deemed to be replaced with "register of specified equity members"; the term "acquirer of shares" in those provisions is replaced with "acquirer of specified equity"; the term "treasury shares" in Article 132, paragraph (1) of the Companies Act is deemed to be replaced with "the company's own specified equity (meaning the company's own specified equity as defined in Article 59, paragraph (2) of the Asset Securitization Act)"; the term "Article 136" in Article 134, item (i) of the Companies Act is deemed to be replaced with "Article 31, paragraph (1) of the Asset Securitization Act"; the term "Article 137, paragraph (1)" in Article 134, item (ii) of the Companies Act is deemed to be replaced with "Article 31, paragraph (2) of the Asset Securitization Act"; the term "Article 140, paragraph (4)" in Article 134, item (iii) of the Companies Act is deemed to be replaced with "Article 31, paragraph (7) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Procedures for Approval of Specified Equity Transfers)

- Article 31 (1) If a specified equity member seeks to transfer specified equity they hold to a person other than a specified equity member (excluding the specified purpose company that has issued the specified equity), the member may request the specified purpose company to decide whether to approve that person's acquisition of specified equity.
- (2) A person that acquires specified equity from a person other than the specified purpose company that has issued that specified equity (but only if the acquirer is a person other than a specified equity member and is not the specified purpose company itself; hereinafter referred to as an "acquirer of specified equity" in this Article) may request the specified purpose company to decide whether to approve the acquisition that the acquirer of specified equity has made of that specified equity.
- (3) Except in a case that Cabinet Office Order prescribes as one in which it is unlikely to damage the interests of interested persons, a person must make a request under the provisions of the preceding paragraph jointly with the person stated or recorded in the register of specified equity members as the specified equity member whose specified equity has been acquired, or the heir or other general successor of that specified equity member.
- (4) To make a request as set forth in one of the following items (hereinafter referred to as a "transfer approval request" in this Article), a person must disclose the information that each item prescribes:
- (i) a request under the provisions of paragraph (1): the following information:

- (a) the number of units of specified equity that the specified equity member making the request seeks to transfer;
 - (b) the name of the person acquiring the specified equity referred to in (a); and
 - (c) if the specified equity member is requesting that, in the event that the specified purpose company decides not to grant the approval referred to in paragraph (1), a designated purchaser prescribed in paragraph (7) purchase the specified equity referred to in (a), an indication of this.
- (ii) a request under the provisions of paragraph (2): the following information:
 - (a) the number of units of specified equity that the acquirer of specified equity making the request has acquired;
 - (b) the name of the acquirer of specified equity referred to in sub-item (a); and
 - (c) if the acquirer of specified equity is requesting that, in the event that the specified purpose company decides not to grant the approval referred to in paragraph (2), a designated purchaser as prescribed in paragraph (7) purchase the specified equity referred to in (a), an indication of this.
- (5) The decision on whether to grant the approval referred to in paragraph (1) or paragraph (2) must be made by a resolution of the general meeting of members.
- (6) Once a specified purpose company reaches the decision referred to in the preceding paragraph, the company must notify the person making the transfer approval request (hereinafter referred to as the "person requesting transfer approval" in this Article) of the details of that decision.
- (7) If a specified purpose company receives a request referred to in paragraph (4), item (i), sub-item (c) or paragraph (4), item (ii), sub-item (c) and decides not to grant the approval referred to in paragraph (1) or (2), the company must designate a person to purchase the specified equity to which the transfer approval request pertains (excluding the specified purpose company itself; hereinafter referred to as a "designated purchaser" in this Article), by resolution at a general meeting of members
- (8) The provisions of Article 142, paragraphs (1) and (2) (Designated Purchaser's Notice to Purchase) of the Companies Act apply mutatis mutandis to a designated purchaser; the provisions of Article 143, paragraph (2) (Withdrawal of Requests for Approval of Transfer) of that Act apply mutatis mutandis to a person requesting transfer approval that makes a request as referred to in paragraph (4), item (i), sub-item (c) or paragraph (4), item (ii), sub-item (c); and the provisions of Article 144, paragraphs (1) through (6) (Determination of Sale Price); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (2) (but only the part that involves item (iii)) (Hearing of Statements); Article 870-2 (Sending of a Copy of a Written Motion); the main text of Article 871 (Appending of the Reason); Article 872 (but only

the part that involves item (v)) (Immediate Appeal); Article 872-2 (Sending of a Copy of a Petition for Immediate Appeal); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of that Act apply mutatis mutandis if a person has been notified under the provisions of Article 142, paragraph (1) of that Act as applied mutatis mutandis pursuant to this paragraph. In such a case, the term "Article 140, paragraph (4)" in Article 142, paragraph (1) of the Companies Act is replaced with "Article 31, paragraph (7) of the Asset Securitization Act"; the terms "per share" and "stock company" in Article 142, paragraph (2) of the Companies Act are deemed to be replaced with "per unit" and "specified purpose company", respectively; the terms "subject shares" and "Article 140, paragraph (1), item (ii)" in Article 144, paragraph (1) and paragraphs (4) through (6) of the Companies Act are deemed to be replaced with "specified equity prescribed in Article 31, paragraph (7) of the Asset Securitization Act" and "Article 142, paragraph (1), item (ii)", respectively; the term "stock company" in Article 144, paragraphs (1), (2), and (6) of the Companies Act is deemed to be replaced with "designated purchaser"; the term "per share" in paragraph (5) of that Article is deemed to be replaced with "per unit"; the term "Article 141, paragraph (2)" in Article 144, paragraph (6) of that Act is deemed to be replaced with "Article 142, paragraph (2)"; and Cabinet Order provides for any other necessary technical replacement of terms.

(9) The provisions of Article 145 (excluding item (ii)) (Cases Where a Stock Company is Deemed to Have Approved) of the Companies Act apply mutatis mutandis to the approval referred to in paragraph (1) or (2) by a specified purpose company. In such a case, the term "Article 139, paragraph (2)" in Article 145, item (i) of that Act is deemed to be replaced with "Article 31, paragraph (6) of the Asset Securitization Act".

(Pledge of Specified Equity)

Article 32 (1) A specified equity member may create a pledge over the specified equity they hold.

(2) A pledge of specified equity may not be asserted against a specified purpose company or any other third party unless the name and address of the pledgee have been entered or recorded in the register of specified equity members.

(3) A person that has created a pledge over specified equity may request the specified purpose company to enter or record the following information in the register of specified equity members:

(i) the name and address of the pledgee; and

(ii) the specified equity that is the subject of the pledge.

(4) If a specified purpose company takes one of the following actions, any pledge

over specified equity is in effect over the money and assets that the specified equity member whose specified equity it is entitled to receive as a result of the action (meaning money and other assets; the same applies hereinafter):

- (i) consolidation of specified equity;
- (ii) distribution of profits;
- (iii) distribution of residual assets; or
- (iv) acquisition of specified equity.

- (5) A registered pledgee of specified equity may receive the money and assets referred to in the preceding paragraph (but only the money) and use them to cover repayment of the pledgee's own claims in preference to other creditors.
- (6) The provisions of Article 147, paragraph (3) (Perfection of Pledges of Shares) of the Companies Act apply mutatis mutandis to specified equity, and the provisions of Article 149, paragraphs (1) through (3) (Delivery of Documents Showing Information Entered in Shareholder Register); Article 150 (Notices to Registered Pledgees of Shares); Article 152, paragraph (2); and Article 154, paragraph (2) (but only the part that involves item (i)) (Effect of Pledge of Shares) of that Act apply mutatis mutandis to a registered pledgee of specified equity that holds a pledge over specified equity in a specified purpose company. In such a case, the term "shareholder register" in those provisions is deemed to be replaced with "register of specified equity members"; the terms "the items of the preceding Article" and "the items of that Article" in Article 149, paragraph (1) of that Act are deemed to be replaced with "the items of Article 32, paragraph (3) of the Asset Securitization Act" and "the items of that paragraph", respectively; the term "paragraph (1) of the preceding Article" in Article 152, paragraph (2) of the Companies Act is deemed to be replaced with "Article 32, paragraph (4) of the Asset Securitization Act"; the term "the preceding paragraph" in Article 154, paragraph (2) of the Companies Act is deemed to be replaced with "Article 32, paragraph (5) of the Asset Securitization Act"; the term "Article 151, paragraph (1) items (i) through (vi), item (viii), item (ix), or item (xiv)" in Article 154, paragraph (2), item (i) of the Companies Act is deemed to be replaced with "the items of Article 32, paragraph (4) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Specified Equity Trusts)

- Article 33 (1) Notwithstanding the provisions of Article 29, paragraph (2), specified equity may be placed in trust with a trust company or financial institution (meaning a trust company or a bank or other financial institution engaged in trust business; the same applies hereinafter) without an approval at a general meeting of members.
- (2) The following conditions must be attached to the agreement for a trust

involving specified equity (hereinafter referred to as a "specified equity trust"):

- (i) that the purpose of the trust is to manage the specified equity so that the business of asset securitization is conducted smoothly based on the asset securitization plan of a specified purpose company;
- (ii) that the planning period for the asset securitization plan constitutes the trust period;
- (iii) that no instructions may be given to the trustee with regard to the administration of the trust property;
- (iv) that neither the settlor nor a beneficiary terminates the trust by agreement during the trust period; and
- (v) that neither the settlor nor a beneficiary changes the way the trust property is managed during the trust period except as pursuant to the provisions of Article 150 (Judicial Decision Ordering Changes to a Trust Due to Special Circumstances) of the Trust Act (Act No. 108 of 2006).

(3) The provisions of Article 30, paragraph (1) and the preceding Article and the provisions of Article 133 (Entering or Recording Information Required to Be Entered in the Shareholder Register at the Request of Shareholders) of the Companies Act apply mutatis mutandis if specified equity is placed in trust based on the provisions of paragraph (1). In such a case, the phrase "the name and address of the person acquiring" in Article 30, paragraph (1) is deemed to be replaced with "the names and addresses of the trustee and the beneficiaries and any other information that Cabinet Office Order prescribes with regard to the specified equity trust, as well as an indication that the specified equity trust has been created"; the term "specified equity" in the provisions of paragraph (1) through (3) of the preceding Article is deemed to be replaced with "beneficial interest in a specified equity trust"; the terms "over specified equity" and "whose specified equity" in paragraph (4) of that Article are deemed to be replaced with "over the beneficial interest in a specified equity trust" and "whose beneficial interest in the specified equity trust", respectively; the term "stock company" in Article 133, paragraph (1) of the Companies Act is deemed to be replaced with "specified purpose company"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Prohibition on Specified Purpose Company's Acquisition of Its Own Specified Equity and Receipt Thereof as the Subject of a Pledge)

Article 34 (1) Unless a specified purpose company purchases specified equity in response to a demand under Article 182-4, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 38, or unless it is necessary to do so in using its rights to achieve its purpose, a specified purpose company must not acquire its own specified equity or receive it as the subject of a pledge.

(2) The provisions of the preceding paragraph do not apply if a specified purpose

- company acquires its own specified equity in order to purchase from the heir of a specified equity member the specified equity of that specified purpose company which the heir has acquired through inheritance from the specified member, within one year of the opening of the succession; provided, however, that this does not apply to a case that falls under one of the following items:
- (i) the number of units of the company's own specified equity (meaning specified equity in a specified purpose company that the specified purpose company holds itself, excluding what it has acquired in using its rights to achieve its purpose) exceeds one-fifth of the total number of units of specified equity;
 - (ii) the purchase price for the specified equity in the specified purpose company exceeds the amount arrived at when the sum total of the amounts set forth in Article 115, paragraph (3), items (ii) through (v) and the sum total of the amounts of monies distributed pursuant to the provisions of paragraph (1) of that Article are deducted from the amount referred to in paragraph (3), item (i) of that Article; or
 - (iii) it is found that the sum total of the amounts set forth in Article 114, paragraph (1), items (ii) through (iv) is likely to exceed the amount referred to in item (i) of that paragraph on the last day of the specified purpose company's business year.
- (3) A resolution must be passed at a general meeting of members in order for a specified purpose company to effect the purchase of specified equity referred to in the preceding paragraph. In such a case, the specified member selling the specified equity may not exercise the voting right.
- (4) If a specified purpose company acquires the specified equity referred to in paragraph (2), and the sum total of the amounts set forth in Article 114, paragraph (1), items (ii) through (iv) at the time when the approval referred to in Article 104, paragraph (2) is obtained (or, in the case prescribed in the first sentence of paragraph (4) of that Article, at the time when the report referred to in the second sentence of that paragraph is made) for the financial statements prescribed in Article 102, paragraph (2) in the business year in which the date of the equity's acquisition falls (or, if the preceding business year is not the most recent business year (meaning the most recent of the business years for which approval under Article 104, paragraph (2) has been obtained (or, in the case prescribed in the first sentence of paragraph (4) of that Article, for which the report referred to in the second sentence of that paragraph has been made) for the financial statements prescribed in Article 435, paragraph (2) in each business year; the same applies hereinafter), the business year preceding that one) exceeds the amount referred to in Article 114, paragraph (1), item (i), the directors undertaking the duty of acquiring the equity have a joint and several obligation to pay the excess amount (or, if the

excess amount exceeds the total amount of monies delivered to specified members as a result of the acquisition of the specified equity, the total amount of those monies) to the specified purpose company; provided, however, that this does not apply to directors that prove that they did not neglect to exercise due care in undertaking that duty.

- (5) The provisions of Article 94, paragraph (4) apply mutatis mutandis to the liability of directors referred to in the preceding paragraph.
- (6) A specified purpose company must dispose of any specified equity or pledge it has acquired in a case prescribed in paragraph (1) or the main text of paragraph (2) at an appropriate time.

(Prohibition on Cancellation of Specified Equity)

Article 35 Specified equity may not be cancelled unless the amount of specified capital is reduced pursuant to the provisions of Article 108.

(Issuance of Specified Equity for Subscription)

Article 36 (1) In seeking to solicit persons to subscribe for the specified equity it issues, a specified purpose company must, on each occasion, decide the following information about the specified equity for subscription (meaning the specified equity to be allotted to persons offering to subscribe for it in response to that solicitation; hereinafter the same applies in this Article):

- (i) the number of units of specified equity for subscription;
 - (ii) the amount to be paid in (meaning the amount of monies to be paid in or the amount of assets other than money to be delivered in exchange for one unit of specified equity for subscription; hereinafter the same applies in this Article) for the specified equity for subscription or the method of calculating the amount;
 - (iii) if assets other than money will be the subject of contributions, an indication of this and the details and value of the assets; and
 - (iv) the date or period for the payment of monies in exchange for the specified equity for subscription or the date or period for the delivery of the assets referred to in the preceding item.
- (2) The information set forth in the items of the preceding paragraph (hereinafter referred to as the "subscription particulars" in this Article) must be decided by resolution at a general meeting of members.
 - (3) If the amount to be paid in referred to in paragraph (1), item (ii) is particularly favorable to the persons subscribing for specified equity for subscription, the directors must disclose the reason for the need to solicit those persons at that amount to be paid in, at the general meeting of members referred to in the preceding paragraph.
 - (4) The subscription particulars must be prescribed equally for each solicitation

referred to in paragraph (1).

- (5) The provisions of Articles 202 through 213-3 (excluding Article 202, paragraph (3), Article 206-2; Article 207, paragraph (9), items (iii) and (v); and Article 213, paragraph (1), item (iii)) (Cases Where Entitlement to Allotment of Shares Is Granted to Shareholders; Applications for Shares for Subscription; Allotment of Shares for Subscription; Special Provisions on Subscription and Allotment of Shares for Subscription; Subscription for Shares for Subscription; Contribution of Property Other Than Monies; Performance of Contributions; Timing of Shareholder Status; Demanding Cessation of the Issuing of Shares for Subscription; Restrictions on Invalidation or Rescission of Subscription; Liabilities of Persons Who Subscribed for Shares with Unfair Amount To Be Paid In; Liabilities of Directors in Case of Shortfall in Value of Property Contributed; Liabilities of Subscribers of Shares for Subscription for which the Performance of Contribution is Disguised; Liabilities of Directors in the Case of Disguising the Performance of Contribution); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i) and item (iv)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the specified equity for subscription of a specified purpose company referred to in paragraph (1). In such a case, the term "shareholder" in those provisions is deemed to be replaced with "specified equity member"; the term "shares" in those provisions (excluding Article 213-2, paragraph (2) of that Act) is deemed to be replaced with "specified equity"; the term "number" in those provisions is deemed to be replaced with "number of units"; the term "Article 199, paragraph (1), item (iii)" in those provisions is deemed to be replaced with "Article 36, paragraph (1), item (iii) of the Asset Securitization Act"; the term "Article 199, paragraph (1), item (iv)" in those provisions is deemed to be replaced with "Article 36, paragraph (1), item (iv) of the Asset Securitization Act"; the term "subscription requirements" in Article 202, paragraph (1) of the Companies Act is deemed to be replaced with "subscription details decided by resolution at a general meeting of members"; the term "one share" in paragraph (2) of that Article is deemed to be replaced with "one unit"; the term "paragraphs (2) through (4) of Article 199 and the preceding two Articles" in Article 202, paragraph (5) of the Companies Act is deemed to be replaced with "Article 36, paragraphs (2) and (3) of the Asset Securitization Act"; the term "shareholders meeting" in Article 204, paragraph (2) and Article 205, paragraph (2) of that Act is deemed to be replaced with "general meeting of members"; the term

"total number of issued shares" in Article 207, paragraph (9), item (i) of the Companies Act is replaced with "total number of units of specified equity"; the term "treasury shares" in Article 210 of the Companies Act is replaced with "the company's own specified equity (meaning the company's own specified equity as prescribed in Article 59, paragraph (2) of the Asset Securitization Act)"; the term "laws and regulations or articles of incorporation" in Article 210, item (i) of the Companies Act is deemed to be replaced with "laws and regulations, asset securitization plan, or articles of incorporation"; the phrase "executive directors who carried out duties regarding the solicitation of subscribers for such shares for subscription (or, for a company with a nominating committee, etc., executive officers; hereinafter the same applies in this item) and other persons prescribed by Order of the Ministry of Justice as persons who were involved, in the performance of their duties, in the execution of the business of such executive directors" in Article 213, paragraph (1), item (i) of that Act is deemed to be replaced with "directors engaged in duties involving the solicitation of subscribers for specified equity for subscription and persons that Ministry of Justice Order prescribed as being involved, in the course of their duties, in the executive management of the business that those directors carry out"; the term "shareholders meeting" in item (ii) of that paragraph is deemed to be replaced with "general meeting of members"; the term "all shareholders" in Article 213-2, paragraph (2) of that Act is deemed to be replaced with "all members"; and Cabinet Order provides for any other necessary technical replacement of terms.

(6) On the date referred to in paragraph (1), item (iv) (or if the period referred to in that paragraph has been determined, on the last day of that period), a specified purpose company is deemed to have amended the articles of incorporation to increase the amount of specified capital by the amount equivalent to that of the assets paid in or delivered.

(7) The provisions of Article 64 (Certificate of Deposit of Paid Monies) of the Companies Act apply mutatis mutandis to a bank or equivalent entity that handles payment under the provisions of Article 208, paragraph (1) of that Act as applied mutatis mutandis pursuant to paragraph (5). In such a case, the term "Article 57, paragraph (1)" in Article 64, paragraph (1) of the Companies Act is deemed to be replaced with "Article 36, paragraph (1) of the Asset Securitization Act"; the term "incorporators" in Article 64, paragraph (1) of the Companies Act is replaced with "directors"; and the term "stock company after establishment" in paragraph (2) of that Article is deemed to be replaced with "specified purpose company".

(8) The provisions of Article 828, paragraph (1) (but only the part that involves item (ii)) and paragraph (2) (but only the part that involves item (ii)) (Actions Seeking Invalidation of Acts Concerning the Organization of a Company);

Article 834 (but only the part that involves item (ii)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Article 836, paragraphs (1) and (3) (Order to Provide Security); Articles 837 through 840 (Mandatory Consolidation of Oral Arguments; Persons Affected by an Upholding Judgment; Effects of a Judgment of Invalidation, Revocation or Rescission; Effects of a Judgment of Invalidation of New Share Issue); Article 846 (Liability for Damages in Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i) (b)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action to invalidate the issuance of specified equity by a specified purpose company after its establishment, and the provisions of Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); the main text of Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (ii)) (Immediate Appeal); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Articles 875 through 877 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act; Supreme Court Rules; Mandatory Consolidation of Hearings); and Article 878, paragraph (1) (Effects of a Judicial Decision) of the Companies Act apply mutatis mutandis to a petition under Article 840, paragraph (2) of that Act as applied mutatis mutandis pursuant to this paragraph. In such a case, the phrase "within six months from the day on which the share issue became effective (or, for a stock company which is not a public company, within one year from the day on which the issuance of shares became effective)" in Article 828, paragraph (1), item (ii) of the Companies Act is deemed to be replaced with "within one year"; the term "shareholder, etc." in paragraph (2), item (ii) of that Article is deemed to be replaced with "member, director, company auditor, or liquidator"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (9) The provisions of Article 829 (but only the part that involves item (i)) (Action for Declaratory Judgment of Absence of a New Share Issue); Article 834 (but only the part that involves item (xiii)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Articles 836 through 838 (Order to Provide Security; Mandatory Consolidation of Oral Arguments; Persons Affected by an Upholding Judgment); Article 846 (Liability for Damages in Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (e)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action seeking a declaratory judgment establishing the non-issuance of specified equity by a specified purpose company after its establishment. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(10) The provisions of Article 97, paragraph (3) and the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2); Article 847-2; Article 847-3; Article 849, paragraph (2), paragraph (3), and paragraphs (6) through (11); Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Action to Enforce Liability at a Stock Company) of the Companies Act apply mutatis mutandis to an action demand payment under the provisions of Article 212, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (5); to an action under Article 213, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (5) to enforce the liability of directors, etc. as prescribed in Article 213, paragraph (1) of the Companies Act; to an action to demand payment or delivery under the provisions of Article 213-2, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (5); and to an action under the provisions of Article 213-3, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (5) to enforce the liability of a director as prescribed in Article 213-3, paragraph (5) of the Companies Act. In such a case, the term "shareholder (excluding a holder of shares less than one unit who is unable to exercise rights pursuant to the provisions of the articles of incorporation) having the shares consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, such period or more)" in Article 847, paragraph (1) of the Companies Act is deemed to be replaced with "specified equity member, or a preferred equity member that has held preferred equity continuously for the preceding six months (or, if a shorter period is prescribed in the articles of incorporation, that period)"; the term "shareholder" in paragraph (3) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (5) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article 847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "the shareholder, etc." in that paragraph is deemed to be replaced with "that specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849, paragraph (1) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholders" in paragraph (5) of that Article is deemed to be replaced with

"specified equity members and preferred equity members"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Prohibition on the Issuance of Securities for Specified Equity)

Article 37 A specified purpose company must not issue securities that are payable to order or in bearer form for specified equity.

(Application, Mutatis Mutandis, of the Companies Act to Specified Equity)

Article 38 The provisions of Article 180 (excluding paragraph (2), items (iii) and (iv) and paragraphs (3) and (4)) (Consolidation of Shares); Article 181 (Notices to Shareholders); Article 182, paragraph (1) (Effectuation), Article 182-2 (Keeping and Inspection of Documents related to the Consolidation of Shares); Article 182-3 (Request to Cease Consolidation of Shares); Article 182-4 (excluding paragraph (5)) (Dissenting Shareholders' Appraisal Rights); Article 182-5 (excluding paragraph (7)) (Determination of the Price of Shares); Article 182-6 (Keeping and Inspection of Documents related to Consolidation of Shares); Article 234, paragraph (2) and Article 235, paragraph (1) (Treatment of Fractions); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 869 (Prima Facie Showing); Article 871 (Appending of the Reason); Article 874 (but only the part that involves item (iv)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to consolidation of a specified purpose company's specified equity, and the provisions of Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (2) (but only the part that involves item (ii)) (Hearing of Statements); Article 870-2 (Sending a Copy of the Written Petition); the main text of Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (v)) (Immediate Appeal); Article 872-2 (Sending of a Copy of Petition for Appeal); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the demand under the provisions of Article 182-4, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to this Article. In

such a case, the term "shareholders meeting" in Article 180, paragraph (2) of the Companies Act is deemed to be replaced with "general meeting of members"; the term "shareholders (or, for a company with class shares, meaning the class shareholders of the classes of shares under paragraph (2), item (iii) of the preceding Article; hereinafter the same applies in this Subsection)" in Article 181, paragraph (1) of that Act is deemed to be replaced with "specified equity members"; the term "registered pledgees of the shares" in Article 181, paragraph (1) of that Act is deemed to be replaced with "registered pledgees of specified equity"; the term "shareholders" in Article 182, paragraph (1) of that Act is deemed to be replaced with "specified equity members"; the term "number" in that paragraph is deemed to be replaced with "number of units"; the term "paragraph (2) item (i) of that Article" in that paragraph is deemed to be replaced with "Article 180, paragraph (2), item (i)"; the phrase "shareholders meeting under Article 180, paragraph (2) (in cases where a resolution of a class meeting is required for consolidation of shares, including the class meeting; the same applies in Article 182-4, paragraph (2))" in Article 182-2, paragraph (1), item (i) of that Act is deemed to be replaced with "general meeting of members"; the term "shareholders" in Article 182-2, paragraph (2) of that Act is deemed to be replaced with "specified equity members"; the term "laws and regulations or articles of incorporation" in Article 182-3 of that Act is deemed to be replaced with "laws and regulations, the asset securitization plan, or articles of incorporation"; the term "shareholders" in that Article is deemed to be replaced with "specified equity members"; the term "one share in the number" in Article 182-4, paragraph (1) of that Act is deemed to be replaced with "one unit in the number of units"; the term "dissenting shareholders" in that paragraph is deemed to be replaced with "dissenting specified equity members"; the term "one share from" in that paragraph is replaced with "one unit from"; the term "dissenting shareholders" in Article 182-4, paragraph (2) of that Act is deemed to be replaced with "dissenting specified equity members"; the term "the following shareholders" in that paragraph is deemed to be replaced with "the following specified equity members"; the term "shareholders meeting" in Article 182-4, paragraph (2), item (i) of that Act is deemed to be replaced with "general meeting of members"; the term "A shareholder who" in that item is deemed to be replaced with "A specified equity member that"; the term "shareholders meeting" in Article 182-4, paragraph (2), item (ii) of that Act is deemed to be replaced with "general meeting of members"; the term "A shareholder who may not" in that item is deemed to be replaced with "A specified equity member that may not"; the term "shareholders" in Article 182-4, paragraph (3) of that Act is deemed to be replaced with "specified equity members"; the term "exercise of appraisal rights" in Article 182-4, paragraph (4) of that Act is deemed to be replaced with

"exercise of appraisal rights for specified equity"; the phrase "the number of shares with regard to which the shareholder is exercising appraisal rights (or, for a company with class shares, the classes of the shares and the number of shares for each class)" in that paragraph is deemed to be replaced with "the number of units with regard to which the specified equity member is exercising appraisal rights for specified equity"; the term "exercise of appraisal rights" in Article 182-4, paragraph (6) of that Act is deemed to be replaced with "exercise of appraisal rights for specified equity"; the term "shareholder" in that paragraph is deemed to be replaced with "specified equity member"; the term "exercise of appraisal rights" in Article 182-4, paragraph (7) of that Act is deemed to be replaced with "exercise of appraisal rights for specified equity"; the term "exercise of appraisal rights" in Article 182-5, paragraph (1) of that Act is deemed to be replaced with "exercise of appraisal rights for specified equity"; the term "shareholder" in that paragraph is deemed to be replaced with "specified equity member"; the term "shareholders" in Article 182-5, paragraph (2) of that Act is deemed to be replaced with "specified equity member"; the term "shareholders" in Article 182-5, paragraph (3) of that Act is deemed to be replaced with "specified equity members"; the term "exercise of appraisal rights" in that paragraph is deemed to be replaced with "exercise of appraisal rights for specified equity"; the term "shareholders" in Article 182-5, paragraph (5) of that Act is deemed to be replaced with "specified equity members"; the term "exercise of appraisal rights" in Article 182-5, paragraph (6) of that Act is deemed to be replaced with "exercise of appraisal rights for specified equity"; the term "number" in Article 182-6, paragraph (1) of that Act is deemed to be replaced with "number of units"; the term "shareholders" in Article 182-6, paragraph (3) of that Act is deemed to be replaced with "specified equity members"; the term "the preceding paragraph" in Article 234, paragraph (2) of that Act is deemed to be replaced with "Article 235, paragraph (1) as applied mutatis mutandis pursuant to Article 38 of the Asset Securitization Act"; the term "number" in Article 235, paragraph (1) of that Act is deemed to be replaced with "number of units"; the term "shareholders" in that paragraph is deemed to be replaced with "specified equity members"; and Cabinet Order provides for any other necessary technical replacement of terms.

Subsection 3 Preferred Equity Members

(Issuance of Preferred Equity)

Article 39 (1) A specified purpose company may solicit persons to subscribe for preferred equity in accordance with the provisions of the asset securitization plan and as decided by the director (or as decided by a majority of the directors, if there are multiple directors).

- (2) At a Type II Specified Purpose Company as set forth in Article 51, paragraph (1), item (ii), if the amount to be paid in for preferred equity for subscription (meaning preferred equity that is to be allotted to persons offering to subscribe for preferred equity in response to the solicitation referred to in the preceding paragraph; hereinafter the same applies in this Subsection) (such an amount means the amount of monies to be paid in exchange for one unit of preferred equity for subscription; hereinafter the same applies in this Subsection) is particularly favorable to the persons subscribing for that preferred equity for subscription, the directors, at a general meeting of members, must explain the reason for the need to solicit those persons at that amount to be paid in, and the class, the number of units, and the amount to be paid in for that preferred equity for subscription must be determined by resolution at a general meeting of members.
- (3) A preferred equity member is entitled to vote on the resolution referred to in the preceding paragraph.
- (4) The provisions of Article 199, paragraph (5) (Determination of Subscription Requirements) of the Companies Act apply mutatis mutandis to the amount to be paid in for preferred equity for subscription.

(Offers Involving Preferred Equity for Subscription)

Article 40 (1) A specified purpose company must notify a person seeking to offer to subscribe for preferred equity for subscription in response to the solicitation referred to in paragraph (1) of the preceding Article of the following information:

- (i) its trade name and the date of its notification of commencement of business (and if it has filed a notification of a new plan, the date of the notification of the new plan);
- (ii) the details (including preferential conditions with regard to the distribution of profits or distribution of residual assets) and the total number of units of preferred equity for subscription;
- (iii) the amount to be paid in for preferred equity for subscription or the method of calculating the amount;
- (iv) if the asset securitization plan provides for the issuance of other preferred equity, the information set forth in the preceding two items with regard to that other preferred equity and the status of its issuance;
- (v) if the asset securitization plan provides for the issuance of specified bonds, specified short-term bonds, or specified promissory notes, the information set forth in Article 122, paragraph (1), items (iv) through (viii) and item (xiv) for the specified bonds and the status of their issuance, the limits on the amounts of specified short-term bonds or specified promissory notes it may issue, any other information that Cabinet Office Order prescribes, and the

- issuance status;
- (vi) if the asset securitization plan provides for specified borrowings, the limit on the amount it may borrow and any other information that Cabinet Office Order prescribes, and the status of the borrowings;
 - (vii) the type of specified assets (excluding secondary specified assets) prescribed in the asset securitization plan, information sufficient to identify those specified assets, rights to those specified assets that may be asserted against the specified purpose company, and an outline of other information that a person needs in order to learn the value of those specified assets;
 - (viii) the information that each of the following sub-items prescribes in accordance with the category of specified assets referred to in the preceding item that is set forth in each sub-item:
 - (a) land or buildings or its associated rights, or assets that Cabinet Order prescribes: the appraised value as determined through a real property appraisal of the assets by a real property appraiser as prescribed by Cabinet Order;
 - (b) assets other than those set forth in (a): the results of an investigation into the value of those assets by a person other than the specified purpose company that Cabinet Order prescribes.
 - (ix) the place where the payments are handled;
 - (x) if a person has promised to subscribe for any shortfall in the number of units of preferred equity in the event that the number of units of preferred equity for which persons offer to subscribe fails to reach the total number of units of preferred equity referred to in item (ii), the name of that person;
 - (xi) if it is decided that subscribers may rescind their subscriptions for preferred equity for subscription if the preferred equity is not issued by a specific date, an indication of this and that specific date; and
 - (xii) beyond what is set forth in the preceding items, information that Cabinet Office Order prescribes.
- (2) A person seeking to offer to subscribe for preferred equity for subscription in response to the solicitation referred to in paragraph (1) of the preceding Article must deliver a document stating the following information to the specified purpose company:
- (i) the name and address of the person seeking to make the offer; and
 - (ii) the number of units of preferred equity for subscription for which the person seeks to subscribe.
- (3) In lieu of delivering a document referred to in the preceding paragraph, a person making an offer referred to in that paragraph may provide the company with the information that is required to be entered in the document referred to in that paragraph by electronic or magnetic means (meaning by using an electronic data processing system or applying other information and

communications technology by means that Cabinet Office Order prescribes; hereinafter the same applies except in Article 194, paragraph (1), item (iii)) with the consent of the specified purpose company, pursuant to Cabinet Order provisions. In such a case, the person making the offer is deemed to have delivered the document referred to in the preceding paragraph.

- (4) The provisions of paragraph (1) do not apply to cases in which the specified purpose company has delivered a prospectus as prescribed in Article 2, paragraph (10) of the Financial Instruments and Exchange Act stating the information set forth in the items of that paragraph to the person seeking to make an offer as referred to in paragraph (1), and to other cases that Cabinet Office Order prescribes as those that are unlikely to result in insufficient protection of the person seeking to make the offer to subscribe for preferred equity for subscription.
- (5) If information as set forth in the items of paragraph (1) changes, the specified purpose company must immediately notify a person that has offered to subscribe as referred to in paragraph (2) (hereinafter the person is referred to as an "offeror" in this Subsection) of this and of the information that has changed.
- (6) It is sufficient for a notice or demand that a specified purpose company issues to an offeror to be sent to the address referred to in paragraph (2), item (i) (or, if the offeror has notified the specified purpose company of another place or contact address for receiving notices or demands, that place or contact address).
- (7) The notice or demand referred to in the preceding paragraph is deemed to have arrived at the time that it would normally arrive.
- (8) A director must respond to a request by an offeror to inspect the asset securitization plan or to be issued a certified copy or extract of the asset securitization plan.
- (9) With the consent of the offeror, in lieu of delivering a certified copy or extract of the asset securitization plan under the provisions of the preceding paragraph, a director may use electronic or magnetic means to provide the offeror with the information that is required to be entered in the certified copy or extract of the asset securitization plan, pursuant to Cabinet Order provisions. In such a case, the director is deemed to have issued the offeror a certified copy or extract of the asset securitization plan.
- (10) Assets other than money may not be the subject of contribution for preferred equity.

(Allotting and Paying In Preferred Equity for Subscription)

Article 41 (1) A specified purpose company must decide which of the persons among the offerors the preferred equity for subscription are to be allotted preferred equity for subscription and the number of units of preferred equity

for subscription to be allotted to those persons. In this case, the specified purpose company may reduce the number of units of preferred equity for subscription to be allotted to the offerors to below the number referred to in paragraph (2), item (ii) of the preceding Article.

- (2) The provisions of paragraphs (1) through (7) of the preceding Article and the preceding paragraph do not apply if a person seeking to subscribe for preferred equity for subscription concludes a contract to subscribe for the total number of units thereof.
- (3) A person as set forth in one of the following items is a subscriber for the number of units of preferred equity for subscription prescribed in that item:
 - (i) an offeror: the number of units of preferred equity for subscription allotted by the specified purpose company; and
 - (ii) a person subscribing for the total number of units of preferred equity for subscription under a contract referred to in the preceding paragraph: the number of units of preferred equity for subscription for which the person has subscribed.
- (4) Once the total number of units of preferred equity for subscription have been subscribed for, the director, without delay, must have each of the subscribers pay in the full amount to be paid in for the preferred equity for subscription for which they have subscribed (hereinafter referred to as "performance of contribution" in this Subsection), at the place where the bank or equivalent entity that the specified purpose company specifies for handling the payments.
- (5) The provisions of Article 208, paragraphs (4) and (5) (Performance of Contributions) of the Companies Act apply mutatis mutandis to a specified purpose company's preferred equity for subscription. In such a case, the term "shareholder" in paragraphs (4) and (5) of that Article is deemed to be replaced with "preferred equity member".
- (6) The provisions of Article 64 (Certificate of Deposit of Paid Monies) of the Companies Act apply mutatis mutandis to a bank or equivalent entity handling the performance of contributions as referred to in paragraph (4), and the provisions of Article 211 (Restrictions on Invalidation or Rescission of Subscription) of that Act apply mutatis mutandis to preferred equity for subscription. In such a case, the term "Article 57, paragraph (1)" in Article 64, paragraph (1) of the Companies Act is deemed to be replaced with "Article 39, paragraph (1) of the Asset Securitization Act"; the term "incorporators" in Article 64, paragraph (1) of the Companies Act is deemed to be replaced with "directors"; the term "stock company after establishment" in paragraph (2) of that Article is deemed to be replaced with "specified purpose company"; the term "Article 205, paragraph (1)" in Article 211, paragraph (1) of the Companies Act is deemed to be replaced with "Article 41, paragraph (2) of the Asset Securitization Act"; the term "Article 209, paragraph (1)" in Article 211,

paragraph (2) of the Companies Act is deemed to be replaced with "Article 42, paragraph (2) of the Asset Securitization Act"; the term "shareholder" in Article 211, paragraph (2) of the Companies Act is deemed to be replaced with "preferred equity member"; and the term "shares" in that paragraph is replaced with "preferred equity".

(Registration of Issuance of Preferred Equity; Timing of Obtaining Preferred Equity Member Status)

- Article 42 (1) A specified purpose company must register the following information in the locality of its head office as information about the issuance of preferred equity within two weeks from the date on which payment is made in full for the total number of units of preferred equity it has issued:
- (i) the amount of preferred capital (except as otherwise provided for in this Act, this means the amount of assets paid to the specified purpose company by persons that are to become preferred equity members at the time of issuance of preferred equity; the same applies hereinafter);
 - (ii) if the specified purpose company issues two or more classes of preferred equity with different features, the total number of units of preferred equity, the number of units by class of preferred equity, preferential conditions for the distribution of profits or distribution of residual assets, and the provisions on cancellation; and
 - (iii) if the register of preferred equity members has an administrator (meaning a person that handles the preparation and keeping of the register of preferred equity members and other affairs associated with the register in lieu of the specified purpose company; the same applies hereinafter), the name, address, and business office of the administrator.
- (2) A subscriber for preferred equity for subscription becomes a preferred equity member holding the preferred equity for subscription for which the subscriber has made a payment under the provisions of paragraph (4) of the preceding Article on the date of registration referred to in the preceding paragraph.
- (3) If any part of the preferred equity issued by a specified purpose company remains unsubscribed for at the time of the registration referred to in paragraph (1), the directors are deemed to have jointly subscribed for that part of the equity. The same applies if a subscriber for preferred equity rescinds its manifestation of intention to subscribe for the preferred equity for subscription issued by the specified purpose company after the registration referred to in paragraph (1) has been made.
- (4) If there is preferred equity issued by a specified purpose company for which a payment under the provisions of paragraph (4) of the preceding Article has not been made at the time of the registration referred to in paragraph (1), the directors have a joint and several obligation to pay the amount that has not

been paid in.

- (5) The provisions of Article 210 (Demanding Cessation of the Issuing of Shares for Subscription) of the Companies Act apply mutatis mutandis to the issuance of preferred equity in connection with solicitation referred to in Article 39, paragraph (1) by a specified purpose company, and the provisions of Article 212, paragraph (1) (Liabilities of Persons who Subscribed for Shares with Unfair Amount To Be Paid In) (but only the part that involves item (i)) of that Act apply mutatis mutandis to a subscriber for a specified purpose company's preferred equity for subscription. In such a case, the term "shareholders" in Article 210 of the Companies Act is deemed to be replaced with "members"; the phrase "any law or regulation, or articles of incorporation" in item (i) of that Article is deemed to be replaced with "any law or regulation, the asset securitization plan, or the articles of incorporation"; and Cabinet Order provides for any other necessary technical replacement of terms.
- (6) The provisions of Article 828, paragraph (1) (but only the part that involves item (ii)) and paragraph (2) (but only the part that involves item (ii)) (Actions Seeking Invalidation of Acts Concerning the Organization of a Company); Article 834 (but only the part that involves item (ii)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Article 836, paragraph (1) and paragraph (3) (Order to Provide Security); Articles 837 through 840 (Mandatory Consolidation of Oral Arguments; Persons Affected by an Upholding Judgment; Effects of a Judgment of Invalidation, Revocation or Rescission; Effects of a Judgment of Invalidation of New Share Issue); Article 846 (Liability for Damages in Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (b)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action to invalidate the issuance of preferred equity by a specified purpose company, and the provisions of Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); the main text of Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (ii)) (Immediate Appeal); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Articles 875 through 877 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act; Supreme Court Rules; Mandatory Consolidation of Hearings); and Article 878, paragraph (1) (Effects of a Judicial Decision) of that Act apply mutatis mutandis to a petition under Article 840, paragraph (2) of that Act as applied mutatis mutandis pursuant to this paragraph. In such a case, the phrase "within six months from the day on which the share issue became effective (or, for a stock company which is not a public company, within one year from the day on which the share issue became effective)" in Article 828, paragraph (1), item (ii) of the Companies Act is is deemed to be replaced

with "within one year"; the term "Shareholder, etc." in paragraph (2), item (ii) of that Article is deemed to be replaced with "member, director, company auditor, or liquidator"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (7) The provisions of Article 829 (but only the part that involves item (i)) (Action for Declaratory Judgment of Absence of a New Share Issue); Article 834 (but only the part that involves item (xiii)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Articles 836 through 838 (Order to Provide Security; Mandatory Consolidation of Oral Arguments; Persons Affected by an Upholding Judgment); Article 846 (Liability for Damages in Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (e)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action seeking a declaratory judgment establishing the non-issuance of preferred equity by a specified purpose company. In such a case, Cabinet Order provides for the necessary technical replacement of terms.
- (8) The provisions of Article 97, paragraph (3) and the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2); Article 847-2; Article 847-3; Article 849, paragraph (2), paragraph (3), and paragraphs (6) through (11); Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Action to Enforce Liability at a Stock Company) of the Companies Act apply mutatis mutandis to an action for demanding payment under the provisions of Article 212, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (5). In such a case, the term "shareholder (excluding a holder of shares less than one unit who may not exercise rights pursuant to the provisions of the articles of incorporation) having the shares consecutively for the preceding six months (or, in cases where a shorter period is prescribed in the articles of incorporation, that period)" in Article 847, paragraph (1) of the Companies Act is deemed to be replaced with "specified equity member, or a preferred equity member that has held preferred equity continuously for the preceding six months or more (or, if a shorter period is prescribed in the articles of incorporation, that period or more)"; the term "shareholder" in paragraph (3) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder who made such demand or the incorporator, etc. referred to in that paragraph" in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (5) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article

847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "the shareholder, etc." in that paragraph is deemed to be replaced with "that specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849, paragraph (1) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholders" in paragraph (5) of that Article is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (9) The provisions of Article 915, paragraph (1) (Registration of a Change) of the Companies Act apply mutatis mutandis to a specified purpose company. In such a case, the phrase "in the items of Article 911, paragraph (3) or in the items of the preceding three Articles" in that paragraph is deemed to be replaced with "in the items of Article 42, paragraph (1) of the Asset Securitization Act".

(Register of Preferred Equity Members)

Article 43 (1) A specified purpose company must prepare a register of preferred equity members and enter or record the following information in the register:

- (i) the name and address of each preferred equity member;
 - (ii) the class and the number of units of preferred equity held by each preferred equity member referred to in the preceding item;
 - (iii) the day on which each preferred equity member referred to in item (i) acquired the preferred equity; and
 - (iv) the serial numbers of the preferred equity securities associated with the preferred equity referred to in item (ii) (but only equity for which preferred equity securities are issued).
- (2) A specified purpose company may fix a specific date (hereinafter referred to as the "reference date" in this Subsection) and establish that the preferred equity members entered or recorded in the register of preferred equity members as of the reference date are the persons that may exercise their rights.
- (3) The provisions of Article 123 (Administrator of Shareholder Register); Article 124, paragraphs (2) and (3) (Record Date), Article 125, paragraphs (1) through (3) (Keeping and Making Available for Inspection of Shareholder Register); and

Article 126 (Notice to Shareholders) of the Companies Act apply mutatis mutandis to a register of preferred equity members listing the preferred equity members of a specified purpose company, and the provisions of Article 196, paragraphs (1) and (2) (Omission of Notices to Shareholders) of the Companies Act apply mutatis mutandis to a notice to a preferred equity member. In such a case, the term "administrator of shareholder register" in those provisions is deemed to be replaced with "administrator of the register of preferred equity members"; the term "shareholders as of the record date" in those provisions is deemed to be replaced with "preferred equity members entered or recorded in the register of preferred equity members as of the reference date"; the term "shares" in those provisions is deemed to be replaced with "preferred equity"; the terms "shareholder" and "shareholders" in Article 125, paragraphs (2) and (3) of that Act are deemed to be replaced with "member" and "members", respectively; the term "Article 299, paragraph (1) (including as applied mutatis mutandis pursuant to Article 325)" in Article 126, paragraph (5) of that Act is deemed to be replaced with "Article 56, paragraph (1) of the Asset Securitization Act (including as applied mutatis mutandis pursuant to Article 66, paragraph (3)) of that Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (4) The provisions of paragraph (2), the provisions of Article 124, paragraphs (2) and (3) of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph, and the provisions of Article 196, paragraph (3) (Omission of Notices to Shareholders) of the Companies Act apply mutatis mutandis to a pledgee for which the information set forth in the items of Article 148 of the Companies Act as applied mutatis mutandis pursuant to Article 45, paragraph (4) has been entered or recorded in the register of preferred equity members (hereinafter referred to as a "registered pledgee of preferred equity").
- (5) If a specified purpose company has not issued preferred equity securities pursuant to the provisions of Article 217, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 49, paragraph (2) for all of the preferred equity, the company may, in lieu of the public notice referred to in Article 124, paragraph (3) of that Act as applied mutatis mutandis pursuant to paragraph (3) (including as applied mutatis mutandis pursuant to the preceding paragraph), notify the preferred equity members, the registered pledgees of preferred equity, and persons holding convertible specified bonds or subscription rights for new preferred equity of the information for which public notice is required to be given.

(Transfer of Preferred Equity)

Article 44 (1) A preferred equity member may transfer the preferred equity the

member holds.

- (2) A specified purpose company must not restrict the transfer of preferred equity.
- (3) A transfer of preferred equity does not become effective unless the preferred equity security representing that preferred equity is delivered.
- (4) A transfer of preferred equity that is made prior to the issuance of preferred equity securities is not effective against the specified purpose company.

(Requirements for Perfection of Transfers of Preferred Equity)

Article 45 (1) A transfer of preferred equity may not be asserted against the specified purpose company unless the name and address of the person acquiring the preferred equity have been entered or recorded in the register of preferred equity members.

- (2) The possessor of a preferred equity security is presumed to be the lawful holder of rights to the preferred equity associated with the preferred equity security.
- (3) The provisions of Article 131, paragraph (2) (Presumption of Rights) of the Companies Act apply mutatis mutandis to a preferred equity security, and the provisions of Article 132, paragraph (1) and paragraph (2) (Entry or Recording of Information Required to Be Entered in the Shareholder Register Not Requested by Shareholders) and Article 133 (Entering or Recording Information Required to Be Entered in the Shareholder Register at the Request of Shareholders) of that Act apply mutatis mutandis to preferred equity of a specified purpose company. In such a case, the terms "shareholder" and "shareholders" in those provisions are deemed to be replaced with "preferred equity member" and "preferred equity members", respectively; the phrase "information that is required to be entered in the shareholder register" in those provisions is deemed to be replaced with "information set forth in the items of Article 43, paragraph (1) of the Asset Securitization Act"; the term "shareholder register" in those provisions is deemed to be replaced with "register of preferred equity members"; the term "shares" in Article 131, paragraph (2) of the Companies Act is deemed to be replaced with "preferred equity"; and the term "treasury shares" in Article 132, paragraph (1), item (iii) of that Act is deemed to be replaced with "the company's own preferred equity (meaning the company's own preferred equity prescribed in Article 59, paragraph (2) of the Asset Securitization Act)".
- (4) The provisions of Article 146 (Pledge of Shares); Article 147, paragraph (2) and paragraph (3) (Perfection of Pledges of Shares); Article 148 (Entries in Shareholder Register); Article 151, paragraph (1) (but only the part that involves items (iv), (viii), (ix), and (xiv)); Article 153, paragraph (2); and Article 154, paragraph (1) and paragraph (2) (but only the part that involves item (i)) (Effect of Pledge of Shares) of the Companies Act apply mutatis mutandis to

pledge of a specified purpose company's preferred equity. In such a case, the term "shareholders" in those provisions is deemed to be replaced with "preferred equity members"; the term "share certificates" in those provisions is deemed to be replaced with "preferred equity securities"; the term "registered pledgees of shares" in those provisions is deemed to be replaced with "registered pledgees of preferred equity"; the term "shareholder register" in Article 148 of the Companies Act is deemed to be replaced with "register of preferred equity members"; the term "surplus" in Article 151, paragraph (1) (viii) of that Act is deemed to be replaced with "profits"; the phrase "the cases provided for in paragraph (2) of the preceding Article" in Article 153, paragraph (2) of that Act is deemed to be replaced with "if preferred equity has been consolidated"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Specified Purpose Company's Acquisition of Its Own Preferred Equity)

Article 46 (1) Except in the following cases, a specified purpose company must not acquire its own preferred equity or receive a number of units of its own preferred equity exceeding one-twentieth of the total number of units of issued preferred equity (meaning preferred equity that the specified purpose company has issued; the same applies hereinafter) as the subject of a pledge:

- (i) if the specified purpose company is doing so in order to cancel its preferred equity;
- (ii) if it is necessary for the specified purpose company to do so in using its rights to achieve its purpose; or
- (iii) if the specified purpose company is purchasing preferred equity in response to a demand under Article 182-4, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 153, paragraph (1) or Article 50, paragraph (1).

(2) A specified purpose company must undertake the process to invalidate preferred equity acquired as referred to in item (i) of the preceding paragraph without delay, and must dispose of preferred equity or a pledge acquired as referred to in item (ii) or item (iii) of that paragraph at an appropriate time.

(Cancellation of Preferred Equity)

Article 47 (1) A specified purpose company may not cancel preferred equity other than pursuant to the provisions of the following paragraph, Article 109, or Article 110, or after obtaining approval at a general meeting of members referred to in Article 159, paragraph (1).

(2) A specified purpose company may, pursuant to the provisions of the asset securitization plan, cancel preferred equity by purchasing preferred equity using the profits to be distributed to preferred equity members. In such a case,

the director must fix the date on which the cancellation becomes effective.

- (3) If a specified purpose company cancels preferred equity, the specified purpose company must issue public notice by one month prior to the date that has been fixed by the director as the date on which the cancellation is to become effective (referred to as the "effective date" in the following paragraph), indicating that preferred equity securities representing the preferred equity must be submitted to the specified purpose company by that date, and must separately notify each preferred equity member and registered pledgee of preferred equity associated with the preferred equity of this.
- (4) Notwithstanding the provisions of the preceding paragraph, if a specified purpose company has not issued preferred equity securities pursuant to the provisions of Article 217, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 49, paragraph (2) for all of the preferred equity, the specified purpose company must issue public notice by two weeks prior to the effective date, indicating that it will cancel preferred equity pursuant to the provisions of paragraph (1) and that the cancellation of the preferred equity is to become effective on the effective date.
- (5) The provisions of Article 43, paragraph (5) apply mutatis mutandis to the public notice referred to in the preceding paragraph.
- (6) The provisions of Article 219, paragraph (2) (but only the part that involves item (i)) and paragraph (3) (Public Notice in Relation to Submission of Share Certificate) and Article 220 (Cases Where Share Certificates Cannot Be Submitted) of the Companies Act apply mutatis mutandis to submission of preferred equity securities in connection with the cancellation of preferred equity in a specified purpose company. In such a case, the term "share certificate submission day" in Article 219, paragraph (2) of the Companies Act is deemed to be replaced with "the date on which the action becomes effective"; the term "shareholders" in that paragraph is deemed to be replaced with "preferred equity members"; the phrase "acts listed in items (i) through (iv) of the preceding paragraph" in item (i) of that paragraph is deemed to be replaced with "cancellation of preferred equity"; the phrase "the shares provided for in each item of paragraph (1)" in paragraph (3) of that Article is deemed to be replaced with "the preferred equity that is to be cancelled"; the term "share certificate submission day" in that paragraph is deemed to be replaced with "the date on which the action becomes effective"; and the term "the acts listed in each item of paragraph (1) of the preceding Article" in Article 220, paragraph (1) of that Act is deemed to be replaced with "the cancellation of preferred equity".

(Issuance of Preferred Equity Securities)

Article 48 (1) A specified purpose company must issue preferred equity

securities without delay on or after the date on which the company makes the registration under the provisions of Article 42, paragraph (1).

- (2) Preferred equity securities may not be issued until after the registration referred to in the preceding paragraph has been made.
- (3) The provisions of Article 215, paragraph (2) (Issuing of Share Certificate) of the Companies Act apply mutatis mutandis to the preferred equity securities of a specified purpose company. In such a case, the term "shares" in that paragraph is deemed to be replaced with "preferred equity" and the term "Article 180, paragraph (2), item (ii)" in that paragraph is deemed to be replaced with "Article 180, paragraph (2), item (ii) as applied mutatis mutandis pursuant to Article 50, paragraph (1) of the Asset Securitization Act".

(Information Required to Be Entered in Preferred Equity Securities)

Article 49 (1) A specified purpose company must enter the following information and the serial number in a preferred equity security, and the representative directors of the specified purpose company must sign it or affix their names and personal seals to it:

- (i) the trade name of the specified purpose company and the date of the notification of commencement of business (or, if the specified purpose company has filed a notification of a new plan, the date of the notification of the new plan);
 - (ii) the number of units of preferred equity associated with the preferred equity security; and
 - (iii) the details of the preferred equity.
- (2) The provisions of Article 217 (Offer Not to Possess Share Certificates) and Article 291 (Loss of Share Option Certificates) of the Companies Act apply mutatis mutandis to a preferred equity security representing preferred equity held by a preferred equity member of a specified purpose company. In such a case, the terms "number" and "company with class shares" in Article 217, paragraph (2) of the Companies Act are deemed to be replaced with "number of units" and "specified purpose company issuing two or more classes of preferred equity", respectively; and the term "shareholder register" in paragraph (3) of that Article is deemed to be replaced with "register of preferred equity members".

(Application, Mutatis Mutandis, of the Companies Act to Preferred Equity)

Article 50 (1) The provisions of Article 180 (excluding paragraph (2), item (iv) and paragraphs (3) and (4)) (Consolidation of Shares); Article 181 (Notices to Shareholders); Article 182, paragraph (1) (Effectuation); and Articles 182-2 through 182-6 (Keeping and Inspection of Documents related to the Consolidation of Shares; Request to Cease Consolidation of Shares; Dissenting

Shareholders' Appraisal Rights; Determination of the Price of Shares; Keeping and Inspection of Documents related to Consolidation of Shares) of the Companies Act apply mutatis mutandis to consolidation of a specified purpose company's preferred equity. In such a case, the term "shareholders meeting" in Article 180, paragraph (2) of the Companies Act is deemed to be replaced with "general meeting of members"; the term "company with class shares" in item (iii) of that paragraph is deemed to be replaced with "specified purpose company issuing two or more classes of preferred equity"; the term "shareholders (or, for a company with class shares, the class shareholders for the classes of shares under paragraph (2), item (iii) of the preceding Article" in Article 181, paragraph (1) of that Act is deemed to be replaced with "preferred equity members (or, for a specified purpose company issuing two or more classes of preferred equity, the preferred equity members for the classes of preferred equity under paragraph (2), item (iii) of the preceding Article"; the term "registered pledgees of the shares" in that paragraph is deemed to be replaced with "registered pledgees of preferred equity"; the term "shareholders" in Article 182, paragraph (1) of that Act is deemed to be replaced with "preferred equity members"; the term "shares (or, for a company with class shares, shares of the classes provided for in Article 180, paragraph (2), item (iii))" in that Article is deemed to be replaced with "preferred equity (or, for a specified purpose company issuing two or more classes of preferred equity, preferred equity of the classes provided for in Article 180, paragraph (2), item (iii))"; the term "number" in that paragraph is deemed to be replaced with "number of units"; the phrase "shareholders meeting under Article 180, paragraph (2) (in cases where a resolution of a class meeting is required for consolidation of shares, including the class meeting; the same applies in Article 182-4, paragraph (2))" in Article 182-2, paragraph (1), item (i) of that Act is deemed to be replaced with "general meeting of members"; the term "Article 319, paragraph (1)" in that item is deemed to be replaced with "Article 63, paragraph (1) of the Asset Securitization Act"; the term "shareholders" in Article 182-2, paragraph (2) of that Act is deemed to be replaced with "preferred equity members"; the term "laws and regulations or the articles of incorporation" in Article 182-3 of that Act is deemed to be replaced with "laws and regulations, the asset securitization plan, or the articles of incorporation"; the term "shareholders" in that Article is deemed to be replaced with "preferred equity members"; the term "one share in the number" in Article 182-4, paragraph (1) of that Act is deemed to be replaced with "one unit in the number of units"; the term "dissenting shareholders" in that paragraph is deemed to be replaced with "dissenting preferred equity members"; the term "one share from" in that paragraph is deemed to be replaced with "one unit from"; the term "dissenting shareholders" in Article 182-4, paragraph (2) of

that Act is deemed to be replaced with "dissenting preferred equity members"; the term "following shareholders" in that paragraph is deemed to be replaced with "following preferred equity members"; the term "shareholders meeting" in Article 182-4, paragraph (2), item (i) of that Act is deemed to be replaced with "general meeting of members"; the term "A shareholder who" in that item is deemed to be replaced with "A preferred equity member that"; the term "shareholders meeting" in Article 182-4, paragraph (2), item (ii) of that Act is deemed to be replaced with "general meeting of members"; the term "A shareholder who cannot" in that item is deemed to be replaced with "A preferred equity member that cannot"; the term "shareholders" in Article 182-4, paragraph (3) of that Act is deemed to be replaced with "preferred equity members"; the term "exercise of appraisal rights" in Article 182-4, paragraph (4) of that Act is deemed to be replaced with "demand for a preferred equity buy-out"; the term "the number of shares with regard to which the shareholder is exercising appraisal rights (or, for a company with class shares, the classes of the shares and the number of shares for each class)" in that paragraph is deemed to be replaced with "the number of units with regard to which the preferred equity member is demanding to be bought out of its preferred equity (or, for a specified purpose company issuing two or more classes of preferred equity, the classes of preferred equity and the number of units of preferred equity for each class)"; the term "exercise of appraisal rights" in Article 182-4, paragraph (5) of that Act is deemed to be replaced with "demand for a preferred equity buy-out"; the term "shareholders" in that paragraph is deemed to be replaced with "preferred equity members"; the term "exercise of appraisal rights" in Article 182-4, paragraph (6) of that Act is deemed to be replaced with "demand for a preferred equity buy-out"; the term "shareholder" in that paragraph is deemed to be replaced with "preferred equity member"; the term "exercise of appraisal rights" in Article 182-4, paragraph (7) of that Act is deemed to be replaced with "demand for a preferred equity buy-out"; the term "exercise of appraisal rights" in Article 182-5, paragraph (1) of that Act is deemed to be replaced with "demand for a preferred equity buy-out"; the term "shareholder" in that paragraph is deemed to be replaced with "preferred equity member"; the term "shareholders" in Article 182-5, paragraph (2) of that Act is deemed to be replaced with "preferred equity member"; the term "shareholders" in Article 182-5, paragraph (3) of that Act is deemed to be replaced with "preferred equity members"; the term "exercise of appraisal rights" in that paragraph is deemed to be replaced with "demand for a preferred equity buy-out"; the term "shareholders" in Article 182-5, paragraph (5) of that Act is deemed to be replaced with "preferred equity members"; the term "exercise of appraisal rights" in Article 182-5, paragraphs (6) and (7) of that Act is deemed to be replaced with "demand for a preferred equity buy-out";

the phrase "issued shares at the time when consolidation of shares comes into effect (in cases of a company with class shares, the total number of the issued shares of the classes under Article 180, paragraph (2), item (iii))" in Article 182-6, paragraph (1) of that Act is deemed to be replaced with "issued preferred equity at the time when consolidation of preferred equity comes into effect (or, for a specified purpose company issuing two or more classes of preferred equity, the total number of units of issued preferred equity of the classes under Article 180, paragraph (2), item (iii))"; the term "number" in that paragraph is deemed to be replaced with "number of units"; the term "shareholders" in Article 182-6, paragraph (3) of that Act is deemed to be replaced with "preferred equity preferred equity members"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (2) The provisions of Article 219, paragraph (1) (but only the part that involves item (ii)), paragraph (2) (but only the part that involves item (i)), and paragraph (3) (Public Notice in Relation to Submission of Share Certificate) and Article 220 (Cases Where Share Certificates Cannot Be Submitted) of the Companies Act apply mutatis mutandis to submission of preferred equity securities in connection with the consolidation of a specified purpose company's preferred equity. In such a case, the phrase "in cases of performing the act set forth in item (iv)-2, the acquisition day prescribed in Article 179-2, paragraph (1), item (v); hereinafter the day is referred to as the 'share certificate submission day'" in Article 219, paragraph (1) of the Companies Act is deemed to be replaced with "hereinafter referred to in this Article as the 'preferred equity securities submission day'"; the term "before the share certificate submission day" in that paragraph is deemed to be replaced with "before the preferred equity securities submission day"; the term "shareholder" in that paragraph is deemed to be replaced with "preferred equity member"; the term "registered pledgee of shares" in that paragraph is deemed to be replaced with "registered pledgee of preferred equity"; the term "shares (or, for a company with class shares, the class shares under Article 180, paragraph (2), item (iii))" in item (ii) of that paragraph is deemed to be replaced with "preferred equity (or, for a specified purpose company issuing two or more classes of preferred equity, preferred equity of the classes under Article 180, paragraph (2), item (iii) as applied mutatis mutandis pursuant to Article 50, paragraph (1) of the Asset Securitization Act)"; the term "share certificate submission day" in Article 219, paragraph (2) of the Companies Act is deemed to be replaced with "preferred equity securities submission day"; the term "shareholders" in that paragraph is deemed to be replaced with "preferred equity members"; the term "acts listed in the items (i) through (iv) of the preceding paragraph" in item (i) of that paragraph is deemed to be replaced with "consolidation of preferred equity"; the term "share certificate submission day" in paragraph (3) of that

Article is deemed to be replaced with "preferred equity securities submission day"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (3) The provisions of Article 234, paragraph (2) and Article 235, paragraph (1) (Treatment of Fractions); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 869 (Prima Facie Showing); Article 871 (Appending of the Reason); Article 874 (but only the part that involves item (iv)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the cancellation and consolidation of a specified purpose company's preferred equity, and the provisions of Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (2) (but only the part that involves item (ii)) (Hearing of Statements); Article 870-2 (Sending a Copy of the Written Petition); the main text of Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (v)) (Immediate Appeal); Article 872-2 (Sending of a Copy of Petition for Appeal); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to a demand under Article 182-4 (1) of the Companies Act as applied mutatis mutandis pursuant to paragraph (1). In such a case, the term "the preceding paragraph" in Article 234, paragraph (2) of the Companies Act is deemed to be replaced with "Article 235, paragraph (1) as applied mutatis mutandis pursuant to Article 50, paragraph (3) of the Asset Securitization Act"; the term "one share in the number" in Article 235, paragraph (1) of Companies Act is deemed to be replaced with "one unit in the number of units"; the term "shareholders" in that paragraph is deemed to be replaced with "preferred equity members"; and Cabinet Order provides for any other necessary technical replacement of terms.

Section 4 Administrative Organs of Specified Purpose Companies

Subsection 1 General Meetings of Members

(Types of General Meetings of Members and Authority Thereof)

Article 51 (1) In the provisions of this Section through Section 7, Section 10, and Section 11, the meanings of the terms set forth as follows are as prescribed in each respective item:

- (i) Type I Specified Purpose Company: a specified purpose company with no preferred equity members;
- (ii) Type II Specified Purpose Company: a specified purpose company with

- preferred equity members;
- (iii) matters subject to exclusive voting: any of the following matters:
 - (a) a matter that should be made the subject of a Type I Specified Purpose Company's general meeting of members; and
 - (b) a matter that should be made the subject of a Type II Specified Purpose Company's general meeting of members, other than one on which preferred equity members are entitled to vote pursuant to the provisions of this Act or the articles of incorporation.
 - (iv) matters subject to inclusive voting: a matter that should be made the subject of a Type II Specified Purpose Company's general meeting of members and on which preferred equity members are entitled to vote pursuant to the provisions of this Act or the articles of incorporation.
- (2) At a general meeting of members, members may pass resolutions on the particulars prescribed in this Act, on the organization, operations, and administration of the specified purpose company, and on all particulars concerning the specified purpose company.
- (3) A provision of the articles of incorporation is null and void if it provides that the directors or an administrative organ other than a general meeting of members may decide on a matter that, pursuant to the provisions of this Act, requires a resolution at a general meeting of members.

(Convocation of General Meetings of Members)

- Article 52 (1) Annual general meetings of members must be convened at a certain time after the end of each business year.
- (2) A general meeting of members may be convened whenever necessary.
- (3) A general meeting of members is convened by the directors, except for cases in which it is convened pursuant to the provisions of Article 297, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to paragraph (5) of the following Article.

(Members' Demand to Convene Meetings)

- Article 53 (1) Specified equity members holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of all specified equity members' voting rights may demand that the directors convene a general meeting of members, indicating a matter that is the subject for a general meeting of members (but only one with respect to which those specified equity members are entitled to vote) and a reason for convocation.
- (2) Other than in the case referred to in the preceding paragraph, for a general meeting of members with a matter subject to inclusive voting as its subject, preferred equity members holding voting rights that account for three percent

(or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of all preferred equity members' voting rights continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period) may demand that the directors convene a general meeting of members, indicating a matter that is the subject for a general meeting of members (but only one with respect to which those preferred equity members are entitled to vote) and a reason for convocation.

(3) Voting rights held by specified equity members that are not entitled to a vote with regard to a matter that is the subject of a general meeting of members as referred to in paragraph (1) are not included in the calculation of the number of all specified equity members' voting rights as referred to in paragraph (1); and voting rights held by preferred equity members that are not entitled to a vote with regard to a matter that is the subject of a general meeting of members as referred to in the preceding paragraph are not included in the calculation of the number of all preferred equity members' voting rights as referred to in the preceding paragraph.

(4) Notwithstanding the provisions of the preceding three paragraphs, the articles of incorporation may provide that it is not permissible to demand convocation of a general meeting of members for which the subject of the meeting is the appointment or dismissal of a director.

(5) The provisions of Article 297, paragraph (4) (Demand for Calling of Meeting by Shareholders); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 869 (Prima Facie Showing); Article 871 (Appending of the Reason); Article 874 (but only the part that involves item (iv)) (Restrictions of Appeal); Article 875 (Exclusion from the Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis if a member demands that a general meeting of members be convened pursuant to the provisions of paragraph (1) or paragraph (2). In such a case, the phrase "the shareholders who made the request pursuant to the provisions of paragraph (1)" in Article 297, paragraph (4) of that Act is deemed to be replaced with "the specified equity members making the demand pursuant to Article 53, paragraph (1) of the Asset Securitization Act or the preferred equity members making the demand pursuant to paragraph (2) of that Article" and the phrase "the request pursuant to the provisions of paragraph (1)" in Article 297, paragraph (4), items (i) and (ii) of the Companies Act is deemed to be replaced with "the demand under the provisions of Article 53, paragraph (1) or (2) of the Asset Securitization Act".

(Decision to Convene General Meetings of Members)

Article 54 (1) In convening a general meeting of members, a director (or, if the

members convene a general meeting of members pursuant to the provisions of Article 297, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to paragraph (5) of the preceding Article, those members; the same applies in the following Article and Article 56) must specify the following particulars:

- (i) the date, time, and place of the general meeting of members;
 - (ii) the subject of the general meeting of members;
 - (iii) if it is decided that specified equity members not attending the general meeting of members may vote in writing, an indication of this;
 - (iv) if it is decided that members not attending the general meeting of members may vote (or that preferred equity members may vote on matters subject to inclusive voting) by electronic or magnetic means, an indication of this; and
 - (v) beyond what is set forth in the preceding items, particulars that Cabinet Office Order prescribes.
- (2) A preferred equity member not attending a general meeting of members may vote in writing on matters subject to inclusive voting.
- (3) If there are two or more directors, the decision on the particulars set forth in the items of paragraph (1) must be made by a majority of the directors.

(Convocation Notices for General Meetings of Members)

Article 55 (1) To convene a general meeting of members of a Type I Specified Purpose Company or to convene a general meeting of members of a Type II Specified Purpose Company that has only matters subject to exclusive voting as the subject, the director must send a notice to each of the specified equity members (other than specified equity members not entitled to vote on all of the matters that may be resolved at the general meeting of members; hereinafter the same applies in this Article) by two weeks prior (or, in a case other than one in which the particulars set forth in Article 54, paragraph (1), item (iii) or (iv) have been specified, one week (or, if a shorter period is provided for in the articles of incorporation, that period)) prior to the day of the general meeting of members.

- (2) If the particulars set forth in Article 54, paragraph (1), item (iii) or (iv) have been specified, the notice referred to in the preceding paragraph must be given in writing.
- (3) In lieu of sending a notice in writing as referred to in the preceding paragraph, a director, pursuant to the provisions of Cabinet Order and with the consent of the specified equity members, may send the notice by electronic or magnetic means. In such a case, the director is deemed to have sent the notice in writing as referred to in that paragraph.
- (4) The particulars set forth in the items of Article 54, paragraph (1) must be entered or recorded in the notice referred to in the preceding two paragraphs.

- (5) Notwithstanding the provisions of the preceding paragraphs, a general meeting of members as referred to in paragraph (1) may be held without following the procedures for convening such a meeting, with the consent of all of the specified equity members; provided, however, that this does not apply if the particulars set forth in Article 54, paragraph (1), item (iii) or (iv) have been specified.
- (6) The provisions of Article 301 (Giving of Reference Documents for Shareholders Meeting and Voting Forms) of the Companies Act apply mutatis mutandis if the particulars set forth in Article 54, paragraph (1), item (iii) have been specified and the notice referred to in paragraph (1) is to be sent; and the provisions of Article 302 (Giving of Reference Documents for Shareholders Meeting and Voting Forms) of that Act apply mutatis mutandis if the particulars set forth in Article 54, paragraph (1), item (iv) have been specified and the notice referred to in paragraph (1) is to be sent. In such a case, the terms "shareholder", "reference documents for shareholders meeting", and "Article 299, paragraph (3)" in Article 301 and Article 302 of the Companies Act are deemed to be replaced with "specified equity members", "reference documents for a general meeting of members", and "Article 55, paragraph (3) of the Asset Securitization Act", respectively; and the term "the shareholders meeting" in Article 302, paragraph (4) of that Act is deemed to be replaced with "the general meeting of members".

(Special Provisions on Convocation Notices for General Meetings of Members)
Article 56 (1) In convening a general meeting of members that includes a matter subject to inclusive voting as the subject of the meeting, the director must send a convocation notice of that meeting in writing to each member (excluding any member not entitled to vote on all of the matters that may be resolved at the general meeting of members; hereinafter the same applies in this Article) by two weeks prior to the day of the general meeting of members.

- (2) The particulars set forth in the items of Article 54, paragraph (1) must be entered or recorded in the notice referred to in the preceding paragraph.
- (3) The provisions of paragraph (3) of the preceding Article and Article 301 (Giving of Reference Documents for Shareholder Meeting and Voting Forms) of the Companies Act apply mutatis mutandis to the notice referred to in paragraph (1) and the provisions of Article 302 (Giving of Reference Documents for Shareholder Meeting and Voting Forms) of that Act apply mutatis mutandis if the particulars set forth in Article 54, paragraph (1), item (iv) are specified and the notice referred to in paragraph (1) is to be sent. In such a case, the term "the specified equity members" in paragraph (3) of the preceding Article is deemed to be replaced with "the members"; the terms "shareholder", "reference documents for shareholders meeting", and "Article 299, paragraph

(3)" in Article 301 and Article 302 of the Companies Act are deemed to be replaced with "members", "reference documents for a general meeting of members", and "Article 55, paragraph (3) of the Asset Securitization Act as applied mutatis mutandis pursuant to Article 56, paragraph (3) of the Asset Securitization Act", respectively; and the term "shareholders meeting" in Article 302, paragraph (4) of the Companies Act is deemed to be replaced with "general meeting of members".

(Members' Right to Make Proposals)

Article 57 (1) A specified equity member or preferred equity member of a Type II Specified Purpose Company may demand that the director make a certain matter (but only a matter subject to inclusive voting (but only a matter with regard to which the preferred equity member is entitled to vote; the same applies in the following paragraph and paragraph (3))) the subject of a general meeting of members.

(2) A specified equity member or preferred equity member of a Type II Specified Purpose Company may submit a proposal at a general meeting of members with regard to a matter subject to inclusive voting that is the subject for a general meeting of members; provided, however, that this does not apply if the proposal violates a law or regulation, the asset securitization plan, or the articles of incorporation, or if three years have not elapsed since the date on which a proposal that was substantially the same as the proposal in question failed to obtain votes in favor constituting at least one-tenth (or, if a smaller proportion is provided for in the articles of incorporation, that proportion) of the votes of all members (other than members not entitled to vote on that proposal).

(3) A member may demand that the director notify the other members of the outline of the proposal that the member seeks to submit (or, if the notice referred to in Article 55, paragraph (2) or (3) is given (including as applied mutatis mutandis pursuant to paragraph (3) of the preceding Article), that the director enter or record the outline in that notice) with regard to a matter subject to inclusive voting that is the subject of a general meeting of members, by eight weeks (or, if a shorter period is provided for in the articles of incorporation, that period) prior to the day of the general meeting of members; provided, however, that this does not apply if the proposal violates a law or regulation, the asset securitization plan, or the articles of incorporation, or if three years have not elapsed since the date on which a proposal that was substantially the same as the proposal in question failed to obtain votes in favor constituting at least one-tenth (or, if a smaller proportion is provided for in the articles of incorporation, that proportion) of the votes of all members (other than members not entitled to vote on that proposal).

- (4) The preceding three paragraphs must not be construed to preclude a specified equity member from requesting that a certain matter (but only a matter subject to exclusive voting) be made the subject of a meeting or from submitting a proposal with regard to that matter at a general meeting of members.
- (5) The provisions of the preceding paragraphs do not preclude the articles of incorporation from providing otherwise with regard to a particular that involves the appointment or dismissal of directors.

(Appointment of Inspectors in Connection with Procedures for Convening General Meetings of Members)

- Article 58 (1) Prior to a general meeting of members, the specified purpose company, specified equity members holding at least one percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) of the voting rights of all the specified equity members (other than members not entitled to vote on all of the matters that may be resolved at a general meeting of members), or preferred equity members holding at least one percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) of the voting rights of all the preferred equity members (other than preferred equity members not entitled to vote on all of the matters that may be resolved at a general meeting of members) may file a petition with the court to appoint an inspector to investigate the procedures for convening the general meeting of members and the means of resolution.
- (2) The provisions of Article 306, paragraphs (3) through (7) (Election of Inspector on Calling Procedures of Shareholders Meeting); Article 307 (Determination by the Court of the Calling of Shareholders Meeting); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal), Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis if the petition referred to in the preceding paragraph is filed. In such a case, the term "the stock company" in Article 306, paragraphs (4) and (7) of that Act is deemed to be replaced with "the specified purpose company"; the term "a shareholders meeting" in Article 307, paragraph (1), item (i) and Article 307, paragraphs (2) and (3) of that Act is deemed to be replaced with "a general meeting of members"; the term "the shareholders" in Article 307, paragraph (1), item (ii) of that Act is deemed to be replaced with "the members"; and Cabinet Order provides for any other necessary technical

replacement of terms.

- (3) If the petition referred to in the preceding paragraph has been filed with regard to a general meeting of members whose subject is a matter subject to inclusive voting, the general meeting of members referred to in Article 307, paragraphs (2) and (3) of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph is deemed to be the general meeting of members whose subject is a matter subject to inclusive voting.

(Number of Voting Rights)

Article 59 (1) At a general meeting of members, a specified equity member (other than a specified equity member that Cabinet Office Order prescribes as being related to the specified purpose company in a way that makes it possible for the specified purpose company to substantially control its operations, due to the specified purpose company's holding one-quarter or more of all shareholders' voting rights in the member or for any other grounds) is entitled to one vote per unit of specified equity it holds for matters subject to exclusive voting that are the subject of that meeting; and a member (other than a member that Cabinet Office Order prescribes as being related to the specified purpose company in a way that makes it possible for the specified purpose company to substantially control its operations, due to the specified purpose company's holding one-quarter or more of all shareholders' voting rights in the member or for any other grounds) is entitled to one vote per unit of specified equity or preferred equity it holds for matters subject to inclusive voting that are the subject of that meeting; provided, however, that the number of voting rights of specified equity members for matters subject to exclusive voting may be otherwise specified in the articles of incorporation.

- (2) Notwithstanding the provisions of the preceding paragraph, a specified purpose company is not entitled to a vote in association with its specified equity (meaning specified equity in a specified purpose company that the specified purpose company holds in itself; the same applies hereinafter) or its preferred equity (meaning preferred equity in a specified purpose company that the specified purpose company holds in itself; the same applies hereinafter).

(Resolutions at General Meetings of Members)

Article 60 (1) Unless otherwise provided for in the articles of incorporation, a resolution at a general meeting of members on a matter subject to exclusive voting is adopted by the majority vote of the specified equity members attending the meeting, with the specified equity members in attendance holding the majority of the voting rights of all those that are entitled to vote.

- (2) Unless otherwise provided for in the articles of incorporation, a resolution at a general meeting of members on a matter subject to inclusive voting is

adopted by the majority vote of the members attending the meeting, with the members in attendance holding the majority of the voting rights of all those that are entitled to vote.

(3) Notwithstanding the provisions of the preceding two paragraphs, a resolution at any of the following general meetings of members must be adopted by at least a two-thirds majority vote (or, if a higher proportion is provided for in the articles of incorporation, that proportion) of the members attending the meeting, with the members in attendance holding the majority of the voting rights of all of the members entitled to vote at that general meeting of members. In such a case, in addition to the requirements for a resolution, the specified purpose company is not precluded from providing in the articles of incorporation that votes in favor are required from at least a certain number of members or from providing for any other requirements.

(i) the general meeting of members referred to in Article 31, paragraph (7);

(ii) the general meeting of members referred to in Article 39, paragraph (2);

(iii) the general meeting of members referred to in Article 74, paragraph (1) (but only one where a director (limited to a director appointed pursuant to Article 342, paragraphs (3) through (5) of the Companies Act as applied mutatis mutandis pursuant to Article 77, paragraph (2)) or company auditor is to be dismissed);

(iv) the general meeting of members referred to in Article 109, paragraph (1) (other than in the case falling under both of the following sub-items):

(a) the resolution referred to in Article 109, paragraph (1) is to be voted on at an annual general meeting of members; and

(b) the amount of the reduction in the preferred capital does not exceed the amount calculated by the method that Cabinet Office Order prescribes as the amount of deficit on the day of the annual general meeting of members referred to in sub-item (a).

(v) the general meeting of members referred to in Article 131, paragraph (2);

(vi) the general meeting of members referred to in Article 139, paragraph (4);

(vii) the general meeting of members referred to in Article 152, paragraph (1);
and

(viii) the general meeting of members set forth in Article 160, paragraph (1), item (iii) of a Type II Specified Purpose Company.

(4) Notwithstanding the provisions of the preceding three paragraphs, a resolution at any of the following general meetings of members must be adopted by at least half of all specified equity members (or, if a higher proportion is provided for in the articles of incorporation, that proportion), and by at least a three-quarters majority vote of all of the specified equity members (or, if a higher proportion is provided for in the articles of incorporation, that proportion):

- (i) the general meeting of members referred to in Article 34, paragraph (3);
- (ii) the general meeting of members referred to in Article 36, paragraph (2) of this Act and Article 204, paragraph (2) of the Companies Act as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 36, paragraph (5) of this Act;
- (iii) the general meeting of members referred to in Article 180, paragraph (2) of the Companies Act as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 38 and Article 50, paragraph (1);
- (iv) the general meeting of members referred to in Article 150; and
- (v) the general meeting of members set forth in Article 160, paragraph (1), item (iii) of a Type I Specified Purpose Company.

(Exercise of Voting Rights in Writing by Preferred Equity Members)

Article 61 The provisions of Article 311 of the Companies Act (Voting in Writing) apply mutatis mutandis to the exercise of voting rights in writing by the preferred equity member of a specified purpose company. In such a case, the term "the shareholders meeting" in Article 311, paragraph (3) of that Act is deemed to be replaced with "the general meeting of members".

(Votes Deemed in Favor of Preferred Equity Members)

Article 62 (1) A specified purpose company may provide in its articles of incorporation that if a preferred equity member neither attends a general meeting of members nor exercises voting rights, the preferred equity member is deemed to have voted in favor of any proposal concerning a matter subject to inclusive voting that has been submitted at the general meeting of members (if multiple proposals are submitted and there are conflicting proposals among them, those conflicting proposals are excluded).

(2) A specified purpose company that has determined as prescribed in the preceding paragraph must enter or record the relevant provisions in the notice referred to in Article 56, paragraph (1).

(3) The votes of preferred equity members that are deemed to have voted in favor of a proposal based on provisions as under paragraph (1) are included in the number of votes of the preferred equity members attending the general meeting of members.

(Omission of Resolutions on Matters Subject to Exclusive Voting)

Article 63 (1) If a director or a specified equity member makes a proposal on a matter subject to exclusive voting that is the subject of a general meeting of members, and all of the specified equity members (but only those entitled to exercise voting rights on that matter) manifest the intention to agree with the proposal by documents or electronic or magnetic records, a resolution

approving that proposal is deemed to have been made at a general meeting of members.

- (2) A specified purpose company must keep the documents or electronic or magnetic records referred to in the preceding paragraph for one year from the day on which the resolution at the general meeting of members is deemed to have been made pursuant to the preceding paragraph.
- (3) A specified equity member or preferred equity member may make the following requests at any time during the business hours of the specified purpose company:
 - (i) a request to inspect or copy the documents prescribed in the preceding paragraph; and
 - (ii) a request to inspect or copy something that has been made to show the information recorded in the electronic or magnetic record referred to in the preceding paragraph, through the means that Cabinet Office Order prescribes.
- (4) If a resolution is deemed to be made at an annual general meeting of members approving proposals on all of the subjects for the meeting, the annual general meeting of members is deemed to have been concluded at that time.
- (5) The provisions of Article 320 (Omission of Reports to Shareholders Meetings) of the Companies Act apply mutatis mutandis to general meetings of members of a specified purpose company. In such a case, the term "shareholders" in that Article is deemed to be replaced with "members".

(Action to Rescind Resolutions at General Meeting of Members Violating Asset Securitization Plans)

- Article 64 (1) If the details of a resolution at a general meeting of members violate the asset securitization plan, a member, director, company auditor, liquidator, specified bondholder, holder of a specified promissory note, or creditor from which specified borrowings have been borrowed may demand that the resolution be rescinded by filing an action within three months from the date of the resolution at the general meeting of members. The same applies to a person that is to become a director, company auditor, or liquidator (or that is to become a person holding the rights and obligations of a director, company auditor, or liquidator pursuant to Article 76, paragraph (1) (including as applied mutatis mutandis pursuant to Article 168, paragraph (5))) as a result of the rescission of that resolution.
- (2) The provisions of Article 834 (but only the part that involves item (xvii) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Article 836, paragraphs (1) and (3) (Order to Provide Security); Article 837 (Mandatory Consolidation of Oral Arguments); Article 838 (Persons Affected by an Upholding Judgment); Article 846 (Liabilities for Damages in

Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (g)-2) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action to rescind a resolution referred to in the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Application, Mutatis Mutandis, of the Companies Act)

Article 65 (1) The main text of Article 300 (Omission of Calling Procedures) of the Companies Act apply mutatis mutandis to a general meeting of members referred to in Article 56, paragraph (1) (other than a general meeting of members for voting on a resolution for changing the plan prescribed in Article 152, paragraph (1)) and the provisions of Article 310 (Proxy Voting), and Article 313, paragraphs (1) and (3) (Diverse Exercise of Votes) of the Companies Act apply mutatis mutandis to the exercise of voting rights by the members of a specified purpose company. In such a case, the term "shareholders" in Article 300 of that Act is deemed to be replaced with "members (other than members not entitled to vote on all of the matters that may be resolved at the general meeting of members)"; the term "shareholders meeting" in Article 310, paragraph (2) and paragraphs (5) through (7) of that Act is deemed to be replaced with "general meeting of members"; the term "Article 299, paragraph (3)" in Article 310, paragraph (4) of that Act is deemed to be replaced with "Article 55, paragraph (3) (including as applied mutatis mutandis pursuant to Article 56, paragraph (3) of the Asset Securitization Act) of the Asset Securitization Act"; the term "the shares" in Article 313, paragraph (3) of the Companies Act is deemed to be replaced with "the specified equity or preferred equity"; and Cabinet Order provides for any other necessary technical replacement of terms.

(2) The provisions of Article 311 (Voting in Writing) of the Companies Act apply mutatis mutandis to the general meetings of members of a specified purpose company that has specified the particulars set forth in Article 54, paragraph (1), item (iii); and the provisions of Article 312 (Voting by Electronic or Magnetic Means) of that Act apply mutatis mutandis to the general meetings of members of a specified purpose company that has specified the particulars set forth in Article 54, paragraph (1), item (iv). In such a case, the term "shareholders" in Article 311, paragraph (2) of that Act is deemed to be replaced with "specified equity members"; the term "shareholders" in Article 311, paragraph (4) and Article 312, paragraphs (2), (3), and (5) of that Act is deemed to be replaced with "members"; and the term "Article 299, paragraph (3)" in Article 312, paragraph (2) of that Act is deemed to be replaced with "Article 55, paragraph (3) of the Asset Securitization Act (including as applied

mutatis mutandis pursuant to Article 56, paragraph (3) of the Asset Securitization Act) ".

- (3) The provisions of Articles 314 through 317 (Accountability of Directors; Authority of Chairperson; Investigation of Material Submitted to the Shareholders Meeting; Resolution for Postponement or Adjournment) and Article 318, paragraphs (1) through (4) (Minutes) of the Companies Act apply mutatis mutandis to a specified purpose company's general meetings of members. In such a case, the term "by the shareholders" in Article 314 of that Act is deemed to be replaced with "by the members"; the term "Article 297" in Article 316, paragraph (2) of that Act is deemed to be replaced with "Article 53 of the Asset Securitization Act"; the term "Article 298 and Article 299" in Article 317 of the Companies Act is deemed to be replaced with "Articles 54 through Article 56 (other than Article 55, paragraph (5)) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.
- (4) The provisions of Article 830 (Action for Declaratory Judgment of Non-existence or Invalidation of a Resolution of a Shareholders Meeting); Article 831 (Action Seeking Revocation of a Resolution of a Shareholders Meeting); Article 834 (but only the part that involves item (xvi) and item (xvii)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Article 836, paragraphs (1) and (3) (Order to Provide Security); Article 837 (Mandatory Consolidation of Oral Arguments); Article 838 (Persons Affected by an Upholding Judgment); Article 846 (Liability for Damage in Cases Where the Plaintiff is Defeated); and Article 937 (1) (but only the part that involves item (i), sub-item (g), 2.) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action seeking a declaratory judgment establishing the non-existence or invalidity of a resolution at a general meeting of members of a specified purpose company or an action to rescind the resolution. In such a case, the phrases "a shareholder, etc. (or, in cases where the shareholders meeting, etc., referred to respectively in each such items is an organizational meeting or a class organizational meeting, a shareholder, etc., a shareholder at incorporation, a director at incorporation or a company auditor at incorporation" and "a shareholder (or, in cases where the resolution is the resolution of an organizational meeting, shareholders at incorporation) or director (or, in cases of a company with a supervisory committee, directors who are supervisory committee members or other directors; hereinafter the same applies in this paragraph), company auditor or liquidator (or, in cases where such resolution is a resolution of shareholders meeting or a class meeting, it includes a person who has the rights and obligations of a director, company auditor or liquidator pursuant to the provisions of Article 346, paragraph (1) (including as applied mutatis

mutandis pursuant to Article 479, paragraph (4)), and in cases where such resolution is a resolution of an organizational meeting or organizational meeting of class shareholders, a director at incorporation (in cases where a stock company to be incorporated is a company with a supervisory committee, directors at incorporation who are supervisory committee members at incorporation or other directors at incorporation) or a company auditor at incorporation)" in Article 831, paragraph (1) of the Companies Act are deemed to be replaced with "members, directors, company auditors, or liquidators" and "member, director, company auditor, or liquidator (or a person holding the rights and obligations of a director, company auditor, or liquidator pursuant to the provisions of Article 76, paragraphs (1) of the Asset Securitization Act (including as applied mutatis mutandis pursuant to Article 168, paragraph (5) of the Asset Securitization Act))", respectively; and Cabinet Order provides for any other necessary technical replacement of terms.

(Voting Rights of Preferred Equity Members)

- Article 66 (1) If a Type II Specified Purpose Company amends its articles of incorporation and this is likely to cause detriment to preferred equity members, in addition to requiring a resolution under the provisions of Article 150, the amendment of the articles of incorporation does not become effective unless approved at a general meeting of those preferred equity members (or, if there are two or more classes of preferred equity held by preferred equity members that the amendment of the articles of incorporation is likely to cause detriment, at each separate general meeting whose constituent members are preferred equity members that hold one of those two or more classes of preferred equity); provided, however, that this does not apply if there are no preferred equity members that may exercise voting rights at the general meeting.
- (2) The resolution for approval under the preceding paragraph must be adopted by at least a two-thirds majority vote of preferred equity members attending the meeting, with the preferred equity members in attendance holding a majority of the total number of units of issued preferred equity held by the preferred equity members that the amendment of the articles of incorporation referred to in that paragraph is likely to cause detriment (or, if resolutions are to be made at each separate general meeting whose constituent members are preferred equity members that hold one of two or more classes of preferred equity, the total number of units of issued preferred equity held by the preferred equity members that are the constituent members of the general meeting for each of those classes). In such a case, in addition to these requirements for a resolution, the specified purpose company is not precluded from providing in the articles of incorporation that votes in favor are required from at least a certain number of preferred equity members or from providing

for any other requirements.

- (3) The provisions on general meetings of members that have matters subject to inclusive voting as the subject apply mutatis mutandis to a general meeting referred to in paragraph (1).
- (4) An outline of the proposal for amendment to the articles of incorporation prescribed in paragraph (1) must be entered or recorded in the notice of convocation of the general meeting referred to in that paragraph.

Subsection 2 Establishment of Administrative Organs Other Than General Meetings of Members

Article 67 (1) A specified purpose company must have the following administrative organs; provided, however, that this does not apply to the administrative organ set forth in item (iii) if it is a specified purpose company that issues only specified bonds as asset-backed securities and the sum of the total amount of issuance of specified bond and the total amount of specified borrowings is less than the amount specified by Cabinet Order:

- (i) one or multiple directors;
- (ii) one or multiple company auditors; and
- (iii) an accounting auditor.

- (2) A specified purpose company may employ an accounting advisor pursuant to the provisions of the articles of incorporation.
- (3) The provisions of the proviso to paragraph (1) must not be construed as precluding the specified purpose company referred to in the proviso to that paragraph from having accounting auditors.

Subsection 3 Appointment and Dismissal of Officers and Accounting Auditors

(Appointment)

Article 68 (1) Officers (meaning directors, accounting advisors, and company auditors; hereinafter the same applies in this Subsection (other than in Article 70, paragraph (1), items (vii) through (x) (including as applied mutatis mutandis pursuant to Article 72, paragraph (2)))) and accounting auditors are appointed by resolution at a general meeting of members.

- (2) The provisions of Article 329, paragraph (3) (Election) of the Companies Act apply mutatis mutandis to the resolution referred to in the preceding paragraph.

(Relationship between Specified Purpose Companies and Officers)

Article 69 The relationship between a specified purpose company and its officers

and accounting auditors is governed by the provisions on mandates.

(Qualification of Directors)

Article 70 (1) The following persons may not become a director:

- (i) a corporation;
- (ii) a person who is specified by Cabinet Office Order as a person unable to properly execute duties due to a mental or physical disorder;
- (iii) a person subject to an order commencing bankruptcy proceedings and who has not been released from bankruptcy restrictions or a person treated in the same manner pursuant to a foreign law or regulation;
- (iv) a person sentenced to imprisonment or a heavier punishment (or to an equivalent punishment pursuant to a foreign law or regulation), and three years have not elapsed since the date on which the person finished serving the sentence or ceased to be subject to the sentence;
- (v) a person sentenced to a fine (or to an equivalent punishment pursuant to a foreign law or regulation) for violating the provisions of this Act; the Financial Instruments and Exchange Act, the Companies Act, the Act on General Incorporated Associations and General Incorporated Foundations (Act No. 48 of 2006), the Act on Investment Trusts and Investment Corporations (Act No. 198 of 1951), the Real Estate Business Act (Act No. 176 of 1952), the Act Regulating the Receipt of Contributions, Receipt of Deposits, and Interest Rates (Act No. 195 of 1954), the Installment Sales Act (Act No. 159 of 1961), the Money Lending Business Act (Act No. 32 of 1983), the Act on Deposit Transaction Agreements for Specified Commodities (Act No. 62 of 1986), the Act on Regulation of Commodity Investment (Act No. 66 of 1991), the Act on Specified Joint Real Estate Ventures (Act No. 77 of 1994), the Act on Issuance of Bonds for Financial Corporations' Lending Business (Act No. 32 of 1999), the Trust Business Act, or a foreign law or regulation equivalent to these Acts; or for having committed a crime prescribed in Article 255, Article 256, Articles 258 through 260, or Article 262 of the Civil Rehabilitation Act (Act No. 225 of 1999); Article 65, Article 66, Article 68, or Article 69 of the Act on Recognition of and Assistance for Foreign Insolvency Proceedings (Act No. 129 of 2000); Article 265, Article 266, Articles 268 through 272, or Article 274 of the Bankruptcy Act (Act No. 75 of 2004); Article 204, Article 206, Article 208, Article 208-2, Article 222, or Article 247 of the Penal Code (Act No. 45 of 1907); the Act on Punishment of Physical Violence and Others (Act No. 60 of 1926); or Articles 46 through 49, Article 50 (but only the part that involves item (i)) or Article 51 of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991), and three years have not elapsed since the date on which the person finished serving the sentence or ceased to be subject to the sentence;

- (vi) a person that, within thirty days prior to a dissolution order under Article 220, was the officer, or an employee as specified by Cabinet Order, of a specified purpose company ordered to dissolve pursuant to the dissolution order, and three years have not passed since the date of the dissolution order;
 - (vii) the transferor of specified assets referred to in the asset securitization plan (or, if the transferor is a corporation, its officer);
 - (viii) the officer of a corporation that is the trustee of a trust created for the purpose of having a person engage in business involving the administration and disposition of the specified assets (other than beneficial interest in a trust) specified in the asset securitization plan (or if a person is entrusted with business involving the administration and disposition of specified assets based on Article 200, paragraph (2), the person entrusted with that business (or if the entrusted person is a corporation, its officer));
 - (ix) if the specified assets provided for in the asset securitization plan are beneficial interests in a trust, the officer of the corporation that is the trustee of that trust; and
 - (x) the officer of the corporation that is the trustee of a specified equity trust.
- (2) The main text of Article 331, paragraph (2) (Qualifications of Directors) of the Companies Act apply mutatis mutandis to the director of a specified purpose company. In such a case, the term "shareholders" in the main text of that Article is deemed to be replaced with "members".

(Qualification of Accounting Advisors)

- Article 71 (1) An accounting advisor must be a certified public accountant (or a foreign certified public accountant prescribed in Article 16-2, paragraph (5) of the Certified Public Accountants Act (Act No. 103 of 1948); hereinafter the same applies), audit corporation, certified tax accountant, or tax accountant corporation.
- (2) The provisions of Article 333, paragraphs (2) and (3) (Qualifications of Accounting Advisors) of the Companies Act apply mutatis mutandis to the accounting advisors of a specified purpose company. In such a case, the term "a stock company or its subsidiary" in Article 333, paragraph (3), item (i) of that Act is deemed to be replaced with "a specified purpose company", and Cabinet Order provides for any other necessary technical replacement of terms.

(Qualification of Company Auditors)

- Article 72 (1) A company auditor may not concurrently act as the director or employee of a specified purpose company.
- (2) The provisions of Article 70 apply mutatis mutandis to company auditors.

(Qualification of Accounting Auditors)

Article 73 (1) An accounting auditor must be a certified public accountant or an audit corporation.

(2) An audit corporation appointed as accounting auditor must select a person to act as accounting auditor from among its members and notify the specified purpose company of this. In such a case, the person referred to in item (ii) of the following paragraph may not be selected.

(3) The following persons may not become an accounting auditor:

(i) a person that may not audit the financial statements of a specified purpose company prescribed in Article 102, paragraph (2) pursuant to the provisions of the Certified Public Accountants Act;

(ii) a transferor of specified assets provided for in the asset securitization plan; a trust company or financial institution that is the trustee of a trust created for the purpose of having a person engage in business involving the administration and disposition of those specified assets (or, if a person is entrusted with business involving the administration and disposition of property referred to in the items of Article 200, paragraph (2) based on that paragraph, the entrusted person); or the trustee of a trust, if those specified assets are beneficial interests in a trust (hereinafter these persons are collectively referred to as the "transferor or trustee of specified assets" in this item and Article 91, paragraph (4), items (ii) and (iii)); or a person or the spouse of a person that continuously receives remuneration from the director, accounting advisor, audit corporation, or executive officer of the transferor or trustee of specified asset for services other than those of a certified public accountant or audit corporation; and

(iii) an audit corporation more than half of whose members are persons set forth in the preceding item.

(4) The provisions of Article 338 (Accounting Auditors' Terms of Office) of the Companies Act apply mutatis mutandis to the accounting auditors of a specified purpose company. In such a case, the term "annual shareholders meeting" in Article 338, paragraphs (1) and (2) of that Act is deemed to be replaced with "annual general meeting of members".

(Dismissal)

Article 74 (1) An officer or accounting auditor may be dismissed at any time through a resolution at a general meeting of members.

(2) Unless there are legitimate grounds for a person's dismissal, a person dismissed pursuant to the preceding paragraph may demand the specified purpose company to compensate for damage arising from the dismissal.

(3) If, notwithstanding the presence of misconduct or a material fact in violation of laws and regulations, the asset securitization plan, or the articles of

incorporation in the performance of an officer's duties, the proposal to dismiss the officer is rejected at a general meeting of members, the following members may file an action within thirty days from the date of that general meeting of members demanding the dismissal of the officer:

- (i) specified equity members (other than the following specified equity members) holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all specified equity members (other than the following specified equity members); or preferred equity members (other than the following preferred equity members) holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all preferred equity members (other than the following preferred equity members) continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period):
 - (a) a specified equity member or preferred equity member not entitled to vote on the proposal to dismiss the officer; and
 - (b) the specified equity member or preferred equity member that is the officer pertaining to the demand.
 - (ii) specified equity members (other than the following specified equity members) holding a number of units of specified equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the total number of units of specified equity (other than any specified equity held by the following specified equity members); or preferred equity members (other than the following preferred equity members) holding a number of units of preferred equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the issued preferred equity (other than any preferred equity held by the following preferred equity members) continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period):
 - (a) the specified equity member or preferred equity member that is the specified purpose company in question; and
 - (b) the specified equity member or preferred equity member that is the officer pertaining to the demand.
- (4) The provisions of Article 855 (Defendant), Article 856 (Jurisdiction over an Action), and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (j)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action to dismiss an officer referred to in the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Dismissal of Accounting Auditors by Company Auditors)

Article 75 (1) A company auditor may dismiss an accounting auditor if that accounting auditor falls under any of the following items:

- (i) breaches an obligation in the course of duties or neglects their duties;
- (ii) engages in conduct unbecoming of an accounting auditor; or
- (iii) has difficulty in performing their duties or is unable to do so due to a mental or physical disorder.

(2) If there are two or more company auditors, a dismissal under the preceding paragraph must be effected by a unanimous consent of the company auditors.

(3) If an accounting auditor is dismissed pursuant to the provisions of paragraph (1), a company auditor (if the company has two or more company auditors, a company auditor appointed from among themselves) must report this and give the reason for the dismissal at the first general meeting of members convened after the dismissal.

(Measures for Officer Vacancies)

Article 76 (1) If there is a position vacancy among the officers or a shortfall in the number of officers prescribed by this Act or the articles of incorporation, an officer that has left office due to the expiration of that officer's term of office or due to resignation continues to have the rights and duties of an officer until a newly appointed officer (or a person that will temporarily perform the duties of an officer as prescribed in the following paragraph) takes office.

(2) In the case referred to in the preceding paragraph, the court may appoint a person who is to temporarily perform the duties of an officer at the petition of an interested party, if it finds this to be necessary.

(3) If the court appoints a person who is to temporarily perform the duties of an officer as prescribed in the preceding paragraph, it may fix the amount of remuneration that the specified purpose company is to pay to that person.

(4) If there is a position vacancy among the accounting auditors or a shortfall in the number of accounting auditors prescribed by the articles of incorporation, unless a new accounting auditor is appointed without delay, a company auditor must appoint a person who is to temporarily perform the duties of accounting auditor.

(5) The provisions of Article 73, paragraphs (1) through (3) and the preceding Article apply mutatis mutandis to a person who is to temporarily perform the duties of accounting auditor as prescribed in the preceding paragraph.

(6) The provisions of Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal);

Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); Article 876 (Supreme Court Rule); and Article 937, paragraph (1) (but only the part that involves item (ii), sub-items (a) and (c)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis if a petition prescribed in paragraph (2) has been filed.

(Application, Mutatis Mutandis, of the Companies Act)

Article 77 (1) The provisions of Article 341 (Resolution at Shareholders Meeting for Election and Dismissal of Officers) of the Companies Act apply mutatis mutandis to a resolution on the appointment of a director. In such a case, the terms "Article 309, paragraph (1)", "the meeting", and "shareholder" in that Article are deemed to be replaced with "Article 60, paragraph (1) of the Asset Securitization Act", "the general meeting of members", and "members", respectively.

(2) The provisions of Article 342 (Election of Directors by Cumulative Vote) of the Companies Act apply mutatis mutandis if the members appoint the director of a specified purpose company, and Article 344, paragraphs (1) and (2) (Determination of Content of Proposal on the Election of Accounting Auditors) of that Act apply mutatis mutandis to a specified purpose company. In such a case, the term "shareholders meeting" in those provisions is deemed to be replaced with "general meeting of members"; and the terms "Article 308, paragraph (1)" and "for each one share the shareholder holds (or, in cases where the share units are provided for in the articles of incorporation, for each one unit of the shares the shareholder holds)" in Article 342, paragraph (3) of that Act are deemed to be replaced with "Article 59, paragraph (1) of the Asset Securitization Act" and "for each one unit of specified equity or preferred equity", respectively.

(3) The provisions of Article 345 (Statement of Opinions on Election of Accounting Advisors) of the Companies Act apply mutatis mutandis to a specified purpose company. In such a case, the term "the shareholders meeting" in that Article is deemed to be replaced with "the general meeting of members"; the term "Article 298, paragraph (1), item (i)" in Article 345, paragraph (3) of that Act is deemed to be replaced with "Article 54, paragraph (1), item (i) of the Asset Securitization Act"; and the term "Article 340, paragraph (1)" in Article 345, paragraph (5) of the Companies Act is deemed to be replaced with "Article 75, paragraph (1) of the Asset Securitization Act".

Subsection 4 Directors

(Execution of Business)

- Article 78 (1) Unless otherwise provided for in the articles of incorporation, a director engages in the execution of business of the specified purpose company.
- (2) Unless otherwise provided for in the articles of incorporation, if there are two or more directors, the business of a specified purpose company is decided by the majority of the directors.

(Representative of Specified Purpose Companies)

- Article 79 (1) A director represents a specified purpose company; provided, however, that this does not apply if other representative director or other person is designated to represent the specified purpose company.
- (2) If there are two or more directors referred to in the main text of the preceding paragraph, each director represents the specified purpose company.
- (3) A specified purpose company may designate a representative director from among the directors pursuant to the articles of incorporation, through appointment by the directors from among themselves pursuant to the provisions of the articles of incorporation, or through a resolution at a general meeting of members.
- (4) The provisions of Article 349, paragraphs (4) and (5) (Representatives of Companies) of the Companies Act apply mutatis mutandis to the representative director of a specified purpose company, and the provisions of Article 350 (Liability for Damages Caused by Acts of Directors) of that Act apply mutatis mutandis to a specified purpose company.

(Restrictions on Competition and Conflict of Interest Transactions)

- Article 80 (1) In the following cases, a director must disclose the material facts of the transactions at a general meeting of members and obtain approval for the transactions:
- (i) if the director seeks to engage in transactions that are in the line of business of the specified purpose company for a personal benefit or to benefit a third party;
 - (ii) if the director seeks to engage in transactions with the specified purpose company for a personal benefit or to benefit a third party; or
 - (iii) if the specified purpose company seeks to engage in transactions with a person other than a director that result in a conflict of interests between the specified purpose company and the director.
- (2) The provisions of Article 108 (Self-Contracting and Representation of Both Parties) of the Civil Code (Act No. 89 of 1896) do not apply to transactions referred to in item (ii) or (iii) of the preceding paragraph that have obtained the approval referred to in that paragraph.

(Appointment of Inspectors for Execution of Business)

Article 81 (1) If there are sufficient grounds to suspect presence of misconduct or a material fact that constitutes a violation of laws and regulations, the asset securitization plan, or the articles of incorporation in connection with the execution of business of a specified purpose company, any of the following members may file a petition with the court to appoint an inspector in order to have that inspector investigate the status of business and assets of the specified purpose company:

- (i) specified equity members holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all specified equity members (other than specified equity members not entitled to vote on all of the matters that may be resolved at a general meeting of members);
 - (ii) preferred equity members holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all preferred equity members (other than preferred equity members not entitled to vote on all of the matters that may be resolved at a general meeting of members);
 - (iii) specified equity members holding a number of units of specified equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the total number of units of specified equity (other than the company's own specified equity); and
 - (iv) preferred equity members holding a number of units of preferred equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the issued preferred equity (other than the company's own preferred equity).
- (2) The provisions of Article 358, paragraph (2), paragraph (3), and paragraphs (5) through (7) (Election of Inspector of Execution of Business); Article 359 (Decision by Court to Call Shareholders Meeting); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rule) of the Companies Act apply mutatis mutandis to an inspector in the case the petition referred to in the preceding paragraph has been filed and when that inspector makes a report. In such a case, the term "the stock company" in Article 358, paragraphs (3) and (7) of the Companies Act is deemed to be replaced with "the specified purpose company"; the term "the shareholders" in Article 358, paragraph (7) of that Act is deemed to be

replaced with "members"; the term "shareholders meeting" in Article 359, paragraph (1), item (i), paragraphs (2) and (3) of that Act is deemed to be replaced with "general meeting of members"; the term "shareholders" in Article 359, paragraph (1), item (ii) of that Act is deemed to be replaced with "members"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (3) For a Type II Specified Purpose Company, the general meeting of members prescribed in Article 359 of the Companies Act as applied mutatis mutandis following the deemed replacement of terms pursuant to the preceding paragraph is deemed to be a general meeting of members whose subject is a matter subject to inclusive voting.

(Injunction on Directors' Acts by Members)

Article 82 If a director is engaging, or is likely to engage, in an act that violates a law or regulation or the asset securitization plan, a member, specified bondholder, holder of a specified promissory note, or creditor from which specified borrowings have been borrowed may demand that the director cease engaging in that act.

Article 83 If a director is engaging, or is likely to engage, in an act outside the scope of the purpose of the specified purpose company or in an act that violates the articles of incorporation, and that act is likely to cause substantial detriment to the specified purpose company, a specified equity member or a preferred equity member that has held preferred equity continuously for the preceding six months may demand that the director to cease engaging in that act.

(Remuneration of Directors)

Article 84 (1) The following particulars concerning a director's remuneration and bonuses and other financial benefits that a director receives from a specified purpose company as consideration for performing their duties (hereinafter referred to as "remuneration, etc." in this Section) are determined by resolution at a general meeting of members if those particulars are not provided for in the articles of incorporation:

- (i) the amount of any remuneration, etc. that is of a fixed amount;
- (ii) the specific method for calculating the amount of any remuneration, etc. that is not of a fixed amount; and
- (iii) the specific content of remuneration, etc. other than money.

- (2) The provisions of Article 361, paragraph (4) (Remuneration for Directors) of the Companies Act apply mutatis mutandis to the resolution referred to in the preceding paragraph. In such a case, the terms "paragraph (1), item (ii) of "

and "shareholders meeting" in paragraph (4) of that Article are deemed to be replaced with "Article 84, paragraph (1), item (ii) of the Asset Securitization Act" and "general meeting of members", respectively.

(Application, Mutatis Mutandis, of the Companies Act to Directors)

Article 85 The provisions of Article 351 (Measures When a Vacancy Arises in an Office of a Representative Director); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); Article 876 (Supreme Court Rule); and Article 937, paragraph (1) (but only the part that involves item (ii), sub-items (a) and (c)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to the representative director of a specified purpose company; the provisions of Article 352 (Authority of Persons Who Perform Duties on Behalf of Directors); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i)) (Hearing of Statements); Article 871 (Appending of the Reason), Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rule) of that Act apply mutatis mutandis to an acting representative for a specified purpose company; the provisions of Article 354 (Apparent Representative Directors) of that Act apply mutatis mutandis to a specified purpose company; and the provisions of Article 355 (Duty of Loyalty) and Article 357, paragraph (1) (Director's Duty to Report) of that Act apply mutatis mutandis to the director of a specified purpose company. In such a case, the terms "laws and regulations, the articles of incorporation" and "shareholders meeting" in Article 355 of that Act are deemed to be replaced with "laws and regulations, the asset securitization plan, the articles of incorporation" and "general meeting of members", respectively; and Cabinet Order provides for any other necessary technical replacement of terms.

Subsection 5 Accounting Advisors

(Authority of Accounting Advisors)

Article 86 (1) An accounting advisor, together with the directors, must prepare financial statements (meaning the financial statements prescribed in Article

102, paragraph (2); hereinafter the same applies in this Section) and their annexed detailed statements. In doing so, the accounting advisor must prepare an accounting advisor's report pursuant to Cabinet Office Order provisions.

- (2) The provisions of Article 374, paragraphs (2), (3), and (5) (Authority of Accounting Advisors); Article 375, paragraph (1) (Accounting Advisor's Duty to Report); Article 377, paragraph (1) (Statement of Opinions at Shareholders Meeting); and Article 378, paragraph (1) (but only the part that involves item (i) and paragraph (2) (Keeping and Inspection of Financial Statements by Accounting Advisors) of the Companies Act apply mutatis mutandis to a company with accounting advisors. In such a case, the term "may request reports on accounting from a subsidiary of the company with accounting advisors, or investigate the status of the operations and financial status of the company with accounting advisors or of its subsidiary" in Article 374, paragraph (3) of that Act is deemed to be replaced with "may investigate the operational and financial status of the company with accounting advisors"; the term "item (ii) or item (iii) of Article 333, paragraph (3)" in paragraph (5) of that Article is deemed to be replaced with "Article 333, paragraph (3), item (ii) or (iii) of the Companies Act as applied mutatis mutandis pursuant to Article 71, paragraph (2) of the Asset Securitization Act"; the term "laws and regulations or the articles of incorporation" in Article 375, paragraph (1) of the Companies Act is deemed to be replaced with "laws and regulations, the asset securitization plan, or the articles of incorporation"; the terms "Article 374, paragraph (1)" and "the shareholders meeting" in Article 377, paragraph (1) of the Companies Act are deemed to be replaced with "Article 86, paragraph (1) of the Asset Securitization Act" and "the general meeting of members", respectively; the term "the annual shareholders meeting" in Article 378, paragraph (1), item (i) of the Companies Act is deemed to be replaced with "the annual general meeting of members"; the term "shareholders" in Article 378, paragraph (2) of that Act is deemed to be replaced with "members"; and Cabinet Order provides for any other necessary technical replacement of terms.
- (3) The provisions of Article 379 (Remunerations for Accounting Advisors) and Article 380 (Requests for Indemnification of Expenses) of the Companies Act apply mutatis mutandis to the accounting advisors of a specified purpose company. In such a case, the term "shareholders meeting" in Article 379 of that Act is deemed to be replaced with "general meeting of members"; and Cabinet Order provides for any other necessary technical replacement of terms.

Subsection 6 Company Auditors

(Authority of Company Auditors)

Article 87 (1) Company auditors audit directors' performance of their duties (or,

at a company with accounting advisors, the directors' and accounting advisors' performance of their duties). In doing so, the company auditors must prepare audit reports pursuant to Cabinet Office Order provisions.

- (2) Company auditors may request reports on business from the directors and accounting advisors as well as the employees, may investigate a specified purpose company's status of business and assets, and may state an opinion to the directors at any time.

(Duty to Report to Directors)

Article 88 (1) If a company auditor finds that a director is engaging in, or is likely to engage in, misconduct; finds there to be a fact that constitutes a violation of laws and regulations, the asset securitization plan, or the articles of incorporation; or finds there to be a fact that constitutes a gross impropriety, the company auditor must report this without delay to the directors other than the director in question (hereinafter referred to as the "delinquent director" in this paragraph and paragraph (4)), if any; or report this at a general meeting of members (but only one composed of specified equity members) if there are no directors other than the delinquent director.

- (2) On finding it to be necessary to do so in a case as prescribed in the preceding paragraph, a company auditor may request that a director convene a general meeting of members.
- (3) If the request referred to in the preceding paragraph has been made, but a notice of convocation is not issued within one week from the date of the request setting a date within two weeks of the date of the request as the day for the general meeting of members, the company auditor that made the request may convene a general meeting of members.
- (4) A company auditor may submit a proposal to dismiss a delinquent director at a general meeting of members.

(Remuneration of Company Auditors)

Article 89 (1) Remuneration, etc. of company auditors is to be determined by resolution at a general meeting of members, if their amounts are not provided for in the articles of incorporation.

- (2) The provisions of Article 387, paragraphs (2) and (3) (Remunerations for Company Auditors) of the Companies Act apply mutatis mutandis to remuneration, etc. of the company auditor of a specified purpose company. In such a case, the term "shareholders meeting" in that Article is deemed to be replaced with "general meeting of members" and the term "the preceding paragraph" in Article 387, paragraph (2) of that Act is deemed to be replaced with "Article 89, paragraph (1) of the Asset Securitization Act".

(Application, Mutatis Mutandis, of the Companies Act to Company Auditors)
Article 90 The provisions of Article 384 (Duty to Report to Shareholders Meeting); Article 385 (Enjoinment of Acts of Directors by Company Auditors); Article 386, paragraph (1) (but only the part that involves item (i)) and paragraph (2) (but only the part that involves items (i) and (ii)) (Representation of Company in Actions between Company with Auditors and Directors); and Article 388 (Requests for Indemnification of Expenses) of the Companies Act apply mutatis mutandis to the company auditor of a specified purpose company. In such a case, the term "shareholders meeting" in Article 384 of that Act is deemed to be replaced with "general meeting of members"; the term "laws and regulations or the articles of incorporation" in Article 384 and Article 385, paragraph (1) of that Act is deemed to be replaced with "laws and regulations, the asset securitization plan, or the articles of incorporation"; the terms "Article 349, paragraph (4), Article 353 and Article 364" in Article 386, paragraph (1) of that Act and "Article 349, paragraph (4)" in Article 386, paragraph (2) of that Act are deemed to be replaced with "Article 349, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 79, paragraph (4) of the Asset Securitization Act"; the phrase "Article 847, paragraph (1), Article 847-2, paragraph (1) or (3) (including as applied mutatis mutandis pursuant to paragraphs (4) and (5) of that Article), or Article 847-3, paragraph (1)" in Article 386, paragraph (2), item (i) of the Companies Act is deemed to be replaced with "Article 97, paragraph (1) of the Asset Securitization Act or Article 847, paragraph (1) as applied mutatis mutandis pursuant to Article 25, paragraph (4), Article 36, paragraph (10), or Article 119, paragraph (2) of the Asset Securitization Act"; and the terms "Article 849, paragraph (4)" and "Article 850, paragraph (2)" in Article 386, paragraph (2), item (ii) of the Companies Act are deemed to be replaced with "Article 849, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 25, paragraph (4), Article 36, paragraph (10), Article 97, paragraph (2), or Article 119, paragraph (2) of the Asset Securitization Act" and "Article 850, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 25, paragraph (4), Article 36, paragraph (10), Article 97, paragraph (2), or Article 119, paragraph (2) of the Asset Securitization Act", respectively.

Subsection 7 Accounting Auditors

(Authority of Accounting Auditors)
Article 91 (1) An accounting auditor audits the financial statements of a specified purpose company and their annexed detailed statements pursuant to the provisions of Subsection 3 of the following Section. In doing so, the accounting auditor must prepare financial audit reports pursuant to Cabinet

Office Order provisions.

- (2) An accounting auditor may inspect and copy the following things or request reports on accounting from directors, accounting advisors, and employees, at any time:
 - (i) if accounting books and related materials have been prepared as documents, those documents; and
 - (ii) if accounting books and related materials have been prepared as electronic or magnetic records, something that has been made to show the information recorded in those electronic or magnetic records through the means that Cabinet Office Order prescribes.
- (3) If it is necessary to do so in order for an accounting auditor to carry out their duties, an accounting auditor may investigate the status of business and assets of the specified purpose company.
- (4) An accounting auditor must not employ a person falling under one of the following items in carrying out their duties:
 - (i) a person as set forth in Article 73, paragraph (3), item (i) or (ii);
 - (ii) a person who is a director, an accounting advisor, a company auditor, an executive officer, or an employee of a specified purpose company or transferor or trustee of specified assets; or
 - (iii) a person that continuously receives remuneration from a specified purpose company or transferor or trustee of specified assets for services other than those of a certified public accountant or audit corporation.

(Reports to Company Auditors)

- Article 92 (1) If an accounting auditor, in the course of carrying out duties, discovers the presence of misconduct or a material fact in connection to violation of laws and regulations, the asset securitization plan, or the articles of incorporation in the performance of a director's duties, the accounting auditor must report this to the company auditor without delay.
- (2) If it is necessary for a company auditor to do so in order to carry out their duties, the company auditor may ask the accounting auditor to report on their audit.

(Application, Mutatis Mutandis, of the Companies Act to Accounting Auditors)

- Article 93 The provisions of Article 398, paragraphs (1) and (2) (Statement of Opinions at Annual Shareholders Meeting) of the Companies Act apply mutatis mutandis to the accounting auditors of a specified purpose company; and the provisions of Article 399, paragraph (1) (Involvement of Company Auditors in Decision on Remuneration for Accounting Auditors) of that Act apply mutatis mutandis to the accounting auditors and the persons who are to temporarily act as the accounting auditors of a specified purpose company. In such a case,

the terms "Article 396, paragraph (1)" and "laws and regulations or the articles of incorporation" in Article 398, paragraph (1) of that Act are deemed to be replaced with "Article 91, paragraph (1) of the Asset Securitization Act" and "laws and regulations, the asset securitization plan, or the articles of incorporation", respectively; and the term "annual shareholders meeting" in Article 398, paragraphs (1) and (2) of the Companies Act is deemed to be replaced with "annual general meeting of members".

Subsection 8 Officers' Liability for Damages

(Officers' Liability for Damages to Specified Purpose Companies)

- Article 94 (1) If a director, an accounting advisor, a company auditor, or an accounting auditor (hereinafter referred to as an "officer, etc." in this Subsection) neglects their duties, the officer, etc. is liable to compensate the specified purpose company for damage resulting from this.
- (2) If a director engages in the transactions referred to in Article 80, paragraph (1), item (i) in violation of Article 80, paragraph (1), the amount of the profit gained by the director or a third party as a result of the transactions is presumed to be the amount of the damage referred to in the preceding paragraph.
- (3) If a specified purpose company incurs damage as a result of the transactions referred to in Article 80, paragraph (1), item (ii) or (iii), the following directors are presumed to have neglected their duties:
- (i) the director referred to in Article 80, paragraph (1); and
 - (ii) the director that decided that the specified purpose company is to engage in the transactions.
- (4) Exemptions from the liability referred to in paragraph (1) may not be granted without the consent of all members.
- (5) Even if a director's neglect of duties is due to grounds not attributable to the director, this may not be used to exempt the director that has engaged in the transactions referred to in Article 80, paragraph (1), item (ii) (but only transactions engaged in for a personal benefit) from the liability referred to in paragraph (1).

(Officers' Liability for Damages to Third Parties)

- Article 95 (1) If an officer, etc. has acted in bad faith or with gross negligence in carrying out their duties, the officer, etc. is liable to compensate third parties for damage resulting from this.
- (2) The provisions of the preceding paragraph also apply if a person as set forth in one of the following items performs an act that the item prescribes; provided, however, that this does not apply if the person proves that they did not neglect

to exercise due care in performing the act:

(i) a director: the following act:

- (a) falsely notifying a person of material information regarding which the director must notify persons when soliciting them to subscribe for specified equity, preferred equity, or specified bonds; or making false entries or records in the materials that are used to explain the business of the specified purpose company or other information about the company when soliciting them;
- (b) making false entries or records for material information that is required to be entered or recorded in financial statements, business reports, or their annexed detailed statements;
- (c) making a false registration; or
- (d) issuing false public notice (including the measures prescribed in Article 104, paragraph (7)).

(ii) an accounting advisor: making false entries or records for material information that is required to be entered or recorded in financial statements or their annexed detailed statements or in the accounting advisor's reports;

(iii) a company auditor: making false entries or records for material information that is required to be entered or recorded in audit reports; and

(iv) an accounting auditor: making false entries or records for material information that is required to be entered or recorded in financial audit reports.

(Joint and Several Liability of Officers)

Article 96 If an officer, etc. is liable to compensate a specified purpose company or a third party for damages incurred by them, and another officer, etc. is also liable for the damages, those persons are joint and several obligors.

(Actions to Enforce Liability)

Article 97 (1) A specified equity member or preferred equity member that has held preferred equity continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period) may request that the specified purpose company file an action to enforce the liability of an officer, etc. (hereinafter referred to as an "action to enforce liability" in this Article) in writing or by any other means that Cabinet Office Order prescribes; provided, however, that this does not apply to actions to enforce liability filed to seek unlawful benefits of the member or a third party or to inflict damage on the specified purpose company.

(2) The provisions of Article 847, paragraphs (3) through (5) (Action to Enforce Liability by Shareholders); Article 847-4 (Court Costs for an Action to Enforce Liability); and Articles 848 through 853 (excluding Article 849, paragraph (2),

paragraph (3), and paragraphs (6) through (11); Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Jurisdiction of an Action, Intervention, Settlement, Claim for Costs, Action for Retrial) of the Companies Act apply mutatis mutandis to actions to enforce liability filed by a specified purpose company. In such a case, the term "shareholder" in Article 847, paragraph (3) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (5) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article 847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "the shareholder, etc." in that paragraph is deemed to be replaced with "that specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849, paragraph (1) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the phrase "give public notice to that effect or give notice thereof to its shareholders" in paragraph (5) of that Article is deemed to be replaced with "notify its specified equity members of this, and in the case of a Type II Specified Purpose Company, issue public notice of this or notify its preferred equity members of this"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (3) In order for a specified purpose company to participate in litigation in an action to enforce liability in order to assist a director, a liquidator, or a person formerly in those positions, the specified purpose company must obtain the consent of all of the specified equity members.

Section 5 Accounting

Subsection 1 Accounting Principles

Article 98 The accounting of a specified purpose company is to be subject to

business accounting practices that are generally accepted as fair and appropriate.

Subsection 2 Accounting Books

(Preparing and Preserving Accounting Books)

Article 99 (1) A specified purpose company must prepare accurate accounting books in a timely manner, pursuant to Cabinet Office Order provisions.

(2) A specified purpose company must preserve its accounting books and significant materials concerning its business for ten years from the time of closing the accounting books.

(Requests to Inspect Accounting Books)

Article 100 (1) A specified equity member holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all specified equity members (other than specified equity members not entitled to vote on all of the matters that may be resolved at a general meeting of members), a preferred equity member holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all preferred equity members (other than preferred equity members not entitled to vote on all of the matters that may be resolved at a general meeting of members), a specified equity member holding a number of units of specified equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the total number of units of specified equity (other than the company's own specified equity), or a preferred equity member holding a number of units of preferred equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the issued preferred equity (other than the company's own preferred equity) may make the following requests at any time during the business hours of the specified purpose company. In such a case, the member must disclose the reason for the request:

(i) if accounting books or related materials have been prepared as documents, a request to inspect or copy those documents; or

(ii) if accounting books or related materials have been prepared as an electronic or magnetic record, a request to inspect or copy something that has been made to show the information recorded in the electronic or magnetic record through the means that Cabinet Office Order prescribes.

(2) The provisions of Article 433, paragraph (2) (Request to Inspect Account Books) of the Companies Act apply mutatis mutandis to a specified purpose

company. In such a case, the term "shareholder" in Article 433, paragraph (2), items (i) and (ii) of that Act is deemed to be replaced with "member".

(Orders to Submit Accounting Books)

Article 101 The court may order the parties to an action to submit their accounting books in whole or in part, upon petition or by its own authority.

Subsection 3 Financial Statements

(Preparing, Preserving, and Auditing Financial Statements)

Article 102 (1) A specified purpose company must prepare a balance sheet as of the date of its establishment, pursuant to Cabinet Office Order provisions.

(2) Pursuant to Cabinet Office Order provisions, a specified purpose company must prepare financial statements (meaning balance sheets, profit and loss statements, and statements that Cabinet Office Order prescribes as being necessary and appropriate for showing the state of the specified purpose company's assets and its profits and losses; hereinafter the same applies in this Subsection, Article 111, paragraph (2), item (ii) and Article 118) and a business report for each business year, a proposal on the appropriation of profits or handling of losses (hereinafter referred to as a "profit appropriation proposal" in this Subsection), and their annexed detailed statements.

(3) Financial statements, business reports, profit appropriation proposals, and their annexed detailed statements may be prepared as electronic or magnetic records.

(4) A specified purpose company must preserve its financial statements and their annexed detailed statements for ten years from the date on which the financial statements were prepared.

(5) At a company with accounting auditors, the documents set forth in the following items must be audited by the person that the item prescribes, pursuant to Cabinet Office Order provisions:

(i) the financial statements referred to in paragraph (2) and their annexed detailed statements: the company auditors and accounting auditors; and

(ii) the business report referred to in paragraph (2) and their annexed detailed statements: the company auditors.

(6) A specified purpose company that is not a company with accounting auditors must have the financial statements and business report referred to in paragraph (2) and their annexed detailed statements audited by the company auditors pursuant to Cabinet Office Order provisions.

(Providing Financial Statements to Members)

Article 103 (1) When issuing a notice of convocation for an annual general

meeting of members, the director of a company with accounting auditors must provide the members with the financial statements, business report, and the the profit appropriation proposal which have been audited as referred to in paragraph (5) of the preceding Article, as well as the audit report and the financial audit report, pursuant to Cabinet Office Order provisions; provided, however, that this does not apply to a notice of convocation that is sent pursuant to the provisions of Article 56, paragraph (1) to persons not entitled to vote on the approval referred to in paragraph (2) of the following Article.

- (2) The provisions of the main text of the preceding paragraph apply mutatis mutandis to a specified purpose company that is not a company with accounting auditors. In such a case, the terms "paragraph (5) of the preceding Article" and "as well as the audit report and the financial audit report" in the main text of the preceding paragraph are deemed to be replaced with "paragraph (6) of the preceding Article" and "as well as the audit report", respectively.

(Submission of Financial Statements at Annual General Meetings of Members)

Article 104 (1) The director must submit or provide the financial statements, the business report, and the profit appropriation proposal that have been audited as referred to in Article 102, paragraph (5) or (6) at the annual general meeting of members.

- (2) The financial statements and profit appropriation proposal submitted or provided pursuant to the provisions of the preceding paragraph must be approved by resolution at an annual general meeting of members.
- (3) The director must report the details of the business reports submitted or provided pursuant to the provisions of paragraph (1) at the annual general meeting of members.
- (4) For a company with accounting auditors, if the financial statements audited pursuant to Article 102, paragraph (5) satisfy the requirements that Cabinet Office Order prescribes as accurately indicating the state of a specified purpose company's assets, and its profits and losses in compliance with laws and regulations, the asset securitization plan, and the articles of incorporation, the provisions of paragraph (2) do not apply to those financial statements. In such a case, the director must report the details of the financial statements at the annual general meeting of members.
- (5) A specified purpose company must issue public notice of the balance sheet and profit and loss statement (for a specified purpose company that is not a company with accounting auditors, the balance sheet) without delay after the conclusion of the annual general meeting of members, pursuant to Cabinet Office Order provisions.
- (6) Notwithstanding the provisions of the preceding paragraph, it is sufficient for

a specified purpose company whose means of public notice is the means referred to in Article 194, paragraph (1), item (i) or (ii) to issue public notice of a summary of the balance sheet and profit and loss statement prescribed in the preceding paragraph.

- (7) A specified purpose company referred to in the preceding paragraph may, without delay after the conclusion of the annual general meeting of members, take measures to put the information contained in the balance sheet and profit and loss statement referred to in paragraph (5) into a format that enables many and unspecified persons to have continuous access to the information through electronic or magnetic means until the day on which five years have elapsed from the day of conclusion of the annual general meeting of members, pursuant to Cabinet Office Order provisions. In such a case, the provisions of the preceding two paragraphs do not apply.
- (8) The provisions of the preceding three paragraphs do not apply to a specified purpose company that must submit an annual securities report to the Prime Minister pursuant to the provisions of Article 24, paragraph (5) of the Financial Instruments and Exchange Act.

(Keeping and Inspection of Financial Statements and Associated Documents)

Article 105 (1) A company with accounting auditors must keep the financial statements, business report, profit appropriation proposal, and their annexed detailed statements for each business year (including the audit report and financial audit report; these documents are referred to as "financial statements and associated documents" in the following paragraph), at its head office for five years, beginning on the day one week prior to the date of the annual general meeting of members (in the case referred to in Article 63, paragraph (1), the date on which the proposal referred to in Article 63, paragraph (1) was made).

- (2) A company with accounting auditors must keep a copy of the financial statements and associated documents at its branch offices for three years, beginning on the day one week prior to the date of the annual general meeting of members (in the case referred to in Article 63, paragraph (1), the date on which the proposal referred to in Article 63, paragraph (1) was made); provided, however, that this does not apply if the financial statements and associated documents have been prepared as electronic or magnetic records and the company has taken the measures specified by Cabinet Office Order to enable its branch offices to respond to the requests set forth in Article 442, paragraph (3), items (iii) and (iv) of the Companies Act as applied mutatis mutandis pursuant to paragraph (4).
- (3) The preceding two paragraphs apply mutatis mutandis to the financial statements, business reports, profit appropriation proposals, annexed detailed

statements, and audit reports of a specified purpose company that is not a company with accounting auditors. In such a case, the term "the audit report and financial audit report" in paragraph (1) is deemed to be replaced with "the audit report".

- (4) The provisions of Article 442, paragraph (3) (Keeping and Inspection of Financial Statements) of the Companies Act apply mutatis mutandis to the members and creditors of a specified purpose company.

(Order to Submit Financial Statements and Associated Documents)

Article 106 The court may order the parties to an action to submit their financial statements and their annexed detailed statements in whole or in part, upon petition or by its own authority.

Subsection 4 Amount of Stated Capital

(Amount of Stated Capital)

Article 107 The amount of stated capital of a specified purpose company is the amount of specified capital, or, if the asset securitization plan provides for the issuance of preferred equity, the sum total of the amount of specified capital and the amount of preferred capital.

(Reduction in Amounts of Specified Capital)

Article 108 (1) A specified purpose company may reduce the amount of specified capital by amending the articles of incorporation only for the purpose of compensating for losses.

- (2) In amending the articles of incorporation pursuant to the provisions of the preceding paragraph, the following information must be fixed by resolution at a general meeting of members referred to in Article 150:

- (i) the amount of the reduction in the specified capital; and
- (ii) the date on which the reduction of the amount of specified capital is to become effective.

- (3) The amount referred to in item (i) of the preceding paragraph may not exceed the amount of specified capital on the date referred to in item (ii) of that paragraph.

- (4) The amount referred to in paragraph (2), item (i) may not exceed the amount calculated by the method that Cabinet Office Order prescribes as the amount of losses.

(Reduction of Amounts of Preferred Capital)

Article 109 (1) In addition to the case as under the following Article and as approved at a general meeting of members referred to in Article 159,

paragraph (1), a specified purpose company may reduce the amount of preferred capital by resolution at a general meeting of members.

- (2) The following information must be fixed by the resolution referred to in the preceding paragraph. In such a case, the sum total of the amounts prescribed in item (iii) and item (iv) must not exceed the amount referred to in item (i):
 - (i) the amount of the reduction in the preferred capital;
 - (ii) the date on which the reduction of the amount of preferred capital is to become effective;
 - (iii) if the preferred equity is to be canceled, the class and number of units of preferred equity subject to cancellation, the means of cancellation, and the amount required for the cancellation; and
 - (iv) if the preferred equity is to be appropriated to compensate for losses, the amount to be appropriated as compensation for losses.
- (3) The amount referred to in item (i) of the preceding paragraph must not exceed the amount of preferred capital on the day prescribed in item (ii) of that paragraph.
- (4) In a case prescribed in paragraph (2), item (iv), the amount referred to in item (i) of that paragraph may not exceed the amount calculated by the method that Cabinet Office Order prescribes as the amount of losses.
- (5) The provisions of Article 39, paragraph (3) apply mutatis mutandis to the resolution referred to in paragraph (1).
- (6) The provisions of paragraph (1) do not preclude the asset securitization plan from providing that the amount of preferred capital may not be reduced.

Article 110 (1) A specified purpose company may reduce the amount of preferred capital at the decision of the director (or, if there are two or more directors, at the decision of the majority of directors; hereinafter the same applies in this Article), but only if the asset securitization plan provides for the following particulars. In such a case, the amount required to cancel the preferred equity must not exceed the amount by which the preferred capital is to be reduced on the date prescribed in paragraph (3):

- (i) the purpose, requirements, and timing for reducing each amount of preferred capital;
- (ii) the amount of the reduction for each amount of preferred capital or the method this is calculated;
- (iii) if preferred equity is to be canceled when each amount of preferred capital is reduced, the classes and number of units of preferred equity to be canceled or the method this is calculated, the means of cancellation, and the amount required for canceling the preferred equity or the method this is calculated; and
- (iv) other particulars that Cabinet Office Order prescribes.

- (2) In the case referred to in the preceding paragraph, a specified purpose company must issue public notice of the information set forth in the items of the preceding paragraph regarding the reduction of the amount of preferred capital two weeks prior to the decision of the director.
- (3) If the amount of preferred capital is to be reduced as referred to in paragraph (1), the director must specify the date on which the reduction of the amount of preferred capital is to become effective.
- (4) The provisions of Article 64 apply mutatis mutandis if the amount of preferred capital is to be reduced as referred to in paragraph (1). In such a case, the term "resolution at a general meeting of members" in paragraph (1) of that Article is deemed to be replaced with "decision of the director"; the term "rescission of that resolution" is deemed to be replaced with "rescission of that decision"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Objections by Creditors)

Article 111 (1) If a specified purpose company reduces the amount of specified capital or the amount of preferred capital pursuant to the preceding three Articles, the creditors of the specified purpose company (if the specified purpose company reduces the amount of preferred capital pursuant to the preceding Article, excluding specified bondholders, holders of specified promissory notes, and creditors from which specified borrowings have been borrowed; hereinafter the same applies in this Article) may state their objections to the reduction of the amount of specified capital or the amount of preferred capital to the specified purpose company.

- (2) If the creditors of a specified purpose company may state their objections pursuant to the preceding paragraph, the specified purpose company must issue public notice in the Official Gazette of the following information, and must issue a demand separately to each known creditor of this; provided, however, that the period referred to in item (iii) may not be shorter than one month:
 - (i) the details of the reduction of the amount of specified capital or amount of preferred capital;
 - (ii) the information that Cabinet Office Order prescribes as concerning the financial statements of the specified purpose company; and
 - (iii) an indication that creditors may state their objections within a certain period of time.
- (3) If a creditor does not state an objection within the period prescribed in item (iii) of the preceding paragraph, that creditor is deemed to have approved the reduction of the amount of specified capital or the amount of preferred capital.
- (4) If a creditor states an objection within the period referred to in paragraph (2),

item (iii), the specified purpose company must pay its debt or provide suitable collateral to the creditor, or must place reasonable property into trust with a trust company or financial institution so as to enable the creditor to receive payment for the debt; provided, however, that this does not apply if the reduction of the amount of specified capital or the amount of preferred capital is unlikely to harm the creditor.

- (5) A reduction to the amount set forth in one of the following items becomes effective on the date that each item prescribes; provided, however, that this does not apply if the procedures under the preceding three paragraphs have not been completed:
- (i) a reduction to the amount of specified capital: the date referred to in Article 108, paragraph (2), item (ii);
 - (ii) a reduction to the amount of preferred capital as referred to in Article 109, paragraph (1): the date referred to in Article 109, paragraph (2), item (ii); or
 - (iii) a reduction to the amount of preferred capital as referred to in paragraph (1) of the preceding Article: the date referred to in paragraph (3) of the preceding Article.
- (6) A specified purpose company may change the date provided for in the items of the preceding paragraph at any time before that date.

(Application, Mutatis Mutandis, of the Companies Act)

Article 112 The provisions of Article 828, paragraph (1) (but only the part that involves item (v)) and paragraph (2) (but only the part that involves item (v)) (Actions Seeking Invalidation of Acts Concerning the Organization of a Company); Article 834 (but only the part that involves item (v)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Articles 836 through 839 (Order to Provide Security; Mandatory Consolidation of Oral Arguments; Persons Affected by an Upholding Judgment; Effect of a Judgment of Invalidation; Revocation or Rescission); Article 846 (Liability for Damages in Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (d)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to an action to invalidate a reduction to the amount of specified capital or the amount of preferred capital. In such a case, the term "a shareholder, etc." in Article 828, paragraph (2), item (v) of that Act is deemed to be replaced with "a member, director, company auditor, liquidator", and Cabinet Order provides for any other necessary technical replacement of terms.

(Incorporating Reduction Surplus into Preferred Capital)

Article 113 If the amount of preferred capital reduced pursuant to Article 109 or Article 110 exceeds the amount used to cancel preferred equity or the amount

appropriated to compensate for losses, a specified purpose company must incorporate the excess amount (referred to as "reduction surplus" in Article 190) into preferred capital.

Subsection 5 Distribution of Profits

(Distributing Profits to Members)

Article 114 (1) A specified purpose company may distribute profits to its members (other than the specified purpose company itself) limited to the amount arrived at when the sum total of the amounts set forth in items (ii) through (iv) is subtracted from the amount set forth in item (i) as of the last day of the most recent business year:

- (i) the amount of assets;
- (ii) the amount of debts;
- (iii) the amount of stated capital; and
- (iv) beyond what is set forth in the preceding two items, any amount that Cabinet Office Order prescribes.

(2) In addition to being governed by the provisions on preferred distribution to preferred equity members provided for in the asset securitization plan, a distribution of profits must be made in accordance with the number of units of preferred equity or specified equity held by each member (other than the specified purpose company itself).

(Payment of Interim Dividends)

Article 115 (1) A specified purpose company whose business year is one year in length may provide in its articles of incorporation that the company may distribute monies to its members (other than the specified purpose company itself) limited to once on a specific date per business year as decided by the director (or as decided by a majority of the directors, if there are multiple directors) (hereinafter such a distribution of monies is referred to as an "interim dividend" in this Subsection).

(2) The decision referred to in the preceding paragraph must be made within three months from the specific date prescribed in that paragraph.

(3) Interim dividends may be paid up to the amount arrived at when the sum total of the amounts set forth in items (ii) through (v) is subtracted from the amount referred to in item (i):

- (i) the amount of assets as of the last day of the most recent business year;
- (ii) the amount of debts as of the last day of the most recent business year;
- (iii) the amount of stated capital as of the last day of the most recent business year;
- (iv) the amount to distribute or to pay from the profits as prescribed at an

annual general meeting of members for the most recent business year; and
(v) beyond what is set forth in the preceding three items, any amount that
Cabinet Office Order prescribes.

(4) On finding that the sum of the amounts set forth in Article 114, paragraph (1), items (ii) through (iv) is likely to exceed the amount referred to in Article 114, paragraph (1), item (i) on the last day of the business year of a specified purpose company, the director must not decide to pay interim dividends for that business year.

(5) The payment of interim dividends is deemed to be the distribution of profits and the provisions of Article 32, paragraph (4) (but only the part that involves item (ii)) of this Act; Article 151, paragraph (1) (but only the part that involves item (viii)) of the Companies Act as applied mutatis mutandis pursuant to Article 45, paragraph (4); and paragraph (2) of the preceding Article apply.

(Application, Mutatis Mutandis, of the Companies Act to Distributions of Profits and Payments of Interim Dividends)

Article 116 The provisions of Article 457 (Methods of Delivery of Dividend Property) of the Companies Act apply mutatis mutandis to a specified purpose company's distribution of profits or payment of interim dividends. In such a case, the phrases "The dividend property (including monies paid pursuant to the provisions of Article 455, paragraph (2) and monies paid pursuant to the provisions of the preceding Article", "the shareholder register", "the shareholders (including registered pledgees of shares", and "the shareholders" in Article 457, paragraph (1) of the Companies Act are deemed to be replaced with "Monies distributed pursuant to the provisions of Article 114, paragraph (1) of the Asset Securitization Act (or, if interim dividends are paid, the monies that are distributed", "register of specified equity members or register of preferred equity members", "the members (including registered pledgees of specified equity and registered pledgees of preferred equity", and "the members", respectively; and the terms "dividend surplus" and "shareholders" in Article 457, paragraphs (2) and (3) of the Companies Act are deemed to be replaced with "monies" and "members", respectively.

(Liability for Distribution of Profits)

Article 117 If a specified purpose company violates Article 114, paragraph (1) in distributing profits as under that paragraph or violates Article 115, paragraph (3) in paying interim dividends, the persons receiving monies distributed as dividends through that action (hereinafter referred to as a "cash dividend" in this Subsection) (or, in the case of a payment of interim dividends in violation of Article 115, paragraph (3), the monies distributed (hereinafter referred to as a "cash distribution" in this Subsection); hereinafter the same applies in this

Article); the director undertaking the duty of distributing those profits or paying those interim dividends (including a person that Cabinet Office Order prescribes as having been involved, in the course of their duties, in the distribution of profits or payment of interim dividends that the director carries out); and the following persons have a joint and several obligation to pay monies equivalent to the amount of the cash dividends delivered to persons receiving a cash dividend to the specified purpose company:

- (i) if the distribution or payment was approved by resolution at an annual general meeting of members under Article 104, paragraph (2) (but only if the amount of the cash dividends fixed by the resolution exceeds the amount prescribed in Article 114, paragraph (1) (other than the items of that paragraph) as of the last day of the business year), the director that submitted the proposal at the annual general meeting of members (meaning the director that Cabinet Office Order prescribes as the one that has submitted the proposal at the annual general meeting of members); and
- (ii) if the distribution or payment was made at the director's decision under Article 115, paragraph (1) (but only if the amount of the cash distribution fixed by that decision exceeds the amount prescribed in Article 115, paragraph (3)), the director that submitted the proposal for the decision (meaning the director that Cabinet Office Order prescribes as the one that has submitted a proposal on the decision) leading to the director's decision.

(Liability in Cases of Deficit)

Article 118 If a specified purpose company pays interim dividends and the sum of the amounts set forth in Article 114, paragraph (1), items (ii) through (iv) at the time when the approval referred to in Article 104, paragraph (2) is obtained (or, in the case referred to in the first sentence of Article 104, paragraph (4), at the time when the report referred to in the second sentence of that paragraph is made) for the financial statements prescribed in Article 102, paragraph (2) in the business year in which the company pays the interim dividends (or, if the preceding business year is not the most recent business year, the business year preceding that one) exceeds the amount set forth in Article 114, paragraph (1), item (i), the directors undertaking the duty of paying those interim dividends have a joint and several obligation to pay the excess amount (or, if the excess amount exceeds the amount of the cash distributions in the payment of interim dividends, the amount of the cash distributions) to the specified purpose company; provided, however, that this does not apply to directors who prove that they did not neglect to exercise due care in undertaking that duty.

(Application, Mutatis Mutandis, of the Companies Act to Director Liability)

Article 119 (1) The provisions of Article 462, paragraphs (2) and (3) (Liability Related to Dividends of Surplus) of the Companies Act apply mutatis mutandis to the liability of the directors of a specified purpose company as under Article 117 of this Act; the provisions of Article 463 (Restrictions on Remedy Over Against Shareholders) of that Act apply mutatis mutandis to the members of a specified purpose company; the provisions of Article 464 (Liability Where Shares Are Acquired in Response to Demand for Purchase) of that Act apply mutatis mutandis to the liability of the directors of a specified purpose company that responds to a demand under Article 182-4, paragraph (1) as applied mutatis mutandis pursuant to Article 38, the liability of the directors of a specified purpose company that responds to a demand under Article 182-4, paragraph (1) as applied mutatis mutandis pursuant to Article 50, paragraph (1), and the liability of the directors of a specified purpose company that responds to a demand under Article 153, paragraph (1) of this Act; and the provisions of Article 465, paragraph (2) (Liability in Cases of Damage) of the Companies Act apply mutatis mutandis to the liability of the directors of a specified purpose company under the preceding Article. In such a case, the term "the preceding paragraph" in Article 462, paragraph (2) of the Companies Act is deemed to be replaced with "Article 117 of the Asset Securitization Act"; the term "executing persons" in that paragraph is deemed to be replaced with "the director prescribed in that Article"; the phrase "the persons provided for in each item of that paragraph" in that paragraph is deemed to be replaced with "the persons provided for in each item of that Article"; the term "under that paragraph" in that paragraph is deemed to be replaced with "under that Article"; the term "under paragraph (1)" in paragraph (3) of that Article is deemed to be replaced with "under Article 117 of the Asset Securitization Act"; the term "executing persons" in that paragraph is deemed to be replaced with "the director prescribed in that Article"; the term "the persons prescribed in each item of that paragraph" is deemed to be replaced with "the persons prescribed in each item of that Article"; the term "the distributable amount as at the time of the act set forth in each item of paragraph (1) of the preceding Article" in that paragraph is deemed to be replaced with "the amount provided in Article 114, paragraph (1) or Article 115, paragraph (3) of the Asset Securitization Act"; the term "all shareholders" in that paragraph is deemed to be replaced with "all members"; the term "in paragraph (1) of the preceding Article" in Article 463, paragraph (1) of that Act is deemed to be replaced with "in Article 117 of the Asset Securitization Act"; the term "the acts set forth in each item of Article 461, paragraph (1)" in that paragraph is deemed to be replaced with "the distribution of profits or payment of interim dividends under the provisions of Article 114 of the Asset Securitization Act"; the term "the total book value of the monies, etc." in that paragraph is deemed to be

replaced with "the amount of cash dividends or the amount of the cash distributions"; the term "the distributable amount as at the day when such act takes effect" in that paragraph is deemed to be replaced with "the amount prescribed in paragraph (1) of that Article or Article 115, paragraph (3) of the Asset Securitization Act"; the term "executing persons who made the payment of monies under paragraph (1) of the preceding Article" in that paragraph is deemed to be replaced with "director prescribed in Article 117 of the Asset Securitization Act"; the term "the persons provided for in each item of that paragraph" in that paragraph is deemed to be replaced with "the persons provided for in each item of that Article"; the term "paragraph (1) of the preceding Article" in paragraph (2) of that Article is replaced with "Article 117 of the Asset Securitization Act"; the term "that paragraph" in that paragraph is deemed to be replaced with "that Article"; the term "the book value of the monies, etc." in that paragraph is deemed to be replaced with "the amount of cash dividends or the amount of cash distributions"; the term "the distributable amount as at the day when such payment is made" in Article 464, paragraph (1) of the Companies Act is deemed to be replaced with "the amount referred to in Article 114, paragraph (1) of the Asset Securitization Act for the business year in which that payment was made (or, if the preceding business year is not the most recent business year, the business year preceding that one)"; and Cabinet Order provides for any other necessary technical replacement of terms.

(2) The provisions of Article 97, paragraph (3) of this Act and the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2); Article 847-2; Article 847-3; Article 849, paragraph (2), paragraph (3), and paragraphs (6) through (11); Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Action to Enforce Liability at a Stock Company) of the Companies Act apply mutatis mutandis to an action to enforce the liability of the directors of a specified purpose company under the provisions of Article 117 and to an action to enforce the liability of the directors of a specified purpose company under the provisions of the preceding Article or Article 464 of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph. In such a case, the phrase "A shareholder (excluding a holder of shares less than one unit who is unable to exercise right pursuant to the provisions of the articles of incorporation under Article 189, paragraph (2)) having the shares consecutively for the preceding six months (or, in cases where a shorter period is prescribed in the articles of incorporation, that period)" in Article 847, paragraph (1) of the Companies Act is deemed to be replaced with "A specified equity member or a preferred equity member that has held preferred equity continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period)"; the term "shareholder" in paragraph (3) of that Article is deemed to be replaced with "specified equity

member or preferred equity member"; the term "shareholder" in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (5) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article 847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "the shareholder, etc." in that paragraph is deemed to be replaced with "that specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849, paragraph (1) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholders" in paragraph (5) of that Article is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Providing Benefits for Exercising Rights as a Member or Similar Person)

Article 120 (1) A specified purpose company must not provide any person with an economic benefit (but only one provided on the account of the specified purpose company; hereinafter the same applies in this Article) in association with that person exercising a right as a member, specified bondholder, holder of a specified promissory note, or creditor from which specified borrowings have been borrowed (referred to as a "member or similar person" in the following paragraph and paragraph (5)).

(2) If a specified purpose company provides an economic benefit to a particular member or similar person free of charge, the specified purpose company is presumed to have provided that economic benefit to the member or similar person in association with their exercise of a right. The same applies if a specified purpose company provides an economic benefit to a particular member or similar person for a charge, if the benefit received by the specified purpose company is significantly less than that economic benefit.

(3) If a specified purpose company provides a person with an economic benefit in

violation of paragraph (1), the person who has received the benefit must return it to the specified purpose company. In such a case, if the person has paid or delivered something to the specified purpose company in exchange for the benefit, the person may have this returned.

- (4) If a specified purpose company violates paragraph (1) in providing a person with an economic benefit, the directors that Cabinet Office Order prescribes as being involved in providing the benefit have a joint and several obligation to pay the specified purpose company an amount equivalent to the value of the benefit provided; provided, however, that this does not apply if those persons (other than the director providing the person with the economic benefit) prove that they did not neglect to exercise due care in undertaking their duties.
- (5) A release from the obligation referred to in the preceding paragraph may not be granted without the consent of all members and similar persons.
- (6) The provisions of Article 97, paragraph (3) of this Act and the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2); Article 847-2; Article 847-3; Article 849, paragraph (2), paragraph (3), and paragraphs (6) through (11); Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Action to Enforce Liability at a Stock Company) of the Companies Act apply mutatis mutandis to actions to demand the return of benefits under paragraph (3). In such a case, the phrase "A shareholder (excluding a holder of shares less than one unit who is unable to exercise right pursuant to the provisions of the articles of incorporation under Article 189, paragraph (2)) having the shares consecutively for the preceding six months (or, in cases where a shorter period is prescribed in the articles of incorporation, that period)" in Article 848, paragraph (1) of the Companies Act is deemed to be replaced with "A specified equity member or a preferred equity member that has held preferred equity continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period)"; the term "shareholder" in paragraph (3) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the phrase "shareholder who made such demand or the incorporator, etc. referred to in that paragraph" in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (5) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article 847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "the shareholder, etc." in that paragraph is deemed to be replaced with "the specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849 (1) of that

Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholders" in paragraph (5) of that Article is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

Section 6 Specified Bonds

Subsection 1 General Rules

(Soliciting Persons to Subscribe for Specified Bonds)

Article 121 (1) A specified purpose company may solicit persons to subscribe for specified bonds as decided by the director (or as decided by a majority of the directors, if there are multiple directors) in accordance with the asset securitization plan.

(2) A specified purpose company may not issue specified bonds jointly with another specified purpose company.

(Offers Involving Specified Bonds for Subscription)

Article 122 (1) A specified purpose company must notify a person seeking to offer to subscribe for specified bonds for subscription in response to the solicitation referred to in paragraph (1) of the preceding Article (meaning specified bonds to be allotted to persons filing offers to subscribe for them in response to such a solicitation; hereinafter the same applies in this Section) of the following information:

- (i) the trade name and the date of the notification of commencement of business (or, if a notification of a new plan has been filed, the date of the notification of the new plan);
- (ii) that the subject of the offer is specified bonds;
- (iii) the type of specified assets (other than secondary specified assets) underlying the specified bonds for subscription;
- (iv) the total amount of specified bonds for subscription;
- (v) the amount of each specified bond for subscription;
- (vi) the interest rate for specified bonds for subscription;
- (vii) the means and the deadline for redemption of specified bonds for

- subscription;
- (viii) the means and the deadline for the payment of interest;
- (ix) if issuing specified bond certificates, an indication of this;
- (x) if specified bondholders are not to be allowed to make the demand under Article 698 of the Companies Act as applied mutatis mutandis pursuant to Article 125 in whole or in part, an indication of this;
- (xi) if the specified bond manager is to be allowed to perform the act set forth in Article 127, paragraph (4), item (ii) without a resolution at a specified bondholders meeting, an indication of this;
- (xii) the deadline for specifying which persons the specified bonds for subscription are to be allotted to;
- (xiii) if there is a person that has promised to subscribe for the remaining amount of specified bonds for subscription in the event that the persons to which the full amount of specified bonds for subscription to be allotted have not been specified by the deadline referred to in the preceding item, the name of that person;
- (xiv) the amount to be paid in for each specified bond for subscription (meaning the amount of monies to be paid in exchange for each specified bond for subscription; hereinafter the same applies in this Section (excluding Article 139, paragraphs (2) and (3); Article 144, paragraph (1), item (ii); and Article 145, paragraph (1), item (i) and paragraph (2))) or its minimum amount, or the method of calculating those amounts;
- (xv) the due date for the payment of monies that is made in exchange for the specified bonds for subscription;
- (xvi) the place where the bank or equivalent entity handles the payments;
- (xvii) an outline of information sufficient to identify the specified assets (other than secondary specified assets) set forth in the asset securitization plan, the rights to specified assets that may be asserted against the specified purpose company, and any other necessary information for learning the value of the specified assets;
- (xviii) the information about the specified assets referred to in the preceding item that each of the following items prescribes in accordance with the category of assets set forth in each item:
 - (a) land or buildings, or the associated rights or assets that Cabinet Order prescribes: the appraised value as determined through a real property appraisal of the assets by a real property appraiser prescribed by Cabinet Order;
 - (b) assets other than those set forth in (a): the results of an investigation into the value of those assets by a person other than the specified purpose company that Cabinet Order prescribes.
- (xix) if the asset securitization plan provides for the issuance of any other

- specified bonds, the information set forth in items (iv) through (viii) and item (xiv) with regard to those other specified bonds and their issuance status;
- (xx) if the asset securitization plan provides for the issuance of specified short-term bonds, the limit on the amount of those specified short-term bonds and any other information that Cabinet Office Order prescribes with regard to them, and their issuance status;
- (xxi) if the asset securitization plan provides for the issuance of specified promissory notes, the limit on the amount of those specified promissory notes and any other information that Cabinet Office Order prescribes with regard to them, and their issuance status;
- (xxii) if the asset securitization plan provides for specified borrowings, the limit on the amount of those borrowings and any other information that Cabinet Office Order prescribes with regard to them, and the status of those borrowings; and
- (xxiii) beyond what is set forth in the preceding items, information that Cabinet Office Order prescribes.
- (2) A person making an offer to subscribe for specified bonds for subscription in response to the solicitation referred to in paragraph (1) of the preceding Article must deliver a document stating the following information to the specified purpose company:
- (i) the name and address of the person making the offer;
- (ii) the amount of specified bonds for subscription for which the person seeks to subscribe and the number of specified bonds for each amount; and
- (iii) if the specified purpose company has fixed the minimum amount referred to in item (xiv) of the preceding paragraph, the desired amount to be paid in.
- (3) In lieu of delivering the document referred to in the preceding paragraph, a person making an offer referred to in that paragraph may provide the specified purpose company with the information that the person is required to enter in the document referred to in that paragraph by electronic or magnetic means, with the consent of the specified purpose company and pursuant to Cabinet Order provisions. In doing so, the person making the offer is deemed to have delivered the document referred to in that paragraph.
- (4) The provisions of paragraph (1) do not apply if the specified purpose company has delivered a prospectus prescribed in Article 2, paragraph (10) of the Financial Instruments and Exchange Act that states the information set forth in the items of that paragraph to the person seeking to make the offer referred to in paragraph (1), nor do they apply in a case that Cabinet Office Order prescribes as one that is unlikely to result in insufficient protection of the person seeking to make an offer to subscribe for the specified bonds for subscription.
- (5) If information set forth in the items of paragraph (1) changes, the specified

purpose company must immediately notify any person that has made an offer referred to in paragraph (2) (hereinafter referred to as the "offeror" in this Subsection) of this and of the information that has changed.

- (6) It is sufficient for a notice or demand that a specified purpose company issues to an offeror to be sent to the address referred to in paragraph (2), item (i) (or, if the offeror has notified the specified purpose company of another place or contact address for receiving notices or demands, to that place or contact address).
- (7) The notice or demand referred to in the preceding paragraph is deemed to have arrived at the time that it would normally arrive.
- (8) Unless there is a person referred to in paragraph (1), item (xiii), if a specified purpose company has not specified which persons it will allot the total amount of specified bonds for subscription to by the deadline referred to in item (xii) of that paragraph, the company must not issue all of the specified bonds for subscription.
- (9) A director must respond to an offeror's request to inspect the asset securitization plan or to be issued a certified copy or extract of the asset securitization plan.
- (10) The provisions of Article 40, paragraph (9) apply mutatis mutandis if an offeror requests to be issued a certified copy or extract of the asset securitization plan, and the provisions of Article 64 (Certificate of Deposit of Paid Money) of the Companies Act apply mutatis mutandis to the bank or equivalent entity handling the payment prescribed in paragraph (1), item (xvi). In such a case, the term "the preceding paragraph" in Article 40, paragraph (9) is deemed to be replaced with "Article 122, paragraph (9)"; the terms "Article 57, paragraph (1)", "the incorporators", and "pursuant to those provisions" in Article 64, paragraph (1) of the Companies Act are deemed to be replaced with "Article 121, paragraph (1) of the Asset Securitization Act", "the directors", and "in exchange for the specified bonds for subscription", respectively; and the terms "pursuant to the provisions of Article 34, paragraph (1) or paragraph (1) of the preceding Article" and "the stock company after establishment" in Article 64, paragraph (2) of the Companies Act are deemed to be replaced with "in exchange for the specified bonds for subscription" and "the specified purpose company", respectively.

(Allotment of Specified Bonds for Subscription)

Article 123 (1) A specified purpose company must specify which persons among the offerors the specified bonds for subscription are to be allotted to, and fix the amount of specified bonds for subscription and the number of specified bonds for subscription for each amount to be allotted to those persons. In doing so, the specified purpose company may reduce the number of specified bonds

for subscription for each amount to be allotted to those offerors to below the number referred to in paragraph (2), item (ii) of the preceding Article.

- (2) A specified purpose company must notify an offeror of the amount of specified bonds for subscription and the number of specified bonds for subscription for each amount to be allotted to that offeror, by the day before the due date referred to in paragraph (1), item (xv) of the preceding Article.

(Special Provisions on Subscription for and Allotment of Specified Bonds for Subscription)

Article 124 The provisions of the preceding two Articles do not apply if a person seeking to subscribe for specified bonds for subscription concludes a contract to subscribe for the total amount of specified bonds for subscription.

(Application, Mutatis Mutandis, of the Companies Act)

Article 125 The provisions of Articles 680 through 701 (excluding Article 684, paragraphs (4) and (5)) (Bondholders of Bonds for Subscription; Bond Register; Delivery of Documents Showing Information Entered in Bond Register; Manager of Bond Register; Keeping and Making Available for Inspection of Bond Register; Notices to Bondholders; Exercise of Rights by Co-owners; Perfection of Assignment of Bonds; Presumption of Rights; Entering or Recording Information Required to Be Entered in Bond Register without Being Requested by Bondholder; Entering or Recording Information Required to Be Entered in Bond Register as Requested by Bondholder; Pledges of Bonds with Issued Certificates; Perfection of Pledge of Bonds; Entries in Bond Register Regarding Pledges; Delivery of Documents Showing Information Entered in Bond Register regarding Pledges; Issuing of Bond Certificates; Information Required to Be Shown on Bond Certificates; Conversions Between Registered Bonds and Bearer Bonds; Loss of Bond Certificates; Redemption of Bonds Where Coupons Missing; Extinctive Prescription of Right to Claim Redemption of Bonds) of the Companies Act apply mutatis mutandis to specified bonds, specified bondholders, specified bond certificates, and specified bond register if a specified purpose company issues specified bonds. In such a case, the terms "information required to be entered in the bond register", "bond-issuing company", and "bearer bonds" in those provisions are deemed to be replaced with "information required to be entered in the specified bond register", "company issuing the specified bonds", and "specified bonds in bearer form", respectively; the term "bonds for subscription" in Article 680 of the Companies Act is deemed to be replaced with "specified bonds for subscription"; the term "the preceding Article" in Article 680, item (ii) of that Act is deemed to be replaced with "Article 124 of the Asset Securitization Act"; the term "Article 676, items (iii) through (viii)" in Article 681, item (i) of the Companies Act is

deemed to be replaced with "Article 122, paragraph (1), items (vi) through (xi) of the Asset Securitization Act"; the term "the bond register administrator" in Article 683 and Article 684, paragraph (1) of the Companies Act is deemed to be replaced with "specified bond register administrator"; the term "Article 720, paragraph (1)" in Article 685, paragraph (5) of the Companies Act is deemed to be replaced with "Article 720, paragraph (1) as applied mutatis mutandis pursuant to Article 129, paragraph (2) of the Asset Securitization Act"; the term "Article 676, item (vii)" in Article 698 of the Companies Act is deemed to be replaced with "Article 122, paragraph (1), item (x)" of the Asset Securitization Act; and Cabinet Order provides for any other necessary technical replacement of terms.

(Employment of Specified Bond Managers)

Article 126 If a specified purpose company issues specified bonds, it must employ a specified bond manager and entrust that manager with receiving payments, preserving claims, and any other management of the specified bonds on behalf of the specified bondholders; provided, however, that this does not apply if the amount of each specified bond for subscription to which its solicitation pertains is 100 million yen or more, or to other cases that Cabinet Office Order prescribes as those that are unlikely to result in insufficient protection of the specified bondholders.

(Authority of Specified Bond Managers)

Article 127 (1) A specified bond manager has the authority to engage in any act in or out of court on behalf of a specified bondholder that is necessary for receiving the payment of claim under the specified bond or for preserving the fulfillment of the claim under the specified bond.

(2) If a specified bond manager receives payment as referred to in the preceding paragraph, the specified bondholder may demand payment of the redemption amount for the specified bonds or their interest from the specified bond manager. In such a case, if there are provisions indicating that specified bond certificates are to be issued, the specified bondholders must claim payment of the redemption amount in exchange for the specified bond certificate and claim payment of the interest in exchange for the coupon.

(3) The right to claim payment referred to in the first sentence of the preceding paragraph is extinguished by prescription if it is not exercised for ten years from the time when the right became exercisable.

(4) A specified bond manager must not perform the following acts without a resolution at a specified bondholders meeting; provided, however, that this does not apply with regard to the act set forth in item (ii), if persons have been notified of the information referred to in Article 122, paragraph (1), item (xi)

pursuant to the provisions of that paragraph:

- (i) granting a grace period for payment of all specified bonds, granting exemptions from liability arising from failure to perform on obligations to pay for all specified bonds, or accepting settlements for all specified bonds (other than an act set forth in the following item); and
 - (ii) carrying out procedural acts for all specified bonds, or carrying out acts involved in bankruptcy, rehabilitation, or special liquidation proceedings for all specified bonds (other than an action set forth in paragraph (1)).
- (5) Having performed an act set forth in item (ii) of the preceding paragraph without recourse to a resolution at a specified bondholders meeting pursuant to the proviso to the preceding paragraph, the specified bond manager must issue public notice of this and separately notify each known specified bondholder of this without delay.
- (6) The public notice under the preceding paragraph must be issued by the means of public notice used at the specified purpose company that has issued the specified bonds (hereinafter referred to as the "company issuing the specified bonds" in this Section); provided, however, that if the company's means of notice is electronic public notice (meaning electronic public notice prescribed in Article 194, paragraph (1), item (iii)), public notice must be issued by publication in the Official Gazette.
- (7) If it is necessary for the specified bond manager to do so in order to perform the act set forth in paragraph (1) or the act set forth in the items of paragraph (4) for specified bonds whose management the specified bond manager has been entrusted with, the manager may investigate the status of business and assets of the company issuing the specified bonds.
- (8) The provisions of Article 703 (Qualifications of Bond Managers); Article 704 (Obligations of Bond Managers); Articles 707 through 714 (Appointment of Special Agent; Method of Acts of Bond Managers; Special Provisions for Multiple Bond Managers; Liability of Bond Managers; Resignation of Bond Managers; Liability of Bond Managers after Resignation; Dismissal of Bond Managers); Article 868, paragraph (4) (Jurisdiction over Non-Contentious Cases); Article 869 (Prima Facie Showing); Article 870, paragraph (1) (but only the part that involves item (ii)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 874 (but only the part that involves items (i) and (iv)) (Restrictions on Appeal); Article 875 (Exclusion from the Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rule) of the Companies Act apply mutatis mutandis to specified bond managers. In such a case, the terms "bonds", "bondholder", "bond-issuing company", and "bondholders meeting" in those provisions are deemed to be replaced with "specified bonds", "specified bondholders",

"company issuing the specified bonds", and "specified bondholders' meeting", respectively; the term "paragraph (1) of Article 705" in Article 709, paragraph (2) of the Companies Act is deemed to be replaced with "Article 127, paragraph (1) of the Asset Securitization Act"; the term "this Act" in Article 710, paragraph (1) of the Companies Act is deemed to be replaced with "the Asset Securitization Act"; the term "Article 702" in Article 711, paragraph (2) of the Companies Act is deemed to be replaced with "Article 126 of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Ordinary Collateral)

- Article 128 (1) The specified bondholders of a specified purpose company are entitled to have the claims under their own specified bonds paid in preference to other creditors from the assets of the specified purpose company; provided, however, that this does not preclude the asset securitization plan from providing otherwise.
- (2) The precedence of a statutory lien as referred to in the preceding paragraph comes after the general statutory liens pursuant to the provisions of the Civil Code.

(Specified Bondholders Meetings)

- Article 129 (1) The specified bondholders organize a specified bondholders meeting for each class (meaning a class prescribed in Article 681, item (i) of the Companies Act as applied mutatis mutandis pursuant to Article 125) of specified bonds.
- (2) The provisions of Part IV, Chapter III (excluding Article 715) (Bondholders Meeting); Part VII, Chapter II, Section 7 (Action Seeking Rescission of Performance of a Bond-issuing Company); Article 868, paragraph (4) (Jurisdiction over Non-Contentious Cases); Article 869 (Prima Facie Showing); Article 870, paragraph (1) (but only the part that involves items (vii) through (ix)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 874 (but only the part that involves item (iv)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to specified bonds, specified bondholders, specified bond certificates, specified bond managers, specified bond registries, and specified bondholders meetings, if a specified purpose company issues specified bonds. In such a case, the terms "bond-issuing company", "bearer bonds", and "representative bondholder" in those provisions are deemed to be replaced with

"company issuing the specified bonds", "specified bonds in bearer form", and "representative specified bondholder", respectively; the term "this Act" in Article 716 of the Companies Act is deemed to be replaced with "the Asset Securitization Act or the asset securitization plan"; the term "electronic public notice" in Article 720, paragraph (5) of the Companies Act is deemed to be replaced with "electronic public notice (meaning electronic public notice prescribed in Article 194, paragraph (1), item (iii) of the Asset Securitization Act)"; the term "bondholders meeting reference documents" in Article 721 of the Companies Act is deemed to be replaced with "reference documents for a specified bondholders meeting"; the term "each item of Article 706, paragraph (1)" in Article 724, paragraph (2), item (i) of the Companies Act is deemed to be replaced with "the items of Article 127, paragraph (4) of the Asset Securitization Act"; the term "paragraph (1) of Article 706" in Article 724, paragraph (2), item (ii) of the Companies Act is deemed to be replaced with "Article 127, paragraph (4) of the Asset Securitization Act"; the term "Article 707" in Article 729, paragraph (1) of the Companies Act is deemed to be replaced with "Article 707 as applied mutatis mutandis pursuant to Article 127, paragraph (8) of the Asset Securitization Act"; the term "Article 676" in Article 733, item (i) of the Companies Act is deemed to be replaced with "Article 122, paragraph (1) of the Asset Securitization Act"; the term "paragraphs (1) through (3) of Article 705, and under Articles 708 and 709" in Article 737, paragraph (2) of the Companies Act is deemed to be replaced with "Article 127, paragraphs (1) through (3) of the Asset Securitization Act and the provisions of Article 708 and Article 709 of the Companies Act as applied mutatis mutandis pursuant to Article 127, paragraph (8) of the Asset Securitization Act"; the term "Article 449" in Article 740, paragraph (1) of the Companies Act is deemed to be replaced with "Article 111 of the Asset Securitization Act"; the term "Article 702" in Article 740, paragraph (2) of the Companies Act is deemed to be replaced with "Article 126 of the Asset Securitization Act"; the term "paragraph (1) of Article 705 (including as applied mutatis mutandis pursuant to Article 737, paragraph (2))" in Article 741, paragraph (3) of the Companies Act is deemed to be replaced with "Article 127, paragraph (1) (including as applied mutatis mutandis pursuant to Article 737, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 129, paragraph (2) of the Asset Securitization Act) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Application of the Secured Bond Trust Act)

Article 130 To apply the Secured Bond Trust Act and other laws and regulations specified by Cabinet Order, specified bonds are deemed to be corporate bonds,

pursuant to the provisions of Cabinet Order.

Subsection 2 Convertible Specified Bonds

(Issuance of Convertible Specified Bonds)

Article 131 (1) A specified purpose company may issue convertible specified bonds in accordance with the provisions of the asset securitization plan.

- (2) If a Type II Specified Purpose Company issues convertible specified bonds with conditions for conversion that are particularly favorable to persons other than preferred equity members, the total amount of convertible specified bonds that may be issued to those persons, the amount to be paid in, the conditions for conversion, the details of the preferred equity to be issued upon conversion, and the period during which a person may request the conversion must be decided by resolution at a general meeting of members, even if the asset securitization plan provides for these particulars. In such a case, the director, at that general meeting of members, must explain the reason for the need to issue convertible specified bonds in an amount to be paid in that is particularly favorable to persons other than preferred equity members.
- (3) The resolution referred to in the preceding paragraph is effective only on the first convertible specified bonds issued after the resolution is adopted, and these convertible specified bonds must be issued within six months from the date of that resolution.
- (4) The provisions of Article 39, paragraph (3) apply mutatis mutandis to the resolution referred to in paragraph (2).

(Public Notice of Information on Issuance of Convertible Specified Bonds)

Article 132 (1) If a specified purpose company issues convertible specified bonds (other than those on which a resolution referred to in paragraph (2) of the preceding Article has been adopted), the company must issue public notice or notify the members of the total amount of convertible specified bonds, the amount to be paid in, conditions for conversion, details of the preferred equity to be issued upon conversion, the period during which a person may request their conversion, and the means of subscribing for them.

- (2) If a specified purpose company is to issue the notice referred to in the preceding paragraph using an electronic data processing system or by using other information and communications technology, the company must obtain the consent of the members pursuant to the provisions of Cabinet Order, and issue that notice using the means that Cabinet Office Order prescribes.
- (3) A specified purpose company may not allot convertible specified bonds until after two weeks have passed since the date on which the public notice or notice under paragraph (1) was issued.

(Procedures for Issuing Convertible Specified Bonds)

Article 133 (1) For convertible specified bonds, in addition to the information of which, pursuant to Article 122, paragraph (1), a specified purpose company must notify a person that seeks to make an offer to subscribe for specified bonds for subscription in response to the solicitation referred to in Article 121, paragraph (1), the company must notify that person of the following information:

- (i) that the convertible specified bonds may be converted into preferred equity;
 - (ii) the conditions for conversion;
 - (iii) the details of the preferred equity that it is to issue upon conversion; and
 - (iv) the period during which the person may request conversion.
- (2) The information set forth in the items of the preceding paragraph must be entered or recorded in the specified bond register for convertible specified bonds, and if convertible specified bond certificates are issued, that information must be entered in the convertible specified bond certificates.

(Registration of Convertible Specified Bonds)

Article 134 (1) If a specified purpose company issues convertible specified bonds, the convertible specified bonds must be registered in the locality of its head office within two weeks from the due date prescribed in Article 122, paragraph (1), item (xv).

- (2) The following information must be registered in a registration as referred to in the preceding paragraph:
- (i) the total amount of convertible specified bonds;
 - (ii) the amount of each convertible specified bond;
 - (iii) the amount paid in for each convertible specified bond; and
 - (iv) the information set forth in the items of paragraph (1) of the preceding Article.
- (3) The provisions of Article 915, paragraph (1) (Registration of a Change) of the Companies Act apply mutatis mutandis if a piece of information set forth in an item of the preceding paragraph changes.
- (4) If a specified purpose company solicits a person subscribing for convertible specified bonds in a foreign state and a particular required to be registered arises in a foreign state, the period for registration is counted from the date on which the notice of that information arrives.

(Request for Conversion)

Article 135 (1) To request the conversion of convertible specified bonds, a person must disclose the following information:

- (i) the specified bonds to convert; and

(ii) the date of the request.

(2) A person requesting a conversion must submit the convertible specified bond certificate to the specified purpose company; provided, however, that this does not apply if the convertible specified bond certificate has not been issued.

(Voting Rights from Preferred Equity Issued upon Conversion after the Reference Date)

Article 136 If a specified purpose company has fixed a specific date pursuant to the provisions of Article 43, paragraph (2) in order to specify which preferred equity members are entitled to vote at general meetings of members, a preferred equity member that holds preferred equity issued based on a request for conversion after that date is not entitled to vote.

(Timing of Becoming a Preferred Equity Member)

Article 137 A person requesting a conversion pursuant to the provisions of Article 135, paragraph (1) becomes a preferred equity member on the date referred to in item (ii) of that paragraph.

(Application, Mutatis Mutandis, of the Companies Act)

Article 138 (1) The provisions of Article 151, paragraph (1) (excluding the items) (Effect of Pledge of Shares); Article 210 (Demanding Cessation of Issuance of Shares for Subscription); Article 212, paragraph (1) (but only the part that involves item (i)) (Liabilities of Persons Who Subscribed for Shares with Unfair Amount To Be Paid In); and Article 915, paragraph (3) (but only the part that involves item (i)) (Registration of a Change) of the Companies Act apply mutatis mutandis to a specified purpose company's convertible specified bonds. In such a case, the terms "If a stock company carries out any of the acts set forth below", "such act", and "shareholders" in Article 151, paragraph (1) of the Companies Act are deemed to be replaced with "If the conversion of convertible specified bonds has been effected", "such conversion", and "convertible specified bondholders", respectively; the terms "shareholders" and "Article 199, paragraph (1)" in Article 210 of the Companies Act are deemed to be replaced with "members" and "Article 121, paragraph (1) of the Asset Securitization Act", respectively; the term "laws and regulations or the articles of incorporation" in Article 210, item (i) of the Companies Act is deemed to be replaced with "laws and regulations, the articles of incorporation, or the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(2) The provisions of Article 97, paragraph (3) of this Act and the provisions of Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2); Article 847-2; Article 847-3; Article 849, paragraph (2), paragraph (3), and paragraphs

(6) through (11); Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Action to Enforce Liability at a Stock Company) of the Companies Act apply mutatis mutandis to an action for demanding payment under Article 212, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph. In such a case, the phrase "A shareholder (excluding a holder of shares less than one unit who is unable to exercise rights pursuant to the provisions of the articles of incorporation) having the shares consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, that period or more)" in Article 847, paragraph (1) of the Companies Act is deemed to be replaced with "A specified equity member or a preferred equity member that has held preferred equity continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period)"; the term "shareholder" in paragraph (3) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the phrase "shareholder who made such demand or the incorporator, etc. referred to in that paragraph" in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (5) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article 847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "the shareholder, etc." in that paragraph is deemed to be replaced with "that specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849, paragraph (1) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholders" in paragraph (5) of that Article is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

Subsection 3 Specified Bonds with Preferred Equity Subscription

Rights

(Issuance of Specified Bonds with Preferred Equity Subscription Rights)

- Article 139 (1) A specified purpose company may issue specified bonds with preferred equity subscription rights in accordance with the provisions of the asset securitization plan.
- (2) The total amount to be contributed upon exercise of the subscription rights embedded in each specified bond with preferred equity subscription rights (referred to as the "amount to be paid in" in the following paragraph, Article 144, paragraph (1), item (ii), and Article 145, paragraph (1), item (i), and paragraph (2)) may not exceed the amount of that specified bond with preferred equity subscription rights.
- (3) If a specified purpose company issues specified bonds with preferred equity subscription rights that allow the preferred equity subscription rights to be transferred independently, the total amount of specified bonds with preferred equity subscription rights, the total amount to be paid in for the preferred equity issued upon the exercise of those subscription rights, and the period during which the preferred equity subscription rights may be exercised must be decided by resolution at a general meeting of members, even if the asset securitization plan provides for these particulars; provided, however, that this does not apply if the company issues specified bonds with preferred equity subscription rights that it only redeems or cancels if the total amount to be paid in for the preferred equity associated with unexercised preferred equity subscription rights does not exceed the total amount of existing specified bonds with preferred equity subscription rights.
- (4) If a Type II Specified Purpose Company issues specified bonds with preferred equity subscription rights and the details of the embedded preferred equity subscription rights are particularly favorable to persons other than preferred equity members, the amount of specified bonds with preferred equity subscription rights that may be issued to those persons, the amount to be paid in, the details of the subscription rights, and the period during which the subscription rights may be exercised must be decided by resolution at a general meeting of members, even if the asset securitization plan provides for these particulars. In such a case, the directors, at the general meeting of members, must explain the reason for the need to issue the specified bonds with preferred equity subscription rights in an amount to be paid in that is particularly favorable to persons other than preferred equity members.
- (5) The provisions of Article 131, paragraphs (3) and (4) apply mutatis mutandis to a resolution at a general meeting of members referred to in the preceding two paragraphs. In such a case, the term "convertible specified bonds" in Article 131, paragraph (3) is deemed to be replaced with "specified bonds with

preferred equity subscription rights ".

(Public Notice of Information on Issuance of Specified Bonds with Preferred Equity Subscription Rights)

Article 140 (1) If a specified purpose company issues specified bonds with preferred equity subscription rights (other than ones with regard to which a resolution referred to in paragraph (4) of the preceding Article has been adopted), the company must issue public notice or notify the members of the total amount of specified bonds with preferred equity subscription rights, the amount to be paid in, the details of the preferred equity subscription rights, the period during which the preferred equity subscription rights may be exercised, and the means of subscribing for them.

(2) The provisions of Article 132, paragraph (2) apply mutatis mutandis to the notice referred to in the preceding paragraph.

(3) A specified purpose company may not allot specified bonds with preferred equity subscription rights until after two weeks have passed since the date on which the public notice or notice under paragraph (1) was issued.

(Procedures for Issuing Specified Bonds with Preferred Equity Subscription Rights)

Article 141 (1) For specified bonds with preferred equity subscription rights, in addition to the information of which, pursuant to Article 122, paragraph (1), a specified purpose company must notify a person that seeks to make an offer to subscribe for specified bonds for subscription in response to the solicitation referred to in Article 121, paragraph (1), the company must notify that person of the following information:

(i) that they are specified bonds with preferred equity subscription rights;

(ii) the information set forth in Article 5, paragraph (1), item (ii), sub-item (d), 2 through 5; and

(iii) the bank or equivalent entity that handles the payments prescribed in Article 145, paragraph (2) and the place where it handles those payments.

(2) If certificates representing specified bonds with preferred equity subscription rights are issued, the information set forth in the items of the preceding paragraph must be entered in them; provided, however, that this does not apply if preferred equity subscription warrants referred to in paragraph (1) of the following Article are issued.

(3) The information set forth in the items of paragraph (1) must be entered or recorded in the specified bond register for specified bonds with preferred equity subscription rights.

(Issuance of Preferred Equity Subscription Warrants and Their Format)

Article 142 (1) If the asset securitization plan provides that preferred equity subscription rights may be transferred independently, the specified purpose company must issue preferred equity subscription warrants.

(2) The following information and serial numbers must be entered in preferred equity subscription warrants, and the representative director must sign them or have their name and personal seal affixed to them:

- (i) an indication that it is a preferred equity subscription warrant;
- (ii) the trade name;
- (iii) the information set forth in Article 5, paragraph (1), item (ii), sub-item (d), 2, 3, and 5; and
- (iv) the information referred to in Article 141, paragraph (1), item (iii).

(Means of Transferring Preferred Equity Subscription Warrants)

Article 143 (1) If preferred equity subscription warrants are issued, a preferred equity subscription right must be transferred through the delivery of the preferred equity subscription warrant.

(2) The provisions of Article 258, paragraphs (1) and (2) (Presumption of Rights) and Article 291 (Loss of Share Option Certificates) of the Companies Act apply mutatis mutandis to preferred equity subscription warrants. In such a case, the term "share options with issued certificate" in Article 258 of that Act is deemed to be replaced with "preferred equity subscription rights".

(Registration of Specified Bonds with Preferred Equity Subscription Rights)

Article 144 (1) The following information must be registered in the registration of a specified bond with preferred equity subscription rights:

- (i) that it is a specified bond with preferred equity subscription rights;
 - (ii) the total amount to be paid in for preferred equity issued upon exercise of the preferred equity subscription right;
 - (iii) the amount of each specified bond with preferred equity subscription rights;
 - (iv) the amount paid in for each specified bond with preferred equity subscription rights; and
 - (v) the information set forth in Article 5, paragraph (1), item (ii), sub-item (d), 1 through 3
- (2) The provisions of Article 134, paragraphs (1), (3), and (4) apply mutatis mutandis to the registration of a specified bond with preferred equity subscription rights.

(Exercise of Preferred Equity Subscription Rights)

Article 145 (1) To exercise preferred equity subscription rights, a person must disclose the following information:

- (i) the amount to be paid in for the preferred equity issued upon the exercise of preferred equity subscription rights;
 - (ii) the address of the person exercising the preferred equity subscription rights; and
 - (iii) the date on which the preferred equity subscription rights are exercised.
- (2) If a person exercising preferred equity subscription rights has paid the entire amount to be paid in for the new preferred equity and preferred equity subscription warrants have been issued, the person must submit its preferred equity subscription warrants to the specified purpose company, but if preferred equity subscription warrants have not been issued (excluding cases in which certificates representing specified bonds with preferred equity subscription rights have not been issued), the person must present the certificates representing the specified bonds with preferred equity subscription rights.
- (3) A payment referred to in the preceding paragraph must be made at the place where the bank or equivalent entity handles those payments as referred to in Article 141, paragraph (1), item (iii).

(Timing of Becoming a Preferred Equity Member)

Article 146 A person exercising a preferred equity subscription right pursuant to paragraph (1) of the preceding Article becomes a preferred equity member at the time of making the payment referred to in paragraph (2) of that Article.

(Application, Mutatis Mutandis, of the Companies Act)

Article 147 (1) The provisions of Article 210 (Demanding Cessation of the Issuing of Shares for Subscriptions) and Article 212, paragraph (1) (but only the part that involves item (i)) (Liabilities of Persons who Subscribed for Shares with Unfair Amount To Be Paid In) of the Companies Act apply mutatis mutandis to specified bonds with preferred equity subscription rights, and Article 136 of this Act and Article 915, paragraph (3) (but only the part that involves item (i)) (Registration of a Change) of the Companies Act apply mutatis mutandis to the exercise of preferred equity subscription rights. In such a case, the terms "shareholders" and "Article 199, paragraph (1)" in Article 210 of the Companies Act are deemed to be replaced with "members" and "Article 121, paragraph (1) of the Asset Securitization Act", respectively; the term "laws and regulations or the articles of incorporation" in Article 210, item (i) of the Companies Act is deemed to be replaced with "laws and regulations, the asset securitization plan, or the articles of incorporation"; and Cabinet Order provides for any other necessary technical replacement of terms.

(2) The provisions of Article 97, paragraph (3) of this Act, Part VII, Chapter II, Section 2 (excluding Article 847, paragraph (2); Article 847-2; Article 847-3; Article 849, paragraph (2), paragraph (3), and paragraphs (6) through (11));

Article 851; and Article 853, paragraph (1), items (ii) and (iii)) (Action to Enforce Liability at a Stock Company) of the Companies Act apply mutatis mutandis to an action for demanding payment under Article 212, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph. In such a case, the phrase "A shareholder (excluding a holder of shares of less than one unit who is unable to exercise their right pursuant to the provisions of the articles of incorporation under Article 189, paragraph (2)) having the shares consecutively for the preceding six months or more (or, in cases where a shorter period is prescribed in the articles of incorporation, that period or more)" in Article 847, paragraph (1) of the Companies Act is deemed to be replaced with "A specified equity member or a preferred equity member that has held preferred equity continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period)"; the term "shareholder" in paragraph (3) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder who made such demand or the incorporator, etc. referred to in that paragraph" in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in paragraph (5) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc. (meaning a shareholder, a qualified former shareholder or a shareholder of an ultimate, wholly owning parent company, etc.; hereinafter the same applies in this Section)" in Article 847-4, paragraph (2) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "the shareholder, etc." in that paragraph is deemed to be replaced with "that specified equity member or preferred equity member"; the term "shareholder, etc." in Article 849, paragraph (1) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder, etc." in paragraph (4) of that Article is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholders" in paragraph (5) of that Article is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholders, etc." in Article 850, paragraph (3) of that Act is deemed to be replaced with "specified equity members or preferred equity members"; the term "shareholder, etc." in Article 852 of that Act is deemed to be replaced with "specified equity member or preferred equity member"; the term "shareholder" in Article 853, paragraph (1), item (i) of that Act is deemed to be replaced with "specified equity member or preferred equity member"; and Cabinet Order provides for any other necessary technical replacement of terms.

Subsection 4 Specified Short-Term Bonds

(Issuance of Specified Short-Term Bonds)

Article 148 A specified purpose company may issue specified short-term bonds only in the following cases:

- (i) if all of the following requirements are satisfied:
 - (a) the purpose of issuing the specified short-term bonds is to procure the funds necessary to acquire specified assets;
 - (b) the limit on the amount of specified short-term bonds it may issue is specified in the asset securitization plan; and
 - (c) requirements that Cabinet Office Order prescribes as being necessary for the protection of investors.
- (ii) if the bonds are issued for the purpose of procuring funds for the redemption of specified short-term bonds issued pursuant to the provisions of this Article.

(Exclusion from Application of Provisions Related to Specified Bonds)

Article 149 (1) Specified short-term bonds do not require the preparation of a specified bond register.

(2) The provisions of Article 121, paragraph (1); Article 129; Articles 131 through 147; and Article 154 do not apply to specified short-term bonds.

Section 7 Amending Articles of Incorporation

Article 150 A specified purpose company may amend its articles of incorporation by resolution at a general meeting of members after its establishment.

Section 8 Changing Asset Securitization Plans

(Changing Asset Securitization Plans)

Article 151 (1) A specified purpose company may not change its asset securitization plan unless it does so by resolution at a general meeting of members.

- (2) Notwithstanding the provisions of the preceding paragraph, the asset securitization plan may not be changed in connection with the following information:
- (i) the information set forth in Article 5, paragraph (1), item (iii) that Cabinet Office Order prescribes;
 - (ii) the information set forth in Article 5, paragraph (1), items (ii), (iv), and (v) that Cabinet Office Order prescribes (excluding cases in which the conditions for changing that information have been provided for in the asset securitization plan in advance); and

- (iii) the particulars that are provided in the asset securitization plan as those that may not be changed.
- (3) Notwithstanding the provisions of the preceding two paragraphs, a specified purpose company may change the asset securitization plan in the following cases:
 - (i) if the details of the change are those that Cabinet Office Order prescribes as being minor;
 - (ii) if it has the advance consent of all of the members, specified bondholders, holders of specified promissory notes, and creditors from which specified borrowings have been borrowed (referred to as "interested persons" in the following paragraph) to the change; or
 - (iii) in a case that Cabinet Office Order prescribes as one in which it is evident that the change will not jeopardize the protection of the investors.
- (4) Having changed its asset securitization plan (but only in a case under the preceding paragraph), a specified purpose company must notify each interested person or issue public notice of this without delay.
- (5) The provisions of Article 132, paragraph (2) apply mutatis mutandis to the notice referred to in the preceding paragraph. In such a case, the term "members" in paragraph (2) of that Article is deemed to be replaced with "members, specified bondholders, holders of specified promissory notes, and creditors from which specified borrowings have been borrowed".

(Resolutions for Change of the Plan)

Article 152 (1) A specified purpose company set forth in one of following items must deliver a document stating the information that the item prescribes when issuing a notice of convocation under Article 56, paragraph (1) for a general meeting of members for voting on a resolution to change the asset securitization plan (hereinafter referred to as a "resolution for change of the plan" in this Section):

- (i) a specified purpose company issuing specified bonds: the total amount of specified bonds held by specified bondholders that have notified the specified purpose company that they will vote against the change of the asset securitization plan pursuant to Article 154, paragraph (5);
- (ii) a specified purpose company issuing specified short-term bonds: the total amount of specified short-term bonds held by the specified short-term bondholders that have notified the specified purpose company that they will vote against the change of the asset securitization plan pursuant to Article 155, paragraph (4);
- (iii) a specified purpose company issuing specified promissory notes: the total amount of obligations undertaken in relation to specified promissory notes held by the holders of specified promissory notes that have notified the

- specified purpose company that they will vote against the change of the asset securitization plan pursuant to Article 155, paragraph (4) as applied mutatis mutandis pursuant to Article 156, paragraph (3); and
- (iv) a specified purpose company that has specified borrowings: the total amount of specified borrowings from the creditors from which specified borrowings have been borrowed that have notified the specified purpose company that they will vote against the change of the asset securitization plan pursuant to Article 155, paragraph (4) as applied mutatis mutandis pursuant to Article 157, paragraph (2).
- (2) If a specified purpose company referred to in the preceding paragraph issues a notice of convocation as referred to in the preceding paragraph by electronic or magnetic means to the members that have given their consent referred to in Article 55, paragraph (3) as applied mutatis mutandis pursuant to Article 56, paragraph (3), the specified purpose company may provide those members with the information that is required to be entered in the documents prescribed in Article 55, paragraph (3) by electronic or magnetic means, together with that notice; provided, however, that it must provide a member with the documents referred to in Article 55, paragraph (3) if that member so requests.
- (3) The provisions of Article 39, paragraph (3) apply mutatis mutandis to a resolution for change of the plan.

(Dissenting Preferred Equity Members' Right to Demand the Purchase of Their Preferred Equity)

- Article 153 (1) Preferred equity members that notify a specified purpose company that they will vote against a change prior to the general meeting of members for voting on a resolution for change of the plan and that vote against the change at that general meeting of members (this is limited to those entitled to vote at that general meeting of members) may demand that the specified purpose company purchase their preferred equity at a fair price.
- (2) To make the demand referred to in the preceding paragraph (hereinafter referred to as a "demand for a preferred equity to be purchased " in this Article), a person must disclose the class and the number of units of preferred equity subject to the demand within the period that runs from the day twenty days before the date of the resolution for change of the plan (for a specified purpose company that issues specified bonds, the date of the resolution of approval at the specified bondholders meeting referred to in paragraph (1) of the following Article; the same applies in the following paragraph) up to the day before the date of the resolution for change of the plan.
- (3) If a person makes a demand for a preferred equity to be purchased and an agreement is reached between the preferred equity member and the specified purpose company in determining the price of the preferred equity, the specified

purpose company must pay that price within sixty days from the date of the resolution for change of the plan; provided, however, that the specified purpose company may not pay this until after it has finished paying its debts or placing reasonable property into trust in connection with specified bonds, specified promissory notes, and specified borrowings under paragraph (5) of the following Article; Article 155, paragraph (4); or Article 155, paragraph (4) as applied mutatis mutandis pursuant to Article 156, paragraph (3) or Article 157, paragraph (2).

- (4) The provisions of Article 116, paragraph (3), paragraph (4), and paragraphs (6) through (9) (Dissenting Shareholders' Appraisal Rights); Article 117, paragraphs (2) through (7) (Determination of the Price of Shares); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (2) (but only the part that involves item (ii)) (Hearing of Statements); Article 870-2 (Sending a Copy of a Written Motion); the main clause of Article 871 (Appending of a Reason); Article 872 (but only the part that involves item (v)) (Immediate Appeal); Article 872-2 (Sending of a Copy of a Petition for Immediate Appeal, etc.); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to a demand for a preferred equity to be purchased made by the preferred equity member of a specified purpose company. In such a case, the term "perform an act in any item of paragraph (1)" in Article 116, paragraph (3) of that Act is deemed to be replaced with "change the asset securitization plan"; the term "the day when such act becomes effective" in that paragraph is deemed to be replaced with "the day of the resolution for change of the plan referred to in Article 153, paragraph (2) of the Asset Securitization Act"; the phrase "of the shares provided for in each item of that paragraph" in that paragraph is deemed to be replaced with "thereof"; the term "such act becomes" in that paragraph is deemed to be replaced with "the changes to the asset securitization plan become"; the term "share certificates" in paragraph (6) of that Article is deemed to be replaced with "preferred equity securities"; the term "to shares" in that paragraph is deemed to be replaced with "to preferred equity"; the term "of such shares" in that paragraph is deemed to be replaced with "of such preferred equity"; the term "the act in any item of paragraph (1)" in paragraph (8) of that Article is deemed to be replaced with "change to the asset securitization plan"; the term "to shares" in paragraph (9) of that Article is deemed to be replaced with "to preferred equity"; the terms "of the shares" in Article 117, paragraph (2) of the Companies Act, "A share" in paragraph (6) of that Article, and "of shares" in paragraph (5) of that Article are replaced with "of the preferred equity", "preferred equity", and "preferred

equity", respectively; the term "for the share certificates" in paragraph (7) of that Article is deemed to be replaced with "for the preferred equity securities"; the term "of the shares" in that paragraph is deemed to be replaced with "of the preferred equity"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Approval at Specified Bondholders Meetings)

- Article 154 (1) Before changing its asset securitization plan through a resolution for change of the plan, in addition to adopting the resolution for change of the plan, a specified purpose company that issues specified bonds must obtain approval to change the plan at a specified bondholders meeting.
- (2) Notwithstanding the provisions of Article 720, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 129, paragraph (2), when convening a specified bondholders meeting pursuant to the preceding paragraph, a specified purpose company must send a notice of convocation to each specified bondholder in a document or by electronic or magnetic means by one month prior to the date of the general meeting of members for voting on the resolution for change of the plan.
- (3) When a specified purpose company convenes a specified bondholders meeting pursuant to the provisions of paragraph (1), the company must fix a period of at least two weeks and inform each specified bondholder to notify within that period, by a document or electronic or magnetic means that the bondholder will vote against the change, if the bondholder is to vote against the change. In doing so, the specified purpose company must enter or record the period in the notice of convocation referred to in the preceding paragraph.
- (4) Notwithstanding the provisions of Article 720, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 129, paragraph (2), if a specified purpose company that convenes a specified bondholders meeting under paragraph (1) has issued specified bond certificates in bearer form, it must issue public notice that a specified bondholders meeting is to be convened and of the matters that are the subject of the meeting by one month prior to the date of the general meeting of members for voting on the resolution for change of the plan. In doing so, the specified purpose company must also give public notice of the period determined pursuant to the preceding paragraph.
- (5) In the case referred to in paragraph (3), if a specified bondholder notifies the specified purpose company that it will vote against the change of the asset securitization plan within the period fixed pursuant to that paragraph and then votes against the change of the asset securitization plan at the specified bondholders meeting, the specified purpose company must make payments for the specified bonds that the specified bondholder holds or entrust reasonable

property to a trust company or financial institution so as to have it make payments for those specified bonds.

- (6) The provisions of Article 62 apply mutatis mutandis to the resolution for approval at the specified bondholders meeting pursuant to the provisions of paragraph (1). In such a case, the term "Article 56, paragraph (1)" in Article 62, paragraph (2) is deemed to be replaced with "Article 154, paragraph (2)"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Dissent of Specified Short-Term Bondholders)

- Article 155 (1) Before a specified purpose company issuing specified short-term bonds changes its asset securitization plan through a resolution for change of the plan, that company, by one month prior to the date of the general meeting of members for voting on the resolution for change of the plan, must fix a period of at least two weeks and issue public notice indicating that the persons must notify the fact within that period if they are to vote against the change.
- (2) Specified short-term bondholders seeking to vote against the change pursuant to the provisions of the preceding paragraph must present their specified bond certificates to the specified purpose company (but only the certificates for those specified short-term bonds) or take other measures that Cabinet Office Order prescribes.
- (3) If a specified short-term bondholder fails to notify the company that it will vote against the change within the period fixed pursuant to the provisions of paragraph (1), that bondholder is deemed to have approved the change of the asset securitization plan.
- (4) If a specified short-term bondholder notifies the specified purpose company that it will vote against the change, the company must entrust reasonable property to a trust company or financial institution so as to have it perform the obligations connected with the specified short-term bonds of that specified short-term bondholder without delay after the asset securitization plan is changed.

(Dissent of Holders of Specified Promissory Notes)

- Article 156 (1) Before a specified purpose company issuing specified promissory notes changes its asset securitization plan through a resolution for change of the plan, that company, by one month prior to the date of the general meeting of members for voting on the resolution for change of the plan, must fix a period of at least two weeks and issue public notice indicating that the persons must notify the fact within that period if they are to vote against the change.
- (2) Holders of specified promissory notes seeking to vote against the change pursuant to the provisions of the preceding paragraph must present their specified promissory notes to the specified purpose company.

(3) The provisions of paragraphs (3) and (4) of the preceding Article apply mutatis mutandis to the holder of a specified promissory note.

(Objections of Creditors from Which Specified Borrowings Have Been Borrowed)

Article 157 (1) Before a specified purpose company that has specified borrowings changes its asset securitization plan through a resolution for change of the plan, that company, by one month prior to the date of the general meeting of members for voting on the resolution for change of the plan, must fix a period of at least two weeks and issue a demand to each creditor of specified borrowings that they must state an objection to the change within that period.

(2) The provisions of Article 132, paragraph (2) apply mutatis mutandis to the demands referred to in the preceding paragraph, and the provisions of Article 155, paragraphs (3) and (4) apply mutatis mutandis to creditors from which specified borrowing have been borrowed. In such a case, the term "members" in Article 132, paragraph (2) is deemed to be replaced with "creditors from which specified borrowings have been borrowed" and the term "paragraph (1)" in Article 155, paragraph (3) is deemed to be replaced with "Article 157, paragraph (1)".

Section 9 Incorporation After the Fact

Article 158 If, within two years after its establishment, a specified purpose company acquires an asset that has existed since before its establishment and that it will use continuously in its business, it must have the contract for the acquisition approved by resolution at a general meeting of members by the day before the day on which the acquisition takes effect; provided, however that this does not apply if the proportion of the amount set forth in item (i) to the amount set forth in item (ii) does not exceed one-fifth (or, if a smaller proportion is provided for in the articles of incorporation, that proportion) or if the asset to be acquired based on that contract is a specified asset prescribed in the asset securitization plan.

(i) the total amount representing the book value of the assets delivered as the consideration for the asset in question;

(ii) the amount calculated by the method that Cabinet Office Order prescribes as the amount of net assets of the specified purpose company.

Section 10 Provisional Liquidation Incidental to Completion of Business under Asset Securitization Plans

(Preparation of Balance Sheets)

Article 159 (1) If the administration and disposition of specified assets under the provisions of an asset securitization plan have been completed, and specified bonds and specified promissory notes have been issued or specified borrowings have been made, when the specified purpose company that has completed the redemption, payment, or repayment engages in the business of asset securitization under a new asset securitization plan, the director of a Type I Specified Purpose Company must prepare a balance sheet for that specified purpose company and have it approved at a general meeting of members without delay, and the director of a Type II Specified Purpose Company must do so before canceling the preferred equity pursuant to the asset securitization plan.

(2) The provisions of Article 21, paragraph (2) (but only the part that involves item (ii)); Article 68, paragraph (1); Articles 73 through 75; Articles 91 through 93; and Articles 102 through 104 (excluding paragraphs (4) and (7)) of this Act; Article 43, paragraph (1) and the main text of paragraph (2) of that Article of the Companies Act as applied mutatis mutandis pursuant to Article 21, paragraph (3) of this Act; and Article 344, paragraphs (1) and (2) (but only the part that deals with balance sheets) of the Companies Act as applied mutatis mutandis pursuant to Article 77, paragraph (2) apply mutatis mutandis to the balance sheet referred to in the preceding paragraph.

(3) If the amount of net assets entered in the balance sheet of a Type II Specified Purpose Company that has prepared a balance sheet pursuant to the provisions of paragraph (1) is less than the amount necessary to cancel the preferred equity in accordance with the provisions of the asset securitization plan referred to in that paragraph, preferred equity members are entitled to vote on the approval of the balance sheet.

(4) In the case referred to in the preceding paragraph, if a resolution approving the balance sheet referred to in that paragraph has been adopted, a resolution for dissolution is deemed to have been adopted.

Section 11 Dissolution

(Grounds for Dissolution)

Article 160 (1) A specified purpose company is dissolved based on the following grounds:

- (i) the expiration of the period of time during which it is to exist as specified in the articles of incorporation;
- (ii) the occurrence of grounds for dissolution as provided for in the articles of incorporation;
- (iii) a resolution at a general meeting of members;
- (iv) an order commencing bankruptcy proceedings;

- (v) a judicial decision ordering dissolution pursuant to the provisions of Article 162, paragraph (2) of this Act or Article 824, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 163;
 - (vi) a dissolution order issued by the Prime Minister pursuant to the provisions of Article 220;
 - (vii) the inability to acquire specified assets (other than secondary specified assets) that are entered or recorded in the asset securitization plan, to issue asset-backed securities, or to make specified borrowings; or
 - (viii) the occurrence of other grounds that Cabinet Order prescribes.
- (2) The provisions of Article 926 (Registration of Dissolution) of the Companies Act apply mutatis mutandis if a specified purpose company is dissolved pursuant to the provisions of the preceding paragraph (excluding items (iv) and (v)).

(Resolution for Dissolution)

- Article 161 (1) Preferred equity members are entitled to a vote on a resolution for dissolution set forth in Article 160, paragraph (1), item (iii).
- (2) A resolution referred to in the preceding paragraph may only be adopted after the redemption of specified bonds, payment of specified promissory notes, and repayment of specified borrowings provided for in the asset securitization plan of the specified purpose company have been completed.

(Action to Dissolve a Specified Purpose Company)

- Article 162 (1) In the following cases, if there are unavoidable circumstances, specified equity members or preferred equity members holding one-tenth (or, if a smaller proportion is provided for in the articles of incorporation, that proportion) or more of the voting rights of all specified equity members or all preferred equity members (other than specified equity members and preferred equity members that are not entitled to vote on all of the matters that may be resolved at the general meeting of members), or specified equity members or preferred equity members holding one-tenth (or, if a smaller proportion is provided for in the articles of incorporation, that proportion) or more of the total number of units of specified equity (other than the company's own specified equity) or issued preferred equity (other than the company's own preferred equity) may file an action to demand the dissolution of a specified purpose company:
- (i) if the specified purpose company has come to be in an extremely difficult situation in terms of executing business, and has suffered or is likely to suffer irreparable damage; or
 - (ii) if the specified purpose company's administration or disposition of assets is extremely unreasonable and puts the existence of the specified purpose

company at risk.

- (2) The provisions of Article 834 (but only the part that involves item (xx)) (Defendant); Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action); Article 836, paragraphs (1) and (3) (Order to Provide Security); Article 837 (Mandatory Consolidation of Oral Arguments); Article 838 (Persons Affected by an Upholding Judgment); Article 846 (Liability for Damages in Cases Where the Plaintiff Is Defeated); and Article 937, paragraph (1) (but only the part that involves item (i), sub-item (i)) (Commissioning of Registration by Juridical Decision) of the Companies Act apply mutatis mutandis to an action to dissolve a specified purpose company. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Application, Mutatis Mutandis, of the Companies Act)

- Article 163 The provisions of Article 824 (Dissolution Order for a Company); Article 826 (Duty of a Government Agency to Give Notice to the Minister of Justice); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (x)) (Hearing of Statements); the main text of Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Act); Article 876 (Supreme Court Rule); Article 904 (Participation of the Minister of Justice); and Article 937, paragraph (1) (but only the part that involves item (iii) (b)) (Commissioning of Registration by Juridical Decision) of the Companies Act apply mutatis mutandis to an order for dissolution of a specified purpose company, and the provisions of Article 825 (Temporary Restraining Order Concerning Property of a Company); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (i)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (i) and item (iv)) (Immediate Appeal); Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 874 (but only the part that involves item (ii) and item (iii)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Act); Article 876 (Supreme Court Rule); Article 905 (Special Provisions on a Temporary Restraining Order Concerning Property of a Company); and Article 906 of the Companies Act apply mutatis mutandis to the preservation of the assets of a specified purpose company if a petition under Article 824, paragraph (1) of that Act as applied mutatis mutandis pursuant to this Article has been filed. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

Section 12 Liquidation
Subsection 1 General Rules

(Causes for Commencing Liquidation)

Article 164 In the following cases, a specified purpose company must go into liquidation pursuant to the provisions of this Subsection:

- (i) if it has been dissolved (but not if it has been dissolved as a result of an order to commence bankruptcy proceedings and the bankruptcy proceedings have not been finished); or
- (ii) if a judgment upholding a claim related to an action to invalidate its incorporation has become final and binding.

(Capacity of Specified Purpose Companies in Liquidation)

Article 165 A specified purpose company that goes into liquidation pursuant to the provisions of the preceding Article (hereinafter referred to as "specified purpose company in liquidation") is deemed to continue to exist inasmuch as the task of liquidation is concerned, until the liquidation is completed.

(Establishment of Administrative Organs Other Than General Meetings of Members)

Article 166 (1) A specified purpose company in liquidation must have the following administrative organs:

- (i) one or multiple liquidators; and
 - (ii) one or multiple company auditors.
- (2) The provisions of Article 67 do not apply to a specified purpose company in liquidation.

(Assumption of Position by Liquidator)

Article 167 (1) The following persons become the liquidators of a specified purpose company in liquidation:

- (i) the directors (but not if there are persons set forth in the following item or item (iii));
 - (ii) the persons specified by the articles of incorporation; or
 - (iii) the persons appointed by resolution at a general meeting of members.
- (2) Preferred equity members are entitled to vote on a resolution prescribed in item (iii) of the preceding paragraph.
- (3) If there is no person to become a liquidator pursuant to the provisions of paragraph (1), the court appoints a liquidator at the petition of an interested party.
- (4) Notwithstanding the provisions of paragraph (1) or the preceding paragraph,

the court appoints a liquidator for a specified purpose company in liquidation that has been dissolved on the grounds set forth in Article 160, paragraph (1), item (v) at the petition of an interested party or the Minister of Justice, or on its own authority.

- (5) Notwithstanding the provisions of paragraph (1) and paragraph (3), the court appoints a liquidator for a specified purpose company in liquidation that has come to fall under a case set forth in Article 164, item (ii) at the petition of an interested party.
- (6) Notwithstanding the provisions of paragraph (1) and paragraph (3), the court appoints a liquidator for a specified purpose company in liquidation that has been dissolved on the grounds set forth in Article 160, paragraph (1), item (vi) at the petition of an interested party or the Prime Minister, or on its own authority.
- (7) The provisions of Article 69 and Article 70 apply mutatis mutandis to the liquidator of a specified purpose company in liquidation.

(Dismissal of Liquidators)

Article 168 (1) A liquidator (other than one appointed by the court pursuant to the provisions of paragraphs (3) through (6) of the preceding Article) may be dismissed at any time by resolution at a general meeting of members.

- (2) Preferred equity members are entitled to vote on the dismissal of liquidators pursuant to the provisions of the preceding paragraph.
- (3) The court may dismiss a liquidator appointed pursuant to paragraph (6) of the preceding Article, at the petition of an interested party or the Prime Minister, or on its own authority.
- (4) If there are material grounds for doing so, the court may dismiss the liquidator at the petition of the following members:
 - (i) specified equity members or preferred equity members (other than a specified equity member or preferred equity member as follows) holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all specified equity members (other than a specified equity member as follows) or of all preferred equity members (other than a preferred equity member as follows):
 - (a) a specified equity member or preferred equity member not entitled to vote on the proposal to dismiss a liquidator; or
 - (b) the specified equity member or preferred equity member that is the liquidator that the petition is about.
 - (ii) specified equity members or preferred equity members holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the total number of

units of specified equity (other than specified equity held by a specified equity member as follows) or issued preferred equity (other than preferred equity held by a preferred equity member as follows):

- (a) the specified equity member or preferred equity member that is the specified purpose company in liquidation in question; or
- (b) the specified equity member or preferred equity member that is the liquidator the petition is about.

(5) The provisions of Article 76, paragraphs (1) through (3) and paragraph (6) of this Act, and Article 937 (1) (but only the part that involves item (ii), sub-item (e) and item (iii), sub-item (a)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to a liquidator. In such a case, the term "the number of officers" in Article 76, paragraph (1) is deemed to be replaced with "the number of liquidators"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Duties of Liquidators)

Article 169 A liquidator undertakes the following duties:

- (i) the conclusion of current business;
- (ii) the collection of debts and performance of obligations; and
- (iii) the distribution of residual assets.

(Execution of Business)

Article 170 (1) A liquidator carries out the execution of business of a specified purpose company in liquidation.

- (2) If there are two or more liquidators, the business of a specified purpose company in liquidation is decided by a majority of the liquidators, unless otherwise provided for in the articles of incorporation.
- (3) The provisions of Article 80 and Articles 82 through 84 of this Act, and Article 354 (Apparent Representative Director); Article 355 (Duty of Loyalty); Article 357, paragraph (1) (Director's Duty to Report); Article 484 (Commencement of Bankruptcy Procedures for Liquidating Stock Companies); and Article 485 (Remuneration for Liquidators Appointed by the Court) of the Companies Act apply mutatis mutandis to a liquidator (but the provisions of Article 84 do not apply to liquidators appointed by the court pursuant to the provisions of Article 167, paragraphs (3) through (6)) of a specified purpose company in liquidation. In such a case, the phrase "the title of president, vice president or other title regarded as having authority to represent the stock company" in Article 354 of the Companies Act is deemed to be replaced with "the title of the person found to have the authority to represent the specified purpose company in liquidation"; the term "shareholders meeting" in Article 355 of that Act is deemed to be replaced with "general meeting of members"; the term "the

shareholders (or, for a company with auditors, the company auditors)" in Article 357, paragraph (1) of that Act is deemed to be replaced with "the company auditors"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Representative of Specified Purpose Companies in Liquidation)

- Article 171 (1) The liquidator represents a specified purpose company in liquidation; provided, however, that this does not apply if a representative liquidator (meaning a liquidator representing the specified purpose company in liquidation; the same applies hereinafter) or other person to represent the specified purpose company in liquidation has been otherwise provided for.
- (2) If there are multiple persons serving as the liquidators referred to in the main text of the preceding paragraph, each liquidator represents the specified purpose company in liquidation individually.
- (3) A specified purpose company in liquidation may select a representative liquidator from among the liquidators based on the articles of incorporation, based on the person the liquidators select from amongst themselves (other than one appointed by the court pursuant to Article 167, paragraphs (3) through (6); hereinafter the same applies in this paragraph) pursuant to the provisions of the articles of incorporation, or by resolution at a general meeting of members.
- (4) If the directors become the liquidators pursuant to the provisions of Article 167, paragraph (1), item (i) and a representative director has been specified, the representative director becomes the representative liquidator.
- (5) If the court appoints liquidators pursuant to the provisions of Article 167, paragraphs (3) through (6), it may specify a representative liquidator from among those liquidators.
- (6) The provisions of Article 349, paragraphs (4) and (5) (Representatives of Companies); Article 351 (Measures When Vacancy Arises in Office of Representative Director); and Article 937, paragraph (1) (but only the part that involves item (ii), sub-items (a) and (b)) (Commissioning of Registration by a Judicial Decision) of the Companies Act apply mutatis mutandis to the representative liquidator of a specified purpose company in liquidation, and the provisions of Article 352 (Authority of Persons Who Perform Duties on Behalf of Directors) of that Act applies mutatis mutandis to a person who is to perform duties on behalf of the liquidator or representative liquidator of a specified purpose company in liquidation. In such a case, the term "the number" in Article 351, paragraph (1) of that Act is deemed to be replaced with "the number of persons" and Cabinet Order provides for any other necessary technical replacement of terms.

(Liquidator's Liability for Damage to Specified Purpose Companies in

Liquidation)

Article 172 (1) If a liquidator neglects their duties, the liquidator is liable to compensate the specified purpose company in liquidation for damage resulting from this.

(2) If a liquidator engages in the transactions prescribed in Article 80, paragraph (1), item (i) in violation of Article 80, paragraph (1) as applied mutatis mutandis pursuant to Article 170, paragraph (3), the amount of the profit that the liquidator or a third party gains as a result of the transactions is presumed to constitute the amount of the damage referred to in the preceding paragraph.

(3) If a specified purpose company in liquidation incurs damage as a result of the transactions prescribed in Article 80, paragraph (1), item (ii) or (iii) as applied mutatis mutandis pursuant to Article 170, paragraph (3), the following liquidators are presumed to have neglected their duties:

(i) liquidators referred to in Article 80, paragraph (1) as applied mutatis mutandis pursuant to Article 170, paragraph (3); and

(ii) liquidators who has decided that the specified purpose company in liquidation is to engage in the transactions.

(4) The provisions of Article 94, paragraphs (4) and (5) apply mutatis mutandis to the liability of liquidators prescribed in paragraph (1). In such a case, the term "Article 80, paragraph (1), item (ii)" in Article 94, paragraph (5) is deemed to be replaced with "Article 80, paragraph (1), item (ii) as applied mutatis mutandis pursuant to Article 170, paragraph (3)".

(Liquidator's Liability for Damage to Third Parties)

Article 173 (1) If a liquidator acts in bad faith or with gross negligence in the performance of their duties, the liquidator is liable to compensate a third party for damage resulting from this.

(2) The preceding paragraph also applies if a liquidator performs the following acts; provided, however, that this does not apply if the liquidator proves that they did not fail to exercise due care in performing the act:

(i) making a false entry or record of material particular that is required to be entered or recorded in the inventory of property and related materials prescribed in Article 176, paragraph (1) or in the balance sheet or administrative report or their annexed detailed statements as prescribed in Article 177, paragraph (1);

(ii) making a false registration; or

(iii) issuing false public notice.

(Joint and Several Liability of Liquidators and Company Auditors)

Article 174 (1) If a liquidator or company auditor is liable for damage incurred by a specified purpose company in liquidation or a third party, and other

liquidators or company auditors are also liable for that damage, those persons are joint and several obligors.

- (2) In the case referred to in the preceding paragraph, the provisions of Article 96 do not apply.
- (3) The provisions of Article 97 apply mutatis mutandis to an action to enforce the liability of a liquidator of a specified purpose company in liquidation. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Application of Provisions on Directors)

Article 175 With regard to a specified purpose company in liquidation, the provisions of Section 3 (excluding Article 34 (excluding paragraphs (4) and (5)) and Article 46); Section 4, Subsection 1; Article 72, paragraph (1); Article 345, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to paragraph (3) of that Article, as applied mutatis mutandis pursuant to Article 345, paragraph (3); Article 359 of that Act as applied mutatis mutandis pursuant to Article 81, paragraph (2); and Section 4, Subsection 6 involving directors and representative directors apply to liquidators and representative liquidators as provisions on liquidators and representative liquidators.

(Preparation of Inventory of Property and Related Materials)

- Article 176 (1) Without delay after assuming the position, a liquidator must investigate the current status of the assets of the specified purpose company in liquidation and, pursuant to Cabinet Office Order provisions, prepare an inventory of property and a balance sheet (hereinafter referred to as an "inventory of property and related materials" in this Article) as of the date on which the specified purpose company in liquidation came to fall under the case set forth in either item of Article 164, and must submit or provide them at a general meeting of members and have them approved.
- (2) Preferred equity members are entitled to vote on the approval of the inventory of property and related materials.
 - (3) A specified purpose company in liquidation must preserve its inventory of property and related materials from the time of their preparation until the time that the completion of liquidation has been registered in the locality of its head office.
 - (4) The court, upon petition or on its own authority, may order a party to litigation to submit an inventory of property and related materials in whole or in part.

(Preparing, Preserving, and Auditing Balance Sheets)

Article 177 (1) A specified purpose company in liquidation, pursuant to Cabinet

Office Order provisions, must prepare a balance sheet and an administrative report, as well as their annexed detailed statements, for each liquidation year (meaning the one-year period starting on the day after the date on which the specified purpose company in liquidation came to fall under a case as set forth in either item of Article 164 or on the corresponding date in subsequent years (or, if the corresponding date does not exist in a subsequent year, the day before this)).

- (2) The balance sheet and administrative report as well as their annexed detailed statements referred to in the preceding paragraph must be audited by company auditors pursuant to Cabinet Office Order provisions.
- (3) The provisions of Article 494, paragraphs (2) and (3) (Preparation and Retention of Balance Sheets); Article 496, paragraphs (1) and (2) (Keeping and Inspection of Balance Sheets); Article 497 (excluding the items of paragraph (1)) (Provision of Balance Sheets to Annual Shareholders Meeting); and Article 498 (Order to Submit Balance Sheet) of the Companies Act apply mutatis mutandis to the balance sheet and administrative report, and their annexed detailed statements referred to in paragraph (1). In such a case, the phrase "(including, in cases where the provisions of paragraph (1) of the preceding Article apply, audit reports" in Article 496, paragraph (1) of the Companies Act is deemed to be replaced with "(including audit reports audited as referred to in Article 177, paragraph (2) of the Asset Securitization Act"; the term "annual shareholders meeting" in Article 496, paragraph (1) and Article 497 of the Companies Act is deemed to be replaced with "annual general meeting of members"; the term "the balance sheet and administrative reports provided for in each such item" in Article 497, paragraph (1) of the Companies Act is deemed to be replaced with "the balance sheet and administrative reports audited as referred to in Article 177, paragraph (2) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.
- (4) Preferred equity members are entitled to vote on the approval of the balance sheet under Article 497, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph.

(Distribution of Residual Assets)

Article 178 (1) Before distributing residual assets, a specified purpose company in liquidation must specify the following particulars by decision of the liquidators:

- (i) the types of residual assets; and
 - (ii) the particulars on the allotment of residual assets to members.
- (2) In the case provided for in the preceding paragraph, if preferred equity has been issued, a specified purpose company in liquidation may specify the

following particulars as the particulars set forth in item (ii) of that paragraph, in accordance with the details of the preferred equity:

- (i) if it has issued two or more classes of preferred equity that differ in features from what is issued to specified equity members or in the distribution of residual assets, and has decided not to allot residual assets to the preferred equity members that hold a certain class of referred equity, an indication of this and the class of such preferred equity; and
 - (ii) if it has decided to handle specified equity and preferred equity differently with regard to the allotment of residual assets or if it has issued two or more classes of preferred equity with different features and decided to handle each class of preferred equity differently with regard to allotment of residual assets other than as per the particulars set forth in the preceding item, an indication of this and the details of such different handling.
- (3) The provisions regarding the particulars set forth in paragraph (1), item (ii) must indicate that the residual assets are to be allotted in accordance with the number of units of specified equity or preferred equity (or, if there are any provisions with regard to the particulars set forth in item (ii) of the preceding paragraph, the number of units of specified equity or each type of preferred equity) held by the members (other than the specified purpose company in liquidation itself and the specified equity members and preferred equity members referred to in item (i) of the preceding paragraph).
- (4) The provisions of Article 505 (Cases Where Residual Assets Consist of Property Other Than Monies) and Article 506 (Treatment in Cases Where a Base Number of Shares Is Provided) of the Companies Act apply mutatis mutandis to specified purpose companies in liquidation. In such a case, the term "shares" in Article 505, paragraph (1), item (ii) and Article 506 of that Act is deemed to be replaced with "of units of specified equity or preferred equity"; the terms "shares (" , "minimum number of shares", and "below minimum shareholding" in Article 506 of that Act are deemed to be replaced with "units of specified equity or preferred equity (" , "minimum number of units of specified equity or minimum number of units of preferred equity", and "below the minimum specified equity holding threshold or below the minimum preferred equity holding threshold", respectively; and Cabinet Order provides for any other necessary technical replacement of terms.

(Application, Mutatis Mutandis, of the Companies Act to Liquidation of Specified Purpose Companies)

Article 179 (1) The provisions of Articles 499 through 503 (Public Notices to Creditors; Restrictions on Performance of Obligations; Performance of Obligations Relating to Conditional Claims; Restrictions on Distribution of Residual Assets Before Performance of Obligations; Exclusion from

Liquidation); Article 507, paragraphs (1), (3), and (4) (Conclusion of Liquidation); Article 508 (Retention of Accounting Materials); Article 868, paragraph (1) (Jurisdiction over Non-Contentious Cases); Article 869 (Prima Facie Showing); Article 870, paragraph (1) (but only the part that involves items (i), (ii), (v), and (vi)) (Hearing of Statements); Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 874 (but only the part that involves items (i) and (iv)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Act); Article 876 (Supreme Court Rule); Article 928, paragraphs (1) and (3) (Registration of a liquidator); and Article 929 (but only the part that involves item (i)) (Registration of Completion of Liquidation) of the Companies Act apply mutatis mutandis to the liquidation of a specified purpose company. In such a case, the phrase "the settlement of accounts (or, in cases where the provisions of the preceding paragraph apply, the settlement of accounts approved under that paragraph) to the shareholders meeting" in Article 507, paragraph (3) of the Companies Act is deemed to be replaced with "the settlement of accounts (those audited as prescribed in Article 177, paragraph (2) of the Asset Securitization Act) at the general meeting of members"; the phrase "A liquidator (or, for a company with board of liquidators, the liquidators set forth in each item of paragraph (7) of Article 489)" in Article 508, paragraph (1) of the Companies Act is deemed to be replaced with "A liquidator"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (2) Preferred equity members are entitled to vote on approval of the settlement of accounts under Article 507, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph.

Subsection 2 Special Liquidation

(Cause to Commence Special Liquidation and Application, Mutatis Mutandis, of the Companies Act to Special Liquidation)

Article 180 (1) If the court finds that the following grounds exist for a specified purpose company in liquidation, the court, upon petition and based on the provisions of Article 514 of the Companies Act as applied mutatis mutandis pursuant to paragraph (4), orders the specified purpose company in liquidation to commence special liquidation:

- (i) there are circumstances that would substantially interfere with the implementation of liquidation; or
- (ii) insolvency (meaning the state in which the assets of the specified purpose company in liquidation are insufficient to fully repay its debts; the same

applies in paragraph (3)) is suspected.

- (2) A creditor, liquidator, company auditor, or member may file a petition to commence special liquidation.
- (3) If the specified purpose company in liquidation is suspected to be insolvent, the liquidator must file a petition to commence special liquidation.
- (4) The provisions of Articles 512 through 518-2 (Order to Suspend Other Procedures; Restrictions on Withdrawal of Petition for Commencement of Special Liquidation; Order to Commence Special Liquidation; Suspension of Other Procedures; Order to Suspend Procedures to Enforce Security Interest; Prohibition of Set-offs; Participation in Procedures by Parties with a claim in Respect of Foreign Taxes Subject to Mutual Assistance); Part II, Chapter IX, Section 2, Subsections 2 through 10 (excluding Article 522, paragraph (3); Article 530, paragraph (2); and Article 536) (Supervision and Investigation by the Court; Liquidators; Supervisor; Investigators; Restrictions on Acts of Liquidating Stock Companies; Dispositions Necessary); Part VII, Chapter II, Section 4 (Action Concerning Special Liquidation); Part VII, Chapter III, Section 1 (excluding Article 868, paragraphs (2) through (6) and Articles 870 through 874) (General Provisions); Part VII, Chapter III, Section 3 (excluding Article 879; Article 882, paragraph (2); and Article 896) (Special Provisions on the Procedures of Special Liquidation); and Article 938 (excluding paragraph (6)) (Commissioning of Registration by a Juridical Decision Concerning Special Liquidation) of the Companies Act apply mutatis mutandis to the special liquidation of a specified purpose company in liquidation. In such a case, the phrase "procedures to enforce the security interest that exists in the assets of the liquidating stock company, procedures to enforce charge on whole company assets or compulsory execution procedures based on the general liens and other claims that have general priority that have already been enforced against the assets of the liquidating stock company" in Article 516 of the Companies Act is deemed to be replaced with "procedures to exercise a security interest that exists over the assets of the specified purpose company in liquidation or compulsory execution based on a general statutory lien or a claim with general priority that has already been enforced against the property of the specified purpose company in liquidation"; the phrase "or shareholders who have held, for the consecutive period of past six months or more (or, in cases where a shorter period is provided for in the articles of incorporation, such period), not less than three hundredths (3/100) of the voting rights of all shareholders (excluding the shareholders that cannot exercise voting rights on all particulars on which resolutions can be passed at the shareholders meeting; or, in cases where any proportion less than that is provided for in the articles of incorporation, such proportion) or shareholders who have held, for the consecutive period of past six months or more (or, in cases where a shorter

period is provided for in the articles of incorporation, such period), not less than three hundredths (3/100) of the issued shares (excluding treasury shares; or, in cases where a lower proportion is provided for in the articles of incorporation, such proportion)" in Article 522, paragraph (1) of the Companies Act is deemed to be replaced with "or specified equity members holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all specified equity members (other than specified equity members not entitled to vote on all of the matters that may be resolved at a general meeting of members) or preferred equity members holding voting rights that account for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the voting rights of all preferred equity members (other than preferred equity members not entitled to vote on all of the matters that may be resolved at a general meeting of members) continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period); or specified equity members holding a number of units of specified equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the total number of units of specified equity (other than the company's own specified equity) or preferred equity members holding a number of units of preferred equity that accounts for three percent (or, if a smaller percentage is provided for in the articles of incorporation, that percentage) or more of the issued preferred equity (other than the company's own preferred equity) continuously for the preceding six months (or, if a shorter period is provided for in the articles of incorporation, that period)"; and Cabinet Order provides for any other necessary technical replacement of terms.

Section 13 Miscellaneous Provisions

(Application of Provisions of the Banking Act)

Article 181 (1) To apply the provisions of the Banking Act and other laws and regulations specified by Cabinet Order, a specified purpose company is deemed to be a company prescribed in the provisions of laws and regulations that Cabinet Order prescribes, and its specified equity and preferred equity are deemed to be equity in such a company, pursuant to the provisions of Cabinet Order.

(2) To apply the provisions of Article 19, paragraph (2); Article 41, paragraph (4); Article 122, paragraph (1), item (xvi); Article 141, paragraph (1), item (iii); Article 145, paragraph (3); Article 184, paragraph (1), item (iv); Article 185, item (iii); Article 186, item (iii); and Article 193, item (ii) of this Act; Article 64 of the Companies Act as applied mutatis mutandis pursuant to Article 24,

paragraph (3) of this Act; Article 208, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 36, paragraph (5) of this Act; and Article 64 of the Companies Act as applied mutatis mutandis pursuant to Article 36, paragraph (7); Article 41, paragraph (6); and Article 122, paragraph (10) of this Act, if a financial institution set forth in one of the following items engages in the business that the item prescribes, that financial institution is deemed to be a bank:

- (i) a Shinkin Bank or federation of Shinkin Banks: business set forth in Article 53, paragraph (3), item (viii) or Article 54, paragraph (4), item (viii) of the Shinkin Bank Act (Act No. 238 of 1951);
- (ii) a labor bank or federation of labor banks: business set forth in Article 58, paragraph (2), item (xiv) or Article 58-2, paragraph (1), item (xii) of the Labor Bank Act (Act No. 227 of 1953);
- (iii) a credit cooperative or federation of credit cooperatives that engages in the business referred to in Article 9-9, paragraph (1), item (i) of the Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949): business set forth in Article 9-8, paragraph (2), item (xiii) or Article 9-9, paragraph (6), item (i) (but only the part that involves Article 9-8, paragraph (2), item (xiii) of that Act) of that Act;
- (iv) an agricultural cooperative or federation of agricultural cooperatives that engages in the business referred to in Article 10, paragraph (1), item (iii) of the Agricultural Co-operatives Act (Act No. 132 of 1947): business set forth in Article 10, paragraph (6), item (ix) of that Act;
- (v) a fisheries cooperative, federation of fisheries cooperatives, fishery processing cooperative, or federation of fishery processing cooperatives that engages in the business referred to in Article 11, paragraph (1), item (iv), Article 87, paragraph (1), item (iv), Article 93, paragraph (1), item (ii), or Article 97, paragraph (1), item (ii) of the Fishery Cooperative Act (Act No. 242 of 1948): business set forth in Article 11, paragraph (3), item (viii); Article 87, paragraph (4), item (viii); Article 93, paragraph (2), item (viii); or Article 97, paragraph (3), item (viii);
- (vi) a Norinchukin Bank: business set forth in Article 54, paragraph (4), item (xi) of the Norinchukin Bank Act (Act No. 93 of 2001); or
- (vii) Shoko Chukin Bank, Ltd.: business set forth in Article 21, paragraph (4), item (xii) of the Shoko Chukin Bank, Ltd. Act (Act No. 74 of 2007).

(Register)

Article 182 A specified purpose company register is kept at a registry office.

(Application, Mutatis Mutandis, of the Commercial Registration Act)

Article 183 (1) The provisions of Articles 1-3 through 5 (Registry Office);

Delegation of Affairs; Suspension of Affairs; Registrar; Disqualification of Registrar); Articles 7 through 15 (Corporate Registration Number; Prohibition on Carrying Out of Registries and Other Documents; Loss and Restoration of Registries; Prevention of Loss of Register; Issuance of Certificate of Registered Information; Issuance of Documents Specifying Extract of Information Registered; Inspection of Annexed Documents; Certificate of Personal Seal Impression; Certification of Information Required for Verification of Measures to Identify the Creator of Electronic or Magnetic Records and Other Particulars; Fees; Registration Upon Application by Party; Registration upon Commission); Articles 17 through 27 (Method of Application for Registration; Document to Be Attached to Written Application; Electronic or Magnetic Records to Be Attached to Written Application; Special Provisions on Documents to be Attached; Submission of Personal Seal Impression; Acceptance of Applications; Receipt; Order of Registration; Identity Confirmation by Registrar; Dismissal of Application; Registration to Be Made After Lapse of Period for Filing Action; Change in Administrative Zone; Prohibition on Registration of Identical Trade Name at Same Location); Article 33 (Cancellation of Registration of Trade Name); Article 34 (Registration of Trade Name of Company); Articles 44 and 45 (Registration of Company's Manager); Article 46 (excluding paragraphs (4) and (5)) (General Rules on Documents to be Attached); Article 47, paragraph (1) (Registration of Incorporation); Articles 48 through 55 (Registration to Be Made at Location of Branch Office; Registration of Relocation of Head Office; Registration of Change of Directors and Other Officers; Registration of Change of Person Who is to Temporarily Perform Duties of Accounting Auditors); Article 64 (Registration of Change Due to Share Option Issue); Article 71 (Registration of Dissolution); Articles 73 through 75 (Registration of Liquidator; Registration of Change Related to Liquidator; Registration of Completion of Liquidation); and Articles 132 through 148 (Correction; Application for Cancellation; Ex Officio Cancellation; Exclusion from Application of the Administrative Procedure Act; Exclusion from Application of the Act on Access Information Held by Administrative Organs; Exclusion from the Application of the Act on the Protection of Personal Information Held by Administrative Organs; Request for Review; Handling of Request for Review Case; Exclusion from Application of the Administrative Appeal Act; Delegation to Ministerial Order) of the Commercial Registration Act (Act No. 125 of 1963) apply mutatis mutandis to the registration of a specified purpose company. In such a case, the terms "through Article 50 (including as applied mutatis mutandis pursuant to Article 95, Article 111, and Article 118)" and "Article 51, paragraphs (1) and (2), Article 52, Article 78, paragraphs (1) and (3), Article 82, paragraphs (2) and (3), Article 83, Article 87, paragraphs (1) and (2), Article 88, Article 91, paragraphs

(1) and (2), Article 92, Article 132" in Article 15 of that Act are deemed to be replaced with "through Article 50" and "Article 132", respectively; the phrase "a document evidencing authority delegated to a privately appointed agent or a transferor's written approval prescribed in Article 30, paragraph (2) or Article 31, paragraph (2)" in Article 24, item (vii) of that Act is deemed to be replaced with "a document certifying authority delegated to a privately appointed agent"; the term "company register" in Article 34, paragraph (1) of that Act is replaced with "specified purpose company register"; the term "the items of Article 930, paragraph (2) of the Companies Act" in Article 48, paragraph (2) of the Commercial Registration Act is deemed to be replaced with "the items of Article 930, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 22, paragraph (4) of the Act on the Securitization of Assets (hereinafter referred to as the 'Asset Securitization Act')"; the phrase "representative director or special director (in the case of a company with supervisory committee, a director who is a supervisory committee member or any other director, representative director, or special director, and in the case of a company with a nominating committee, etc. a director, committee member (meaning a committee member of a nominating committee, audit committee, or compensation committee), executive officer or representative executive officer)" in Article 54, paragraph (1) of the Commercial Registration Act is deemed to be replaced with "or representative director"; the terms "Article 333, paragraph (1) of the Companies Act" and "Article 337, paragraph (1) of that Act" in Article 54, paragraph (2), item (iii) of the Commercial Registration Act are deemed to be replaced with "Article 71, paragraph (1) of the Asset Securitization Act" and "Article 73, paragraph (1) of the Asset Securitization Act", respectively; the term "Article 346, paragraph (4) of the Companies Act" in Article 55, paragraph (1) of the Commercial Registration Act is deemed to be replaced with "Article 76, paragraph (4) of the Asset Securitization Act"; the terms "Article 478, paragraph (1), item (i) of the Companies Act" and "Article 483, paragraph (4) of that Act" in Article 71, paragraph (3) of the Commercial Registration Act are deemed to be replaced with "Article 167, paragraph (1), item (i) of the Asset Securitization Act" and "Article 171, paragraph (4) of the Asset Securitization Act", respectively; the term "Article 478, paragraph (1), item (ii) or (iii) of the Companies Act" in Article 73, paragraph (2) of the Commercial Registration Act is deemed to be replaced with "Article 167, paragraph (1), item (ii) or (iii) of the Asset Securitization Act"; the term "Article 928, paragraph (1), item (ii) of the Companies Act" in Article 73, paragraph (3) and Article 74, paragraph (1) of the Commercial Registration Act is deemed to be replaced with "Article 928, paragraph (1), item (ii) of the Companies Act as applied mutatis mutandis pursuant to Article 179, paragraph (1) of the Asset Securitization Act"; the term "Article 507,

paragraph (3) of the Companies Act" in Article 75 of the Commercial Registration Act is deemed to be replaced with "Article 507, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 179, paragraph (1) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (2) The provisions of Part VII, Chapter IV, Section 1 (excluding Article 907) (General Provisions) of the Companies Act apply mutatis mutandis to the registration of a specified purpose company. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Attached Documents for Registration of Incorporation)

Article 184 (1) The following documents must be attached to a written application to register incorporation, unless otherwise provided for in laws and regulations:

- (i) the articles of incorporation;
- (ii) if the particulars set forth in the items of Article 16, paragraph (3) have been entered or recorded in the articles of incorporation, the following documents:
 - (a) a document stating the investigation report prepared by an inspector or director at incorporation or company auditor at incorporation and its annexed documents; and
 - (b) in the case referred to in Article 33, paragraph (10), item (iii) of the Companies Act as applied mutatis mutandis pursuant to Article 18, paragraph (2), documents stating the verification prescribed in Article 33, paragraph (10), item (iii) of that Act and their annexed documents.
- (iii) if a judicial decision has been rendered on the inspector's report, a certified copy of that decision;
- (iv) a certificate of deposit for monies equivalent to the monies paid in to the bank or equivalent entity handling the payment prescribed in Article 19, paragraph (1);
- (v) if there is an administrator for the register of specified equity members, a document certifying the contract with that person;
- (vi) documents certifying that the directors at incorporation, company auditors at incorporation, and representative directors at incorporation (meaning the persons who become the representative directors upon the incorporation of a specified purpose company) that have been appointed or selected pursuant to the provisions of this Act have accepted the appointments;
- (vii) if accounting advisors at incorporation or accounting auditors at incorporation are appointed, the following documents:
 - (a) documents certifying that the accounting advisors at incorporation or accounting auditors at incorporation have accepted the appointments;

- (b) if an accounting advisor at incorporation or accounting auditor at incorporation is a corporation, a certificate of registered information for that corporation; provided, however, that this does not apply if the principal office of the corporation is located within the jurisdictional district of the registry office; and
 - (c) if the accounting advisor at incorporation or accounting auditor at incorporation is not a corporation, a document certifying that the accounting advisor at incorporation is a person prescribed in Article 71, paragraph (1) or a document certifying that the accounting auditor at incorporation is a person prescribed in Article 73, paragraph (1).
- (2) If the consent of all incorporators or agreement of some of the incorporators is required in connection with information that must be registered, a document certifying the consent or agreement must be attached to the written application for registration referred to in the preceding paragraph.

(Registration of Changes Due to Issuance of Specified Equity for Subscription)

Article 185 The following documents must be attached to a written application to register a change due to the issuance of specified equity for subscription:

- (i) the documents certifying the offers to subscribe for specified equity for subscription or the contracts referred to in Article 205, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 36, paragraph (5);
- (ii) the documents set forth in Article 84, paragraph (1), item (iii);
- (iii) if monies are the subject of contribution, a certificate of the deposit of monies equivalent to monies paid in to the bank or equivalent entity handling the payment referred to in Article 208, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 36, paragraph (5);
- (iv) if assets other than money are the subject of contribution, the following documents:
 - (a) if an inspector has been appointed, a document stating the investigation report prepared by the inspector and its annexed documents; or
 - (b) in the case referred to in Article 207, paragraph (9), item (iv) of the Companies Act as applied mutatis mutandis pursuant to Article 36, paragraph (5), a document stating the verification prescribed in Article 207, paragraph (9), item (iv) of that Act and its annexed documents.

(Registration of the Issuance of Preferred Equity for Subscription)

Article 186 The following documents must be attached to a written application to register the issuance of preferred equity for subscription:

- (i) the documents certifying the offers to subscribe for preferred equity for

- subscription or the contracts referred to in Article 41, paragraph (2);
- (ii) if there is an administrator for the register of preferred equity members, the articles of incorporation and documents certifying the contract with that person; and
 - (iii) the certificate of deposit for monies equivalent to the monies paid in to the bank or equivalent entity handling the payment prescribed in Article 41, paragraph (4).

(Registration of Changes Due to Cancellation or Consolidation of Preferred Equity)

Article 187 (1) A document certifying that public notice pursuant to the provisions of Article 47, paragraph (3) of this Act or Article 219, paragraph (1) (but only the part that involves item (ii)) of the Companies Act as applied mutatis mutandis pursuant to Article 50, paragraph (2) has been issued or a document certifying that preferred equity securities have not been issued for all of the preferred equity must be attached to a written application to register a change due to cancellation or consolidation of preferred equity.

(2) A document other than that referred to in the preceding paragraph which certifies the existence of profits must be attached to a written application to register a change due to the cancellation of preferred equity with profits that are to be distributed to preferred equity members.

(Registration of Changes Due to Reduction in Amounts of Specified Capital)

Article 188 If public notice or notice under Article 111, paragraph (2) has been issued or a creditor has stated an objection, a document certifying that the specified purpose company has paid its debt or provided reasonable collateral to the creditor; that it has entrusted reasonable property so as to enable the creditor to receive payment for the debt; or that the reduction in the amount of specified capital is not likely to harm the creditor must be attached to the written application to register a change due to a reduction in the amount of specified capital.

(Registration of Changes Due to Reduction in Amounts of Preferred Capital)

Article 189 The document prescribed in each of the following items must be attached to a written application to register a change due to a reduction in the amount of preferred capital pursuant to the provisions set forth in each item:

- (i) the provisions of Article 109: if public notice or notice under Article 111, paragraph (2) has been issued or a creditor has stated an objection, a document certifying that that the specified purpose company has paid its debt or provided suitable collateral to the creditor; that it has entrusted reasonable property so as to enable the creditor to receive payment for the

debt; or that the reduction in the amount of preferred capital is not likely to harm the creditor;

- (ii) the provisions of Article 110: a document certifying that public notice under paragraph (2) of that Article has been issued, and if public notice or notice under Article 111, paragraph (2) has been issued and a creditor has stated an objection, a document certifying that the specified purpose company has paid its debt or provided suitable collateral to the creditor; that it has entrusted reasonable property so as to enable the creditor receive payment for the debt; or that the reduction in the amount of preferred capital is not likely to harm the creditor; and
- (iii) the provisions of Article 159: the asset securitization plan and a document certifying the redemption of specified bonds, payment of specified promissory notes, and repayment of specified borrowings.

(Registration of Changes Due to Incorporation of Reduction Surplus into Preferred Capital)

Article 190 A document certifying the existence of reduction surplus must be attached to a written application to register a change due to the incorporation of reduction surplus (but only one involving a reduction in the amount of preferred capital for the cancelation of preferred equity) into the preferred capital.

(Registration of Changes Due to Issuance of Convertible Specified Bonds)

Article 191 The following documents must be attached to a written application to register a change due to the issuance of convertible specified bonds or specified bonds with preferred equity subscription rights, unless otherwise provided by laws and regulations:

- (i) documents certifying the offers to subscribe for convertible specified bonds or specified bonds with preferred equity subscription rights, or the contracts referred to in Article 124; and
- (ii) documents certifying that full payment has been made for the amount to be paid in (meaning the amount to be paid in prescribed in Article 122, paragraph (1), item (xiv)) for convertible specified bonds or specified bonds with preferred equity subscription rights.

(Registration of Changes Due to Conversion of Convertible Specified Bonds)

Article 192 The documents certifying that a request for conversion has been made must be attached to a written application to register a change due to the conversion of convertible specified bonds.

(Registration of Changes Due to Exercising Preferred Equity Subscription

Rights That Are Embedded in Specified Bonds with Preferred Equity
Subscription Rights)

Article 193 The following documents must be attached to a written application to register a change due to the exercise of preferred equity subscription rights that are embedded in specified bonds with preferred equity subscription rights:

- (i) a document certifying that the preferred equity subscription rights that are embedded in the specified bonds with preferred equity subscription rights have been exercised; and
- (ii) a certificate of deposit for monies equivalent to the monies paid in to the bank or equivalent entity that handled the payment prescribed in Article 145, paragraph (3).

(Public Notice)

Article 194 (1) A specified purpose company may prescribe any of the following means as the means of public notice in its articles of incorporation:

- (i) publication in the Official Gazette;
- (ii) publication in a daily newspaper that publishes information about current affairs; or
- (iii) electronic public notice (meaning, among the method of public notice, a method of taking a measure that makes the information that should be given in a public notice available to many and unspecified persons by electronic or magnetic means set forth in that Article 2, item (xxxiv) of the Companies Act (meaning electronic or magnetic means referred to in that item); hereinafter the same applies in this Part).

(2) If a specified purpose company prescribes the means set forth in item (iii) of the preceding paragraph as the means of public notice, it is sufficient for the articles of incorporation to prescribe that electronic public notice is the means of public notice. In such a case, the specified purpose company may prescribe either of the means set forth in item (i) or (ii) of the preceding paragraph as the means of public notice for cases in which it is unable to issue public notice as an electronic public notice due to an accident or other compelling reasons.

(3) The means of public notice of a specified purpose company that does not have the provisions as under paragraph (1) or the preceding paragraph is to be the means referred to in paragraph (1), item (i).

(4) The provisions of Article 940, paragraphs (1) and (3) (Public Notice Period of Electronic Public Notice); Article 941 (Electronic Public Notice Investigation); Article 946 (Obligation of Investigation); Article 947 (Cases Where an Electronic Public Notice Investigation Is Unable to Be Carried Out); Article 951, paragraph (2) (Keeping and Inspection of Financial Statements); Article 953 (Order for Improvement); and Article 955 (Statements in an Investigation Record Book) of the Companies Act apply *mutatis mutandis* if a specified

purpose company issues a public notice under the provisions of this Act or other laws as an electronic public notice. In such a case, the term "this Act" in Article 940, paragraph (1), item (i) of the Companies Act is deemed to be replaced with "the provisions of Part II of the Asset Securitization Act"; the terms "Article 440, paragraph (1)" and "annual shareholders meeting" in Article 940, paragraph (1), item (ii) of the Companies Act are deemed to be replaced with "Article 104, paragraph (5) of the Asset Securitization Act" and "annual general meeting of members", respectively; the term "the preceding two paragraphs" in Article 940, paragraph (3) of the Companies Act is deemed to be replaced with "paragraph (1)"; the term "public notice under the provisions of this Act or other laws (excluding the public notice under the provisions of Article 440, paragraph (1))" in Article 941 of the Companies Act is deemed to be replaced with "public notice under the provisions of Part II of the Asset Securitization Act or the provisions of other laws (excluding public notice under the provisions of Article 104, paragraph (5) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

Chapter III Business

(Prohibition of Other Business)

- Article 195 (1) A specified purpose company must not engage in business other than the business of asset securitization in which it engages in accordance with the asset securitization plan and business incidental thereto (this excludes transferring or lending assets other than the specified assets that have been entered or recorded in the asset securitization plan or for the provision of services, for a consideration).
- (2) A specified purpose company may not become a general partnership company or a member with unlimited liability of a general partnership company.

(Prohibition of Lending One's Name)

Article 196 A specified purpose company must not allow another person to engage in the business of asset securitization using its name.

(Liability of Specified Purpose Company that Permitted Others to Use Its Trade Name)

Article 197 A specified purpose company that permits another person to carry out a business or engage in operations using its trade name is jointly and severally liable, together with that other person, to a party that conducts transactions with that other person based on the misconception that the specified purpose company is the one carrying out the business, for

performance of the obligations arising from those transactions.

(Restriction on Employees)

Article 198 A specified purpose company must not have a person set forth in one of the items of Article 70, paragraph (1) as an employee (limited to a person specified by Cabinet Order).

(Requirements for Contracts for Acquisition of Specified Assets)

Article 199 Deleted

(Entrustment of Business)

Article 200 (1) A specified purpose company must entrust specified assets (excluding beneficial interests in a trust; hereinafter the same applies in this Article) with a trust company or financial institution so as to have the trust company or financial institution carry out business involving the administration and disposition of those specified assets.

(2) Notwithstanding the provisions of the preceding paragraph, a specified purpose company may entrust the transferor of the following specified assets or a person with a sufficient financial basis and personnel structure to administer and dispose the assets appropriately with business involving the administration and disposition of those assets:

- (i) real property (meaning land and buildings, or rights other than the ownership connected with them);
- (ii) a claim (excluding a claim regarding negotiable instruments payable to order as prescribed in Part III, Chapter 1, Section 7, Subsection 1 of the Civil Code, registered negotiable instruments payable to holder as prescribed in Subsection 2 of that Section, other registered negotiable instruments prescribed in Subsection 3 of that Section, and claims for bearer instruments prescribed in Subsection 4 of that Section; the same applies in Article 202);
- (iii) an asset that Cabinet Office Order prescribes as one in respect of which a transfer of rights can be asserted against a third party by registration or other means, and whose transfer of rights to the specified purpose company has been asserted against a third party; and
- (iv) secondary specified assets (other than those falling under a category of assets set forth in the preceding three items).

(3) A specified purpose company must attach conditions to the contract in which it entrusts a person with business involving the administration and disposition of specified assets (other than secondary specified assets) as prescribed in the preceding paragraph, indicating that the other party that it is entrusting with that business (hereinafter referred to as the "entrusted person" in this paragraph) has the following obligations:

- (i) the entrusted person is to administer the assets entrusted separately from its own assets and other assets;
- (ii) the entrusted person must explain the status of the administration and disposition of the entrusted assets at the request of the specified purpose company that entrusted the person with business involving the administration and disposition of assets (hereinafter referred to as the "entrusting person" in this paragraph);
- (iii) the entrusted person is to keep documents stating the status of the administration and disposition of the entrusted assets and have the entrusting person inspect them upon request;
- (iv) the entrusted person will not further entrust the business without the consent of the entrusting person.

Article 201 Deleted

(Restrictions on Entrustment of Claim Collection)

Article 202 Beyond what is provided for in Article 200, paragraphs (2) and (3), if a specified purpose company seeks to entrust the collection of a claim that it has acquired in accordance with the asset securitization plan (limited to a claim for payment of money; hereinafter referred to as an "acquired claim" in this Article) or to give the consent referred to in Article 200, paragraph (3), item (iv) to re-entrust a person with the collection of such a claim, and the specified purpose company comes to know or is capable of knowing that the other party to the entrustment or re-entrustment is clearly likely to violate the provisions of Article 21, paragraph (2) of the Money Lending Business Act or the provisions of this Act, or to commit a crime referred to in the Penal Code or the Act on the Punishment of Physical Violence and Others in collecting the acquired claim, the specified purpose company must not entrust the other party with the collection of claims or give its consent to re-entrusting the other party with the collection of claims.

(Restrictions on Entrustment of Real Property Transactions)

Article 203 Beyond what is provided for in Article 200, paragraphs (2) and (3), a specified purpose company must entrust a person that does not fall under any of the items of Article 6 (other than item (xii)) of the Act on Specified Joint Real Estate Ventures with business related to the purchase and sale, exchange, or lease of real property (meaning a building or a building lot as prescribed in Article 2, item (i) of the Real Estate Brokerage Act) that the specified purpose company has acquired in accordance with the asset securitization plan.

(Exclusion from Application of the Real Estate Brokerage Act)

Article 204 The provisions of the Real Estate Brokerage Act do not apply to a specified purpose company that has filed a notification of commencement of business.

(Issuance of Promissory Notes)

Article 205 A specified purpose company may issue the promissory notes set forth in Article 2, paragraph (1), item (xv) of the Financial Instruments and Exchange Act (referred to as "specified notes" in item (ii)) only in the following cases:

- (i) if all of the following requirements are satisfied:
 - (a) the purpose of the issuance of the specified notes is to procure the funds necessary to acquire specified assets;
 - (b) the limit on the amount of specified notes it may issue is specified in the asset securitization plan; and
 - (c) the requirements that Cabinet Office Order prescribes as being necessary for the protection of investors.
- (ii) if specified notes are issued for the purpose of procuring funds for the payment of specified notes issued under the provisions of this Article.

(Issuance of Different Classes of Preferred Equity or Specified Bonds)

Article 206 A specified purpose company may issue preferred equity or specified bonds differing in class or time of issuance under a single asset securitization plan only in a case that Cabinet Office Order prescribes as one that does not jeopardize the protection of investors.

(Restrictions on Public Offerings and Private Placements of Asset-Backed Securities)

Article 207 If a notification under paragraph (2) of the following Article is issued with regard to the handling of a public offering or private placement (meaning a public offering of securities or private placement of securities as prescribed in Article 2, paragraph (3) of the Financial Instruments and Exchange Act; hereinafter the same applies in this Part) of asset-backed securities issued by a specified purpose company, neither the director nor the employees of the specified purpose company may engage in the affairs related to the public offering or private placement of asset-backed securities.

Article 208 (1) To apply the Financial Instruments and Exchange Act if the transferor of specified assets (other than secondary specified assets) set forth in the asset securitization plan (or, if the transferor is a corporation, including its officers and employees; hereinafter referred to as the "specified transferor") is the person that has been entrusted with the affairs related to the public

offering or private placement of asset-backed securities (other than specified short-term bonds and specified promissory notes; hereinafter the same applies in this Article and the following Article) that the specified purpose company issues, the handling of the public offering or private placement of asset-backed securities issued by the specified purpose company by the specified transferor is deemed not to fall under the act set forth in Article 2, paragraph (8), item (ix) of that Act.

- (2) In the case referred to in the preceding paragraph, a specified transferor must file a notification with the Prime Minister in advance pursuant to Cabinet Office Order provisions when handling a public offering or private placement of asset-backed securities.

(Application, Mutatis Mutandis, of the Financial Instruments and Exchange Act to Public Offerings and Private Placements of Asset-Backed Securities)

Article 209 (1) The provisions of Article 36, paragraph (1) (Duty of Good Faith to Customers); Article 37, paragraph (1) (excluding item (ii)) and paragraph (2) (Regulation of Advertising); Article 37-3, paragraph (1) (excluding items (ii) and (vi)) and paragraph (2) (Delivery of Document Prior to Conclusion of Contract), Article 37-4 (Delivery of Document upon Conclusion of Contract); Article 38 (excluding items (vii) and (viii)) (Prohibited Acts); Article 39 (excluding paragraphs (4) and (6)) (Prohibition of Compensation of Loss); Article 40 (Principle of Suitability); Article 44-3, paragraph (1) (excluding item (iii)) (Restriction on Acts Involving Parent Corporations or Subsidiary Corporations); and Article 45 (excluding item (iii) and item (iv)) of the Financial Instruments and Exchange Act apply mutatis mutandis to a specified purpose company making a public offering or private placement of asset-backed securities and to a specified transferor handling the public offering or private placement of asset-backed securities. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

- (2) The provisions of Articles 217 through 219 apply mutatis mutandis to specified transferors handling public offerings and private placements of asset-backed securities. In such a case, the term "this Act" in Article 217, paragraph (1) is deemed to be replaced with "this Act or the provisions of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 209, paragraph (1)"; the terms "concerning its business or assets" and "its operational or financial status" in that paragraph are deemed to be replaced with "concerning the handling of the public offering or private placement of asset-backed securities" and "its handling of the public offering or private placement of asset-backed securities", respectively; and Cabinet Order provides for any other necessary technical replacement of terms.

(Borrowing of Funds)

Article 210 If all of the following requirements are satisfied, a specified purpose company may borrow the funds necessary for acquiring specified assets, as decided by the director (or as decided by a majority of the directors, if there are multiple directors):

- (i) the limit on the amount of the borrowings is provided for in the asset securitization plan; and
- (ii) the person from which it borrows the funds is a bank or other persons that Cabinet Office Order prescribes.

Article 211 A specified purpose company is to be permitted to borrow funds other than the borrowing of funds pursuant to the provisions of the preceding Article only in the case that each of the following items prescribes in accordance with the category of borrowing of funds set forth in each item:

- (i) borrowing of funds to allot the funds for the performance of obligations associated with specified bonds, specified promissory notes, or specified borrowing (including if it borrows additional funds to allot them for the performance of obligations associated with the original borrowing): if the borrowing period does not exceed one year; or
- (ii) borrowing of funds other than as set forth in the preceding item: if it borrows those funds to temporarily manage cash flows when issuing asset-backed securities or making specified borrowing, or in a case that Cabinet Office Order prescribes as one that does not jeopardize the protection of investors.

(Restriction on Acquisition of Assets)

Article 212 (1) A specified purpose company must not acquire the following assets:

- (i) an equity investment under a partnership contract (meaning a partnership contract as referred to in Article 667 of the Civil Code) (other than those prescribed by Cabinet Office Order);
- (ii) an equity investment under a silent partnership contract (meaning a silent partnership contract as referred to in Article 535 of the Commercial Code) (other than those prescribed by Cabinet Office Order);
- (iii) a beneficial interest in a trust that consists of money (other than those prescribed by Cabinet Office Order); and
- (iv) an asset that Cabinet Office Order prescribes as one whose acquisition by a specified purpose company is likely to interfere with its performance of the business of asset securitization.

(2) A specified purpose company must not acquire or hold voting rights (other than voting rights in respect of shares that do not entitle a person to vote on

all of the matters that may be resolved at a shareholders' meeting; and including voting rights in respect of shares that are deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act; hereinafter the same applies in this paragraph) in respect of issued shares and equity interests in a single corporation (hereinafter referred to as "shares and interests" in this paragraph and the following paragraph) in a number that exceeds that which is arrived at when the rate that Cabinet Office Order prescribes is multiplied by the total number of votes associated with those shares and interests.

- (3) In the case referred to in the preceding paragraph, the shares and interests acquired or held by a specified purpose company are to include shares and interests constituting trust property in respect of which the specified purpose company is entitled to vote as the settlor or beneficiary or to give instructions with regard to the exercise of voting rights.
- (4) A specified purpose company must not acquire issued shares in a corporation that holds the majority of units of specified equity or preferred equity for which the specified purpose company holds voting rights.

(Restrictions on Disposition of Specified Assets)

Article 213 Except as provided in the asset securitization plan, a specified purpose company must not lend, transfer, or exchange specified assets (other than secondary specified assets) or provide them as collateral.

(Restrictions on Operation of Surplus Funds)

Article 214 A specified purpose company must not invest surplus funds that arise in the course of business other than by the following means:

- (i) through holding Japanese government bonds and other securities designated by the Prime Minister;
- (ii) by depositing surplus funds with a bank or other financial institution designated by the Prime Minister; or
- (iii) by other means that Cabinet Office Order prescribes.

Chapter IV Supervision

(Books and Materials Concerning Business)

Article 215 A specified purpose company must prepare and preserve books and materials related to its business, pursuant to Cabinet Office Order provisions.

(Submission of Business Reports)

Article 216 A specified purpose company must prepare a business report every business year and submit it to the Prime Minister within three months after

the end of the business year, pursuant to Cabinet Office Order provisions.

(On-Site Inspections)

Article 217 (1) On finding that the business operations of a specified purpose company violate or are likely to violate this Act or an order based on this Act, the Prime Minister may order a specified purpose company to submit reports or materials concerning its business or assets, or may have relevant officials enter the business office or office of the specified purpose company and inspect the status of its business and assets, books, documents, and other articles, or question the relevant persons.

(2) An official that conducts an on-site inspection pursuant to the preceding paragraph must carry an identification card and present it if requested to do so by any of the relevant persons.

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

(Orders for Rectification of Illegal Acts)

Article 218 On finding that the business operations of a specified purpose company violate or are likely to violate the provisions of this Act or an order based on this Act, the Prime Minister may order the specified purpose company to take the necessary measures to rectify those business operations.

(Orders to Suspend Business)

Article 219 If a specified purpose company that has filed a notification of commencement of business falls under either of the following items, the Prime Minister may order a full or partial suspension of its business for a fixed period of no longer than six months:

- (i) it enters or records false information; fails to enter or record material information that is required to be entered or recorded; or fails to enter or record the necessary facts to prevent a misconception, in the notification of commencement of business, a change notification, notification under Article 10, paragraph (1), notification of a new plan, written notification or accompanying documents associated with the notification under Article 12, paragraph (1), or the materials prescribed in Article 7, paragraph (2); or
- (ii) it violates the provisions of this Act, an order issued based on this Act, or a disposition based on either of these.

(Dissolution Orders)

Article 220 If a specified purpose company violates the provisions of this Act, an order based on this Act, or a disposition based on either of these and there is

no other means of achieving the goal of supervision, or if the specified purpose company does not file a notification of a new plan within three years after the day on which it has filed the notification under Article 10, paragraph (1), the Prime Minister may order its dissolution.

(Public Notices of Supervisory Dispositions)

Article 221 Having rendered a disposition under one of the preceding three Articles, the Prime Minister must issue public notice of this pursuant to Cabinet Office Order provisions; and having rendered a disposition under Article 218 or Article 219, the Prime Minister must record this and the date of the disposition in the register of specified purpose companies.

Part III The Specified Purpose Trust System

Chapter I General Provisions

(General Rules)

Article 222 Beyond what is provided for in this Part, the provisions of the Trust Act, the Trust Business Act, and the Act on Engagement in Trust Business Activities by Financial Institutions (Act No. 43 of 1943) also apply to specified purpose trusts.

(Trustees of Specified Purpose Trusts)

Article 223 It is prohibited to conclude a trust agreement for a specified purpose trust (hereinafter referred to as a "specified purpose trust agreement") unless a trust company or financial institution is to serve as the trustee.

(Specified Purpose Trust Property)

Article 224 The provisions of Article 212 (excluding paragraph (4)) apply mutatis mutandis to assets that the trust company or financial institution serving as the trustee of a specified purpose trust acquires from the originator (meaning a person concluding a specified purpose trust agreement with a trust company or financial institution; hereinafter the same applies in this Part) as the trust property of the specified purpose trust, and to assets acquired or possessed by a trustee trust company or financial institution as the trust property of the specified purpose trust. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

Chapter II Notifications

(Notification)

Article 225 (1) A trust company or financial institution must file a notification

- with the Prime Minister in advance pursuant to Cabinet Office Order provisions, when concluding a specified purpose trust agreement as the trustee.
- (2) When filing a notification under the provisions of the preceding paragraph, the trust company or financial institution must attach the following documents:
- (i) a draft of the specified purpose trust agreement;
 - (ii) the asset trust securitization plan;
 - (iii) if it entrusts another person with the business of administering and disposing of specified assets (other than secondary specified assets), a draft of the entrustment agreement; and
 - (iv) other documents that Cabinet Office Order prescribes.

(Asset Trust Securitization Plan)

Article 226 (1) The following information must be entered or recorded in an asset trust securitization plan:

- (i) the period of the specified purpose trust agreement and the information that Cabinet Office Order prescribes as concerning the period of the specified purpose trust agreement;
 - (ii) the details and value of specified assets and any other information that Cabinet Office Order prescribes as concerning specified assets;
 - (iii) the following information concerning beneficial interests:
 - (a) the information that Cabinet Office Order prescribes as concerning how monies will be distributed during the trust period;
 - (b) if the plan provides for multiple classes of beneficial interest that confer a share in specified assets (hereinafter referred to as a "share of principal"), the share of principle for each class of beneficial interest, and if the plan provides for a class of beneficial interest that confers no share of principal, the share of interest to be earned based on the administration and disposition of specified assets during the period of the specified purpose trust agreement (hereinafter referred to a "share of interest"); and
 - (c) other information that Cabinet Office Order prescribes.
 - (iv) how the specified assets will be administered and disposed of and any other information that Cabinet Office Order prescribes as concerning the administration and disposition of specified assets;
 - (v) the information that Cabinet Office Order prescribes as concerning the borrowing of funds or the bearing of costs by the trustee trust company or financial institution for administering trust affairs associated with the specified purpose trust; and
 - (vi) other information that Cabinet Office Order prescribes.
- (2) The period of the specified purpose trust agreement referred to in item (i) of the preceding paragraph must not exceed the periods that Cabinet Order

prescribes as those in which a reasonable plan for the administration and disposition of the specified assets may be formulated in accordance with the categories of specified assets that Cabinet Order prescribes.

- (3) An asset trust securitization plan may be prepared as an electronic or magnetic record.

(Notification of Change to Asset Trust Securitization Plans)

Article 227 (1) Having changed the asset trust securitization plan, a trustee trust company or financial institution must file a notification with the Prime Minister without delay; provided, however, that this does not apply to a change to information entered or recorded in the asset trust securitization plan based on the final determination of the time of acquisition of specified assets or any other change that Cabinet Office Order prescribes as a minor change.

- (2) The provisions of Article 9, paragraphs (2) and (3) apply mutatis mutandis to a notification pursuant to the provisions of the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Notification of Termination of Specified Purpose Trusts)

Article 228 Having finished performing the obligations connected with a specified purpose trust in accordance with the asset trust securitization plan, a trustee trust company or financial institution must file a notification with the Prime Minister indicating this within thirty days from that date.

Chapter III Specified Purpose Trusts

Section 1 Specified Purpose Trust Agreements

(Specified Purpose Trust Agreement)

Article 229 The following information must be provided for in a specified purpose trust agreement:

- (i) that the trust is a specified purpose trust;
- (ii) the asset trust securitization plan;
- (iii) information concerning the obligations of the originator;
- (iv) information concerning the reimbursement of costs and compensation for damage to the trustee trust company or financial institution;
- (v) information concerning how the trust fee is calculated and how and when it is to be paid; and
- (vi) other information that Cabinet Office Order prescribes.

Article 230 (1) The following conditions must be attached to a specified purpose trust agreement:

- (i) that it is not permissible to give instructions to the trustee trust company or

financial institution with regard to the administration or disposition of the specified assets:

- (ii) if the agreement provides for a class of beneficial interest for which a predetermined amount (or an amount calculated by the method that Cabinet Order prescribes as resulting in obtaining a predetermined amount) of monies are to be distributed during the trust period (hereinafter referred to as a "bond-type beneficial interest" in this paragraph), that the principal of the bond-type beneficial interest will be redeemed at a pre-determined time and that the holders of beneficiary certificates representing those bond-type beneficial interests are not entitled to vote on resolutions (other than those set forth in the following items) at a meeting of interest holders and any other conditions specified by Cabinet Order:
 - (a) a resolution at a meeting of interest holders granting the approval referred to in Article 269, paragraph (1), item (i);
 - (b) a resolution at a meeting of interest holders referred to in Article 273, paragraph (1);
 - (c) a resolution at a meeting of interest holders referred to in Article 274, paragraph (1);
 - (d) a resolution at a meeting of interest holders granting the approval referred to in Article 275, paragraph (1) (including as applied mutatis mutandis pursuant to Article 279, paragraph (3));
 - (e) a resolution at a meeting of interest holders referred to in Article 276, paragraph (1); and
 - (f) a resolution at a meeting of interest holders granting the approval referred to in Article 132-2, paragraph (1) of the Deposit Insurance Act (Act No. 34 of 1971).
 - (iii) if the specified purpose trust agreement provides for bond-type beneficial interest subject to the condition that the originator must re-purchase the specified assets under the agreement which are associated with the bond-type beneficial interest or provides for any other bond-type beneficial interest that Cabinet Office Order prescribes as those that the credit status of the originator of which may have significant impact on investors' investment decisions (referred to as "special bond-type beneficial interest" in Article 234, paragraph (5), item (i)), that the originator is required to notify the trustee trust company or financial institution of the occurrence or possible occurrence of an event related to its credit status without delay.
- (2) The provisions of Chapter IX (Special Provisions on Limited Liability Trusts) of the Trust Act do not apply to specified purpose trusts.

(Borrowing of Funds and Bearing of Costs)

Article 231 A trustee trust company or financial institution must not borrow

funds nor bear the costs for administering trust affairs associated with a specified purpose trust unless the limit on the amount of funds that it may borrow or the total amount of costs that it may bear (other than those that the trustee trust company or financial institution bears as a cost that it is to bear in connection with the trust property pursuant to the provisions of Article 247, Article 248 (including as applied mutatis mutandis pursuant to Article 253), Article 258 (including as applied mutatis mutandis pursuant to Article 260, paragraph (5), if those costs have been prescribed in the specified purpose trust agreement in advance as costs it is to bear in connection with the trust property), and Article 271, paragraph (2)) is provided for in the asset trust securitization plan, or in a case that Cabinet Office Order prescribes as one in which its doing so does not jeopardize the protection of the holders of beneficiary certificates.

(Means of Investing Money)

Article 232 Monies that are among the trust property of a specified purpose trust must be invested by the following means:

- (i) through holding Japanese government bonds or securities designated by the Prime Minister; and
- (ii) by other means that Cabinet Office Order prescribes.

Section 2 Transferring Beneficial Interests

(Transferring Beneficial Interests)

Article 233 A beneficial interest in a specified purpose trust may be transferred; provided, however, that this does not preclude a specified purpose trust agreement from placing restrictions on the transfer of a beneficial interest represented by beneficiary certificate in registered form to a person other than a qualified institutional investor (meaning a qualified institutional investor as defined in Article 2, paragraph (3), item (i) of the Financial Instruments and Exchange Act).

(Beneficiary Certificates)

- Article 234 (1) A beneficial interest in a specified purpose trust must be represented by a beneficiary certificate.
- (2) A beneficial interest in a specified purpose trust must be transferred using a beneficiary certificate.
 - (3) Beneficiary certificates are to be in bearer form; provided, however, that a beneficiary certificate may be converted into registered form at the request of the beneficiary certificate holder.
 - (4) A beneficiary certificate in registered form may be converted into bearer form

at the request of the beneficiary certificate holder; provided, however, that this does not preclude a specified purpose trust agreement from providing otherwise.

- (5) The serial number, the date of issuance, and the following information must be entered in a beneficiary certificate, and an officer representing the trustee trust company or financial institution must sign it or affix their name and personal seal to it:
- (i) an indication that it is a beneficiary certificate for a specified purpose trust (and if the beneficial certificate is for a special bond-type beneficial interest, an indication of this);
 - (ii) the names and addresses of the originator and the trustee trust company or financial institution;
 - (iii) if the beneficiary certificate is in registered form, the name of the beneficiary certificate holder;
 - (iv) the share of principal or share of interest associated with the beneficial interest, or the provisions of the specified purpose trust agreement concerning the calculation of the share of principal or share of interest;
 - (v) the details of the beneficial interest other than as referred to in the preceding item;
 - (vi) the period of the specified purpose trust agreement;
 - (vii) the provisions of the specified purpose trust agreement concerning reimbursement of costs and compensation for damages to the trustee trust company or financial institution;
 - (viii) the particulars of how the trust fee is calculated and how and when it is to be paid;
 - (ix) if there is a restriction on the transfer of a beneficial interest represented by a beneficiary certificate in registered form, an indication of this and its details;
 - (x) the provisions of the specified purpose trust agreement concerning the exercise of rights (including information about the representative interest holder and the specified trust administrator); and
 - (xi) other information that Cabinet Office Order prescribes.
- (6) A person in possession of a beneficiary certificate is presumed to be its lawful owner.

(Requirements to Duly Assert Transfers of Beneficial Interests against Third Parties)

Article 235 (1) The transfer of a beneficial interest may not be asserted against the trustee trust company or financial institution unless the name and address of the acquirer of the beneficiary certificate and the class of the beneficial interest have been entered or recorded in the beneficiary certificate holder

register.

- (2) The transfer of a beneficial interest represented by a beneficiary certificate in registered form may not be asserted against a third party (other than the trustee trust company or financial institution) unless the name of the acquirer of the beneficiary certificate have been entered in the beneficiary certificate.
- (3) A trustee trust company or financial institution may make provisions in the specified purpose trust agreement for employing an administrator for the beneficiary certificate holder register (meaning a person to handle the preparation and keeping of the beneficiary certificate holder register and other affairs associated with the register in lieu of the trustee trust company or financial institution; the same applies hereinafter), and may entrust the administrator with those affairs.

(Information Required to Be Entered in Beneficiary Certificate Holder Registers)

- Article 236 (1) A trustee trust company or financial institution must enter or record the following information in the beneficiary certificate holder register:
- (i) the names and addresses of the beneficiary certificate holders;
 - (ii) the class and share of principal or share of interest associated with the beneficial interest held by each beneficiary certificate holder;
 - (iii) the serial numbers of the beneficiary certificates held by each beneficiary certificate holder;
 - (iv) the date of acquisition of each beneficiary certificate; and
 - (v) other particulars that Cabinet Office Order prescribes.
- (2) The provisions of Article 189 (excluding paragraphs (2) and (5)) (Record Date); Article 191 (excluding paragraph (5)) (Notices to Beneficiaries); Article 197 (excluding paragraph (4)) (Entering or Recording Information Required to Be Entered in Beneficial Interest Register without Being Requested by Beneficiary); Article 198 (excluding paragraph (3)) (Entering or Recording Information Required to Be Entered in Beneficial Interest Register as Requested by Beneficiary); and Article 203 (Notices to Registered Pledges of a Beneficial Interest, etc.) of the Trust Act and the provisions of Article 124, paragraph (4) (Record Date) of the Companies Act apply mutatis mutandis to a beneficiary certificate holder. In such a case, the term "beneficiaries on the record date" in Article 189, paragraphs (1) and (3) and the proviso to paragraph (4) of the Trust Act is deemed to be replaced with "holders on the record date"; the term "give public notice in an Official Gazette" in that paragraph is deemed to be replaced with "issue public notice"; the term "act of trust" in the proviso to that paragraph is deemed to be replaced with "specified purpose trust agreement"; the term "to registered pledges of beneficial interest" in Article 203, paragraph (1) of that Act is deemed to be replaced with

"the pledgees for which the information set forth in the items of Article 201, paragraph (1) as applied mutatis mutandis pursuant to Article 239, paragraph (1) of the Asset Securitization Act has been entered or recorded in the beneficiary certificate holder register"; the term "the registered pledgees of beneficial interest" in that paragraph is deemed to be replaced with "those pledges"; the term "shareholders on the record date" in Article 124, paragraph (4) of the Companies Act is deemed to be replaced with "holders on the reference date"; the term "shareholders meeting or class meeting" in that paragraph is deemed to be replaced with "meeting of interest holders or class meeting of interest holders"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (3) The provisions of Article 189 (excluding paragraphs (2) and (5)) of the Trust Act as applied mutatis mutandis pursuant to the preceding paragraph apply mutatis mutandis to pledgees for which the information set forth in the items of Article 201, paragraph (1) of that Act as applied mutatis mutandis pursuant to Article 239, paragraph (1) has been entered or recorded in the beneficiary certificate holder register.

(Succession to the Status of Settlor)

Article 237 Through the acquisition of a beneficiary certificate, the person acquiring the certificate is to succeed to the status of a settlor under the specified purpose trust agreement connected with that beneficiary certificate, in accordance with the proportion of the share of principal associated with the beneficial interest represented by the beneficiary certificate; provided, however, that this does not apply to the obligations of the originator under the specified purpose trust agreement if the specified purpose trust agreement provides otherwise with regard to those obligations.

(Loss of Beneficiary Certificates)

Article 238 (1) A beneficiary certificate may be invalidated through the public notification proceedings prescribed in Article 100 of the Non-Contentious Cases Procedures Act (Act No. 51 of 2011).

- (2) A person that loses a beneficiary certificate may not request its reissuance until after obtaining an order of nullification of the right prescribed in Article 106, paragraph (1) of the Non-Contentious Cases Procedures Act.
- (3) Once a person that has lost a beneficiary certificate files a petition for public notification prescribed in Article 114 of the Non-Contentious Cases Procedures Act, the person that has lost the beneficiary certificate may provide suitable collateral and have the trustee trust company or financial institution perform the obligations associated with the beneficiary certificate.

(Application, Mutatis Mutandis, of the Trust Act to Beneficial Interest)

Article 239 (1) The provisions of Article 193 (Exercise of Rights by Co-owners); Article 196, paragraph (2) (Presumption of Rights); Article 199 (Pledge of a Beneficial Interest for which Beneficiary Securities Have Been Issued); Article 200, paragraph (1) (Perfection of Pledges of a Beneficial Interest in Trust for which Beneficiary Securities Have Been Issued); Article 201, paragraph (1) (Statements in the Beneficial Interest Register Concerning Pledges); Article 204 (Statements in Beneficial Interest Register Pertaining to the Consolidation or Division of Beneficial Interest); and Article 208 (excluding paragraph (7)) (Offers Not to Hold Beneficiary Securities) of the Trust Act apply mutatis mutandis to beneficial interest in a specified purpose trust. In such a case, the phrase "beneficial interest in a trust for which beneficiary securities have been issued (excluding beneficial interest under the provisions set forth in Article 185, paragraph (2))" in Article 199 and Article 200, paragraph (1) of the Trust Act is deemed to be replaced with "beneficial interest in a specified purpose trust"; the phrase "beneficial interest in a trust for which beneficiary securities have been issued" in Article 201, paragraph (1) of that Act is deemed to be replaced with "beneficial interest in a specified purpose trust"; the phrase "beneficiaries of a trust for which beneficiary securities have been issued" in Article 208, paragraph (1) of that Act is deemed to be replaced with "beneficiary certificate holders"; the term "details of the beneficial interest" in paragraph (2) of that Article is deemed to be replaced with "share of principal associated with the beneficial interest in the specified purpose trust (or, if multiple classes of beneficial interest are provided for, the classes of beneficial interest and the share of principal or share of interest for each class)"; and Cabinet Order provides for any other necessary technical replacement of terms.

(2) To apply the provisions of this Act to a case in which, pursuant to the provisions of Article 208, paragraphs (1) through (5) of the Trust Act as applied mutatis mutandis pursuant to the preceding paragraph, a beneficiary certificate is not issued, the holder of the beneficial interest in the specified purpose trust that is to be represented by the beneficiary certificate is deemed to be the beneficiary certificate holder, and to apply the provisions of Article 286, the beneficial interest in the specified purpose trust that is to be represented by the beneficiary certificate is deemed to be the beneficiary certificate.

Section 3 Rights of Beneficiary Certificate Holders

Subsection 1 Meetings of Interest Holders

(Meetings of Interest Holders)

Article 240 (1) The rights of the beneficiaries and the settlor of a specified

purpose trust (other than the right to receive repayment for the debts that the trustee trust company or financial institution owes to the beneficiaries under the specified purpose trust agreement) may be exercised only at a meeting of interest holders.

- (2) The exercise of a right referred to in the preceding paragraph must be based on a resolution to exercise it.
- (3) The provisions of Chapter IV, Section 3 (Special Provisions on Decision-Making Methods Involving Two or More Beneficiaries) of the Trust Act do not apply to a specified purpose trust.

Article 241 A matter other than one that is prescribed by a law or regulation or the specified purpose trust agreement as requiring a resolution at a meeting of interest holders may not be resolved at a meeting of interest holders.

(Conveners)

Article 242 (1) A meeting of interest holders is convened by the trustee trust company or financial institution, the representative interest holder, or the specified trust administrator.

- (2) To convene a meeting of interest holders, the convener must send a notice of convocation in writing to each beneficiary certificate holder (but only those that are entitled to vote) two weeks prior to the date of the meeting.
- (3) In lieu of sending a written notice as referred to in the preceding paragraph, a convener may send the notice by electronic or magnetic means, pursuant to the provisions of Cabinet Order, with the consent of the persons that are required to receive the notice referred to in the preceding paragraph. In such a case, the convener is deemed to have sent the written notice referred to in the preceding paragraph.
- (4) The subject of the meeting and the number of voting rights held by each beneficiary certificate holder must be entered or recorded in the notice referred to in the preceding two paragraphs, as well as the total number of voting rights or the proportion of voting rights held by each beneficiary certificate holder.
- (5) The provisions of Article 108 (Decision to Call a Beneficiaries Meeting) and Article 191 (excluding paragraph (5)) (Notice to Beneficiaries) of the Trust Act and the provisions of Article 718, paragraphs (1) and (3) (Demand for Calling Meeting by Bondholders) of the Companies Act apply mutatis mutandis to the convocation of a meeting of interest holders. In such a case, the phrase "the total amount of bonds of a certain class (excluding bonds that have been redeemed)" in Article 718, paragraph (1) of the Companies Act is deemed to be replaced with "the total share of principal"; the term "the bond-issuing company or bond manager" in that paragraph is deemed to be replaced with "the trustee trust company or financial institution, representative interest

holder, or specified trust administrator"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (6) The provisions of Article 868, paragraph (4) (Jurisdiction over Non-Contentious Cases); Article 869 (Prima Facie Showing); Article 871 (Appending of the Reason); Article 874 (but only the part that involves item (iv)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the convocation of a meeting of interest holders under the provisions of Article 718, paragraph (3) of that Act as applied mutatis mutandis pursuant to the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Method of Passing Resolutions)

Article 243 (1) Unless otherwise provided for in this Act or the specified purpose trust agreement, a resolution at a meeting of interest holders must be passed by the majority vote of the beneficiary certificate holders attending the meeting, where those beneficiary certificate holders in attendance hold more than half of the total shares of principal.

- (2) The shares of principal held by beneficiary certificate holders not entitled to vote on specific resolutions at a meeting of interest holders are not to be included in the calculation of the shares of principal of beneficiary certificate holders referred to in the preceding paragraph.

- (3) The provisions of Article 62 apply mutatis mutandis to how resolutions are passed at a meeting of interest holders. In such a case, the term "articles of incorporation" in paragraph (1) of that Article is deemed to be replaced with "specified purpose trust agreement"; the phrase "proposal concerning a matter subject to inclusive voting" in that paragraph is deemed to be replaced with "proposal"; the term "Article 56, paragraph (1)" in paragraph (2) of that Article is deemed to be replaced with "Article 242, paragraph (2) or (3)"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Number of Votes)

Article 244 (1) A beneficiary certificate holder is entitled to vote in proportion to the share of principal of the beneficial interest held by them.

- (2) Notwithstanding the provisions of the preceding paragraph, a trustee trust company or financial institution is not entitled to vote in connection with beneficial interest it holds as its own asset.

- (3) The provisions of paragraph (1) do not preclude the specified purpose trust agreement from providing otherwise.

(Voting in Writing or by Electronic or Magnetic Means)

Article 245 (1) A beneficiary certificate holder not attending a meeting of interest holders may vote in writing.

(2) The provisions of Article 110, paragraphs (1) and (2) (Provision of Voting Forms and Reference Documents for a Beneficiaries Meeting); Article 115, paragraphs (2) and (3) (Voting in Writing); and Article 116 (Voting by Electronic or Magnetic Means) of the Trust Act, and the provisions of Article 311, paragraphs (3) and (4) (Voting in Writing) of the Companies Act apply mutatis mutandis to voting in writing referred to in the preceding paragraph. In such a case, the phrase "Upon issuing a notice set forth in paragraph (1) of the preceding Article, a convener" in Article 110, paragraph (1) of the Trust Act is deemed to be replaced with "If a trust is a specified purpose trust, the convener, when issuing a convocation notice for a meeting of interest holders"; the term "paragraph (2) of the preceding Article" in paragraph (2) of that Article is deemed to be replaced with "Article 242, paragraph (3) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Execution of Resolutions)

Article 246 (1) A resolution at a meeting of interest holders is executed by the representative interest holder or specified trust administrator if there is such a person, and executed by the person specified by resolution at a meeting of interest holders if there is no representative interest holder or specified trust administrator.

(2) The provisions of Article 708 (Method of Acts of Bond Managers) and Article 709, paragraph (1) (Special Provisions for Multiple Bond Managers) of the Companies Act apply mutatis mutandis to the person specified by resolution at a meeting of interest holders referred to in the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Bearing of Remuneration, Costs, Interest, and Amount of Damages Related to Persons Who Execute Resolutions at Meetings of Interest Holders)

Article 247 Remuneration that is to be given to the person specified by resolution at a meeting of interest holders referred to in paragraph (1) of the preceding Article, the costs required for that person to administer affairs, the interest that accrues beginning on the day of their expenditure, and compensation for damage incurred by that person for administering the affairs in the absence of negligence are borne by the trustee trust company or financial institution as costs that it is to bear in connection with the trust property.

(Bearing of Costs)

Article 248 (1) The costs of a meeting of interest holders are borne by the trustee trust company or financial institution as costs that it is to bear in connection with the trust property.

(2) The costs associated with a petition referred to in Article 732 of the Companies Act as applied mutatis mutandis pursuant to the following Article are borne by the trustee trust company or financial institution as costs that it is to bear in connection with the trust property; provided, however, that at the petition of an interested person or on its own authority, the court may specify another person to bear all or part of those costs.

(Application, Mutatis Mutandis, of the Trust Act and the Companies Act to Meetings of Interest Holders)

Article 249 (1) The provisions of Article 114 (Proxy Voting); Article 117 (Inconsistent Voting); Article 118, paragraph (2) (Attendance of Beneficiaries); Article 119 (Resolutions for Postponement or Continuation); and Article 120 (Minutes of a Meeting) of the Trust Act and the provisions of Article 314 (Accountability of the Directors); Article 315 (Authority of the Chairperson); Article 731 (excluding paragraph (1)) (Minutes of a Meeting); Articles 732 through 735 (Petitions for Approval of Resolutions Made at Bondholders Meetings; Rejection of Resolutions Made at Bondholders Meetings; Effectiveness of Resolutions Made at Bondholders Meetings; Public Notice of Rulings Approving or Rejecting Resolutions Made at Bondholders Meetings); and Article 738 (Dismissal of Representative Bondholders) of the Companies Act apply mutatis mutandis to meetings of interest holders. In such a case, the term "Article 108 and Article 109" in Article 119 of the Trust Act is deemed to be replaced with "Article 242 of the Asset Securitization Act"; the phrase "a director, an accounting advisor, a company auditor or an executive officer" in Article 314 of the Companies Act is deemed to be replaced with "a trustee trust company or financial institution"; the term "bond-issuing company" in Article 731, paragraph (2) of that Act is deemed to be replaced with "trustee trust company or financial institution"; the term "The bond manager and bondholders" in paragraph (3) of that Article is deemed to be replaced with "The representative interest holder, specified trust administrator, and each beneficiary certificate holder"; the term "bond-issuing company" in that paragraph is deemed to be replaced with "trustee trust company or financial institution"; the term "the solicitation in Article 676" in Article 733, item (i) of that Act is deemed to be replaced with "the solicitation for beneficiary certificates"; the term "such bond-issuing company" in that item is deemed to be replaced with "the trustee trust company or financial institution"; the term "bond-issuing company" in Article 735 of that Act is deemed to be replaced with

"trustee trust company or financial institution"; the term "the representative bondholders or resolution administrator" in Article 738 of that Act is deemed to be replaced with "the person specified by the resolution referred to in Article 246, paragraph (1) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

(2) The provisions of Article 868, paragraph (4) (Jurisdiction over Non-Contentious Cases); Article 870 (1) (but only the part that involves item (vii)) (Hearing of Statements); the main text of Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); the main text of Article 873 (Stay of Execution of the Judicial Decision of the Prior Instance); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the petitions for approval of resolutions referred to in Article 732 of that Act as applied mutatis mutandis pursuant to the preceding paragraph.

(Written Resolutions)

Article 250 (1) If a resolution is to be passed at a meeting of interest holders, and if provisions have been established in the specified purpose trust agreement in advance or consent of all of the beneficiary certificate holders (but only those entitled to vote) have been obtained, that resolution may be passed in writing.

(2) A written resolution has the same effect as a resolution at a meeting of interest holders.

(3) The provisions of Article 63, paragraphs (1) to (3) and the provisions concerning meetings of interest holders (excluding Article 243, paragraph (3) and Article 245) apply mutatis mutandis if a resolution is passed in writing. In such a case, the phrase "If a director or a specified equity member makes a proposal on a matter subject to exclusive voting that is the subject of a general meeting of members, and all of the specified equity members (but only those entitled to vote on that matter) manifest the intention to agree with the proposal by documents or electronic or magnetic records" in Article 63, paragraph (1) is deemed to be replaced with "If all of the specified equity members (but only those entitled to vote on the relevant matter) manifest the intention to agree with the subject of resolution by documents or electronic or magnetic records"; the term "approving that proposal" in that paragraph is deemed replaced with "approving that subject"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Class Meetings of Interest Holders)

Article 251 (1) If the beneficial interest in a specified purpose trust has been

divided into multiple classes of beneficial interests with different features under an asset trust securitization plan, and a resolution at a meeting of interest holders (but only a resolution for approval referred to in Article 269, paragraph (1), item (i); a resolution referred to in Article 273, paragraph (1); Article 274, paragraph (1); or Article 276, paragraph (1); or a resolution for approval referred to in Article 275, paragraph (1)) is likely to cause detriment to the holders of beneficiary certificates representing a certain class of beneficial interest, in addition to the resolution at the meeting of interest holders, approval must be obtained at a meeting of the beneficiary certificate holders for that class of beneficial interest (hereinafter referred to as a "class meeting of interest holders") (or, if there are two or more classes of beneficial interest in connection with which a resolution at a meeting of interest holders is likely to cause detriment, approval must be obtained at each class meeting of interest holders whose constituent members are beneficiary certificate holders that hold one of those two or more classes of beneficial interest).

- (2) A resolution for approval under the preceding paragraph at each class meeting of interest holders must be passed by at least a two-thirds majority vote (or, if a higher proportion is provided for in the specified purpose trust agreement, that proportion) of the beneficiary certificate holders attending the meeting, with those beneficiary certificate holders in attendance holding more than half (or, if a proportion of one-third or more is provided for in the specified purpose trust agreement, that proportion) of the total shares of principal of the beneficial interest associated with that class meeting of interest holders.
- (3) To apply the provisions of the preceding paragraph to a resolution for approval at a class meeting of interest holders whose constituent members are beneficiary certificate holders holding a class of beneficial interest with no share of principal, the term "shares of principal" in that paragraph is replaced with "shares of interest".

(Attendance of Representative Interest Holders)

Article 252 (1) A representative interest holder or a specified trust administrator may attend a class meeting of interest holders or state an opinion in writing.

- (2) The provisions of Article 109, paragraphs (1) through (3) (Notice of a Beneficiaries' Meeting) of the Trust Act apply mutatis mutandis to a class meeting of interest holders. In such a case, the phrase "known beneficiaries and trustee (in cases where there is a trust supervisor, known beneficiaries, trustee, and trust supervisor)" in paragraph (1) of that Article is deemed to be replaced with "the representative interest holder or the specified trust administrator"; and Cabinet Order provides for any other necessary technical

replacement of terms.

(Application, Mutatis Mutandis, of Provisions on Meetings of Interest Holders)

Article 253 The provisions of Articles 242 through 245, Article 248, and Article 249 apply mutatis mutandis to class meeting of interest holders. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

Subsection 2 Representative Interest Holders

(Appointment of Representative Interest Holders)

Article 254 (1) Interest holders may appoint one or multiple representative interest holders at a meeting of interest holders from among beneficiary certificate holders with at least one-thousandth of share of principal, and entrust that person or those persons with exercising the rights of the beneficiaries and settlor of the specified purpose trust (other than the following rights) on behalf of the beneficiary certificate holders:

(i) the right to decide on the following matters:

- (a) exemption of the trustee trust company or financial institution from liability;
- (b) termination of the specified purpose trust agreement;
- (c) approval of changes to the specified purpose trust agreement;
- (d) approval of the resignation of or requests for dismissal of the trustee of the specified purpose trust;
- (e) approval of the inventory of property and balance sheet for trust property, if the trustee trust company or financial institution is replaced or the specified purpose trust agreement is terminated; and
- (f) appointment, and consent to the dismissal and resignation of a representative interest holder.

(ii) any other rights that are provided for under the specified purpose trust agreement as those which a representative interest holder is not to be entrusted with.

(2) If there are multiple representative interest holders, unless otherwise specified at a meeting of interest holders, the exercise of a right referred to in the preceding paragraph is effected based on the decision of the majority of the representative interest holders.

(Grounds for Ineligibility as a Representative Interest Holder)

Article 255 The trustee trust company or financial institution of a specified purpose trust or its officer or employee may not become a representative interest holder of that specified purpose trust.

(Exercise of Rights of Beneficiaries and Settlor of Specified Purpose Trusts
When Representative Interest Holders Have Been Appointed)

- Article 256 (1) If a representative interest holder has been appointed at a meeting of interest holders, only the representative interest holder may exercise the rights of the beneficiaries and settlor of the specified purpose trust.
- (2) In the case referred to in the preceding paragraph, each beneficiary certificate holder may file a request with the representative interest holder in writing, to exercise their right (other than the right to convene a meeting of interest holders and the rights referred to in Article 36 (Duty to Report on the Status of Trust-Related Administrative Processes), Article 38 (Request for Inspection of Books), and Article 39 (Request for Disclosure of the Name of Another Beneficiary) of the Trust Act).
- (3) Having received a request referred to in the preceding paragraph, a representative interest holder may not deny the request unless the beneficiary certificate holder filing the request is found to have filed the request for the purpose of obstructing the implementation of affairs of the specified purpose trust or of harming the common interests of the beneficiary certificate holders, or there are other legitimate grounds for doing so.

(Resignation of Representative Interest Holders)

- Article 257 (1) A representative interest holder may resign upon obtaining consent to do so at a meeting of interest holders.
- (2) The provisions of Article 57 (excluding paragraphs (1) and (6)) (Resignation of the Trustee), Article 262 (excluding paragraph (5)) (Jurisdiction over Non-Contentious Cases Concerning Trusts), Article 263 (Special Provisions on the Proceedings in Non-Contentious Cases Concerning Trusts), and Article 264 (Supreme Court Rules) of the Trust Act apply mutatis mutandis to the resignation of a representative interest holder referred to in the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Bearing of Remuneration, Costs, Interest, and Amount of Damages Related to
Representative Interest Holders)

- Article 258 Remuneration that is to be given to a representative interest holder, the costs required for the person to administer affairs, the interest that accrues beginning on the day of their expenditure, and compensation for damage incurred by the person in administering the affairs in the absence of negligence are borne by the trustee trust company or financial institution as costs that it is to bear in connection with the trust property.

(Application, Mutatis Mutandis, of the Trust Act and the Companies Act to

(Representative Interest Holders)

Article 259 (1) The provisions of Article 44 (Cessation of Acts of the Trustee at the Demand of the Beneficiaries) and Article 85, paragraph (4) (Special Provisions on Trustee Liability) of the Trust Act and the provisions of Article 385, paragraph (2) (Enjoinment of Acts of Directors by Company Auditors) of the Companies Act apply mutatis mutandis to demand for an injunction against a trustee trust company or financial institution by a representative interest holder, the provisions of Article 707 (Appointment of Special Agent); Article 708 (Method of Acts of Bond Managers); and Article 710, paragraph (1) (Liability of Bond Manager) of the Companies Act apply mutatis mutandis to a representative interest holder, and the provisions of Article 738 (Dismissal of Representative Bondholders) of the Companies Act apply mutatis mutandis to the dismissal of a representative interest holder. In such a case, the term "acts of trust" in Article 44, paragraph (1) of the Trust Act is deemed to be replaced with "specified purpose trust agreement"; the term "this Act" in Article 710, paragraph (1) of the Companies Act is deemed to be replaced with "this Act, the specified purpose trust agreement"; and Cabinet Order provides for any other necessary technical replacement of terms.

(2) The provisions of Article 868, paragraph (4) (Jurisdiction over Non-Contentious Cases); Article 871 (Appending of the Reason); Article 874 (but only the part that involves item (i)) (Restrictions on Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the appointment of a special agent referred to in Article 707 of the Companies Act as applied mutatis mutandis pursuant to the preceding paragraph.

(Specified Trust Administrators)

Article 260 (1) If there is no representative interest holder, the trustee trust company or financial institution may appoint a specified trust administrator.

(2) The appointment of a specified trust administrator must be done in accordance with the provisions of the specified purpose trust agreement.

(3) Notwithstanding the provisions of Article 240, paragraph (1), a specified trust administrator has the authority to conduct, in its own name, all acts in and out of court in connection with the rights of the beneficiaries and settlor of a specified purpose trust (other than the right to receive repayment for the debts that the trustee trust company or financial institution owes to the beneficiaries under the specified purpose trust agreement and the rights set forth in the items of Article 254, paragraph (1)) on behalf of the beneficiary certificate holders.

(4) If the trustee trust company or financial institution appoints a specified trust

administrator, it must notify the beneficiary certificate holders of this without delay.

- (5) The provisions of Article 255, Article 256, and Article 258 of this Act; the provisions of Article 44 (Cessation of a Trustee's Acts at the Demand of the Beneficiaries) and Article 85, paragraph (4) (Special Provisions on Trustee Liability, etc.) of the Trust Act; and the provisions of Article 385, paragraph (2) (Enjoinment of Acts of Directors by Company Auditors); Article 704 (Obligations of Bond Managers), Article 707 (Appointment of Special Agent); Article 709, paragraph (1) (Special Provisions for Multiple Bond Managers); Article 710, paragraph (1) (Liability of Bond Manager); the first sentence of Article 711, paragraphs (1) and (3) (Resignation of Bond Managers); and Article 713 (Dismissal of Bond Managers) of the Companies Act apply mutatis mutandis to a specified trust administrator. In such a case, the phrase "If a representative interest holder has been appointed at a meeting of interest holders" in Article 256, paragraph (1) is deemed to be replaced with "If the trustee trust company or financial institution has appointed a specified trust administrator"; the phrase "as costs that it is to bear in connection with the trust property" in Article 258 is deemed to be replaced with "unless it has been provided in the specified purpose trust agreement in advance that they are costs that it is to bear in connection with the trust property"; the term "the purpose of the company with auditors" in Article 385, paragraph (1) of the Companies Act is deemed to be replaced with "the purpose of the specified purpose trust"; the term "articles of incorporation" in that paragraph is deemed to be replaced with "specified purpose trust agreement"; the phrase "substantial detriment to such company with auditors" in that paragraph is deemed to be replaced with "substantial detriment to the trust property"; the term "acts of trust" in Article 44, paragraph (1) of the Trust Act is deemed to be replaced with "specified purpose trust agreement"; the term "this Act" in Article 710, paragraph (1) of the Companies Act is deemed to be replaced with "this Act, the specified purpose trust agreement"; the term "bond-issuing company" in the first sentence of Article 711, paragraph (1) and Article 713 of that Act is deemed to be replaced with "trustee trust company or financial institution"; and Cabinet Order provides for any other necessary technical replacement of terms.
- (6) The provisions of Article 868 (4) (Jurisdiction over Non-Contentious Cases), Article 871 (Appending of the Reason), Article 874 (but only the part that involves item (i)) (Restrictions on Appeal), Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act), and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to appointment of a special agent referred to in Article 707 of the Companies Act as applied mutatis mutandis pursuant to the preceding

paragraph; the provisions of Article 868, paragraph (4) (Jurisdiction over Non-Contentious Cases), Article 869 (Prima Facie Showing), Article 871 (Appending of the Reason), Article 874 (but only the part that involves item (iv)) (Restrictions on Appeal), Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act), and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the resignation of a specified trust administrator under Article 711, paragraph (3) of that Act as applied mutatis mutandis pursuant to the preceding paragraph; and the provisions of Article 868, paragraph (4) (Jurisdiction over Non-Contentious Cases); Article 870, paragraph (1) (but only the part that involves item (ii)) (Hearing of Statements); the main text of Article 871 (Appending of the Reason); Article 872 (but only the part that involves item (iv)) (Immediate Appeal); Article 875 (Exclusion from Application of the Provisions of the Non-Contentious Cases Procedures Act); and Article 876 (Supreme Court Rules) of the Companies Act apply mutatis mutandis to the dismissal of a specified trust administrator under Article 713 of that Act as applied mutatis mutandis pursuant to the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

- (7) If there is a specified trust administrator and a resolution is passed at a meeting of interest holders to appoint a representative interest holder, the specified trust administrator may not exercise the rights of the beneficiaries and settlor of the specified purpose trust.
- (8) The provisions of Chapter IV, Section 4 (Trust Administrator) of the Trust Act do not apply to a specified purpose trust.

(Exercise of Rights of Beneficiaries and Settlor of Specified Purpose Trusts If There Is No Representative Interest Holder or Specified Trust Administrator)

Article 261 Notwithstanding the provisions of Article 240, paragraph (1), if there is neither a representative interest holder nor a specified trust administrator, each beneficiary certificate holder may exercise the rights of the beneficiaries and settlor of the specified purpose trust, excluding matters that, pursuant to this Act, requires a resolution at a meeting of interest holders and matters involved in the convocation of a meeting of interest holders.

(Beneficiary Certificate Holders' Right to Demand an Injunction)

Article 262 (1) Notwithstanding the provisions of Article 240, paragraph (1), if a trustee trust company or financial institution is engaging, or is likely to engage in, an act that violates a law or regulation or the specified purpose trust agreement, and that act is likely to cause irreparable damage to the trust property, a beneficiary certificate holder may demand that the trustee trust

company or financial institution cease the act.

- (2) Notwithstanding the provisions of Article 240, paragraph (1), if a trustee trust company or financial institution is engaging, or is likely to engage in, an act that violates Article 33 (Duty of Impartiality) of the Trust Act, and that act is likely to cause irreparable damage to some of the beneficiary certificate holders, those beneficiary certificate holders may demand that the trustee trust company or financial institution cease that act.

(Judicial Decision Ordering Changes to Specified Purpose Trusts)

Article 263 Notwithstanding the provisions of Article 240, paragraph (1), a beneficiary certificate holder may file a request with the court, pursuant to the provisions of Article 150 (Judicial Decision Ordering Changes to a Trust Due to Special Circumstances) of the Trust Act, to change the specified purpose trust.

Section 4 Accounting

(Preparation of Financial Statements)

Article 264 (1) A trustee trust company or financial institution must prepare the following materials and their annexed detailed statements for the trust property once every year on a certain date, pursuant to Cabinet Office Order provisions:

- (i) a balance sheet;
- (ii) a profit and loss statement; and
- (iii) a report on the administration and investment of the trust property.

(2) The materials referred to in the preceding paragraph may be prepared as an electronic or magnetic record.

(3) A trustee trust company or financial institution must keep the materials referred to in paragraph (1) at its head office for five years from the date on which they were prepared pursuant to the provisions of that paragraph or the preceding paragraph.

(4) A trustee trust company or financial institution must keep a copy of the materials referred to in paragraph (1) at its branch offices for three years from the date prescribed in the preceding paragraph; provided, however, that this does not apply if the materials referred to in paragraph (1) are prepared as an electronic or magnetic record and the measures that Cabinet Office Order prescribes as those that enable the branch offices to respond to the demand referred to in Article 442, paragraph (3), items (iii) and (iv) of the Companies Act as applied mutatis mutandis pursuant to the following paragraph has been taken.

(5) The provisions of Article 442, paragraph (3) (Keeping and Inspection of Financial Statements) of the Companies Act apply mutatis mutandis to the

materials referred to in paragraph (1). In such a case, the term "creditors" in paragraph (3) of that Article is deemed to be replaced with "creditors from which the trustee trust company or financial institution of the specified purpose trust has borrowed funds for the purpose of administering trust affairs"; and Cabinet Order provides for any other necessary technical replacement of terms.

(6) The provisions of Article 27 of the Trust Act do not apply to the trust property of a specified purpose trust.

(Criteria for Distribution of Monies)

Article 265 Monies must be distributed to beneficiary certificate holders in proportion to the share of principal held by each beneficiary certificate holder; provided, however, that this does not preclude the asset trust securitization plan from providing otherwise.

(Incorporation of Profits into Specified Assets)

Article 266 Any profits gained through the administration or disposition of specified assets during the trust period may be incorporated into specified assets pursuant to the provisions of Cabinet Order.

(Beneficiary Certificate Holders' Right to Request Inspection)

Article 267 (1) Notwithstanding the provisions of Article 240, paragraph (1), beneficiary certificate holders holding three percent (or, if a smaller proportion is provided for in the specified purpose trust agreement, that proportion) or more of the share of principal may file the following requests with the trustee trust company or financial institution:

- (i) a request to inspect or copy the documents referred to in Article 37, paragraph (1) or (5) of the Trust Act;
- (ii) a request to inspect or copy something that has been made to show the information recorded in the electronic or magnetic record referred to in Article 37, paragraph (1) or (5) of the Trust Act, through the means that Cabinet Office Order prescribes; and
- (iii) a request for a report on the status of administration of trust affairs.

(2) A request as referred to in the preceding paragraph must be filed in writing with the reason attached.

(3) Having received a request as referred to in paragraph (1), a trustee trust company or financial institution may not deny the request except in a case that is found to fall under any of the following items:

- (i) the beneficiary certificate holder filing the request has filed the request for a purpose other than an investigation involved in ensuring or exercising their rights;

- (ii) the beneficiary certificate holder filing the request has filed the request for the purpose of obstructing the implementation of affairs of the specified purpose trust or harming the common interests of the beneficiary certificate holders;
 - (iii) the beneficiary certificate holder filing the request is a person that carries out or engages in a business that, substantively competes with the business of asset securitization through the specified purpose trust;
 - (iv) the beneficiary certificate holder filing the request has filed the request so as to notify a third party of the facts learned through the inspection, copying, or report under the provisions of paragraph (1) for a profit;
 - (v) the beneficiary certificate holder filing the request is a person that has notified a third party of the facts learned through the inspection, copying, or report under the provisions of paragraph (1) for a profit within the past two years; or
 - (vi) the beneficiary certificate holder filing the request to inspect the document, copy the thing, or receive the report under the provisions of paragraph (1) has filed that request at an inappropriate time.
- (4) The provisions of Article 36 (Duty to Report on the Status of Trust-Related Administrative Processes), Article 38 (Request to Inspect the Books) and Article 39 (Request for Disclosure of the Name of Another Beneficiary) of the Trust Act do not apply to a beneficiary certificate holder.

(Providing Benefits for Exercise of Rights by Beneficiary Certificate Holders)

- Article 268 (1) A trustee trust company or financial institution must not provide any person with an economic benefit in association with the person's exercise of a right as a beneficiary certificate holder.
- (2) If a trustee trust company or financial institution provides a person with an economic benefit in violation of the provisions of the preceding paragraph, the representative interest holder, the specified trust administrator, or a beneficiary certificate holder may demand that the trustee trust company or financial institution compensate for their losses or restore the trust property.
- (3) The provisions of Article 120, paragraphs (2) and (3) (Giving Benefits on the Exercising of Rights of Shareholders) of the Companies Act apply mutatis mutandis to benefits provided for the exercise of a beneficiary certificate holder's rights. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

Section 5 Changes to Trust Agreements

(Changes to Specified Purpose Trust Agreements)

- Article 269 (1) A specified purpose trust agreement may not be changed except

in a case that falls under one of the following items:

- (i) the trustee trust company or financial institution proposes and receives approval for the change at a meeting of interest holders;
 - (ii) the change of the specified purpose trust has been ordered by the court;
 - (iii) the content of the change is a content that Cabinet Office Order prescribes as being minor; or
 - (iv) a case that Cabinet Office Order prescribes as one in which it is evident that the change will not jeopardize the protection of the investors.
- (2) Notwithstanding the provisions of item (i) of the preceding paragraph, in changing the specified purpose trust agreement, it is not permissible to change the information entered or recorded in the asset trust securitization plan as set forth in the following items:
- (i) the information set forth in Article 226, paragraph (1), item (ii) that Cabinet Office Order prescribes;
 - (ii) the information set forth in Article 226, paragraph (1), items (iii) through (v) that Cabinet Office Order prescribes (unless the conditions for making a change have been provided for in the asset trust securitization plan in advance); and
 - (iii) what the asset trust securitization plan prescribes as information stated in a notification under the provisions of Article 225, paragraph (1) that may not be changed.
- (3) In the case referred to in paragraph (1), item (i), the trustee trust company or financial institution must enter or record an outline of the proposal for the change to the specified purpose trust agreement in the notice under the provisions of Article 242, paragraph (2) or (3).
- (4) A resolution at a meeting of interest holders to grant the approval referred to in paragraph (1), item (i) must be passed by at least a two-thirds majority vote (or, if a higher proportion is provided for in the specified purpose trust agreement, that proportion) of the beneficiary certificate holders attending the meeting, with the beneficiary certificate holders in attendance holding more than half (or, if a proportion of one-third or more is provided for in the specified purpose trust agreement, that proportion) of the total shares of principal. In such a case, the provisions of Article 244, paragraph (3) do not apply.
- (5) The trustee trust company or financial institution is to change the specified purpose trust agreement in the cases referred to in paragraph (1), items (iii) and (iv).
- (6) The provisions of Article 149 (excluding paragraph (1)) (Agreement among the Relevant Parties) and Chapter VI, Section 2 (Consolidation of Trusts) and Section 3 (Division of a Trust) of the Trust Act do not apply to a specified purpose trust.

(Notices of Changes)

Article 270 In the case referred to in paragraph (5) of the preceding Article, if in changing the specified purpose trust agreement, changes have been made to the information entered or recorded in the asset trust securitization plan, the trustee trust company or financial institution must, without delay, notify each beneficiary certificate holder of this or give public notice thereof pursuant to Cabinet Office Order provisions.

(Dissenting Beneficiary Certificate Holders' Right to Have Their Interests Purchased)

Article 271 (1) If the the change to the specified purpose trust agreement is to change the information entered or recorded in the asset trust securitization plan pursuant to the provisions of Article 269, paragraph (1) (limited to the case referred to in item (i)), beneficiary certificate holders who have notified the trustee trust company or financial institution in writing that they will vote against the change prior to the meeting of interest holders for voting on the resolution to approve the change, and who have voted against the change at that meeting of interest holders may demand that the trustee trust company or financial institution purchase their beneficial interests at a fair price that would have been given for the beneficial interest if the change had not been made.

(2) On purchasing a beneficial interest pursuant to the provisions of the preceding paragraph, the trustee trust company or financial institution bears the consideration for the purchase and any other costs required for the purchase as costs that is to be borne in connection with the trust property.

(3) In the case referred to in the preceding paragraph, if there is no provision in the specified purpose trust agreement or resolution at a meeting of interest holders in advance with regard to how beneficial interests purchased are to be disposed of, the beneficial interests purchased are to be extinguished.

(4) The provisions of Article 103, paragraphs (4) through (8) (Demand for the Acquisition of a Beneficial Interest); Article 104 (Valuation of a Beneficial Interest); Article 262 (excluding paragraph (5)) (Jurisdiction over Non-Contentious Cases Concerning Trusts); Article 263 (Special Provisions on Procedure in Non-Contentious Cases Concerning Trusts); and Article 264 (Supreme Court Rules) of the Trust Act apply mutatis mutandis to demands for the purchase of a beneficial interest referred to in paragraph (1). In such a case, the term "material change to the trust, etc." in Article 103, paragraph (4) of that Act is deemed to be replaced with "change to the specified purpose trust agreement to change the information entered or recorded in the asset trust securitization plan pursuant to the provisions of Article 269, paragraph (1) (but

only in a case as referred to in item (i)) of the Act on Securitization of Assets (hereinafter referred to as the "Asset Securitization Act"); the term "beneficiaries" in that paragraph is deemed to be replaced with "beneficiary certificate holder prescribed in Article 271, paragraph (1) of the Asset Securitization Act"; the term "public notice in the Official Gazette" in paragraph (5) of that Article is deemed to be replaced with "public notice"; the term "paragraph (1) or (2)" in paragraph (5) of that Article is deemed to be replaced with "Article 271, paragraph (1) of the Asset Securitization Act"; the term "details of the beneficial interest" in that paragraph is deemed to be replaced with "share of principal (or, if multiple classes of beneficial interest are provided for, the classes of beneficial interest and the share of principal associated with each class)"; the term "material change to the trust, etc." in paragraph (8) of that Article is deemed to be replaced with "change to the specified purpose trust agreement to change the information entered or recorded in the asset trust securitization plan pursuant to the provisions of Article 269, paragraph (1) (but only in the case referred to in item (i)) of the Asset Securitization Act"; and Cabinet Order provides for any other necessary technical replacement of terms.

- (5) The provisions of Chapter IV, Section 2, Subsection 4 (Right to Demand the Acquisition of a Beneficial Interest) of the Trust Act do not apply to specified purpose trusts.

(Special Provisions on Beneficial Interest of Classes with No Share of Principal)

Article 272 (1) If beneficial interest is divided into classes in the specified purpose trust agreement and there is a class of beneficial interest that carries no share of principal, before changing the specified purpose trust agreement to change the information entered or recorded in the asset trust securitization plan pursuant to the provisions of Article 269, paragraph (1) (but only in a case as referred to in item (i)), in addition to the resolution for approval at the meeting of interest holders, approval must be obtained at the class meeting of interest holders (but only those with beneficial interest in a class with no share of principal).

- (2) The provisions of Article 269, paragraphs (3) and (4) and the preceding Article apply mutatis mutandis to a class meeting of interest holders where the resolution for approval referred to in the preceding paragraph is voted on. In such a case, the term "share of principal" in Article 269, paragraph (4) is deemed to be replaced with "share of interest", and Cabinet Order provides for any other necessary technical replacement of terms.

(Trustee Trust Companies' and Financial Institutions' Exemption from

Liability)

Article 273 (1) An exemption from liability involving a trustee trust company or financial institution, its director or executive officer, or any person equivalent thereto requires a resolution at a meeting of interest holders.

(2) A resolution at a meeting of interest holders referred to in the preceding paragraph is passed with the unanimous consent of the beneficiary certificate holders. In such a case, the provisions of Article 244, paragraph (3) do not apply.

(Resignation and Dismissal of Trustee Trust Companies and Financial Institutions)

Article 274 (1) The consent to the resignation of a trustee trust company or financial institution requires a resolution at a meeting of interest holders.

(2) In the event of misconduct in the performance of duties at a trustee trust company or financial institution or if a material fact exists in connection with their performance that constitutes a violation of laws and regulations or the specified purpose trust agreement, the court may dismiss the trustee trust company or financial institution as per a request based on a resolution at a meeting of interest holders.

(3) To apply the provisions of the preceding paragraph if a trustee trust company or financial institution fails to renew the registration referred to in Article 7, paragraph (3) of the Trust Business Act (including as applied mutatis mutandis pursuant to Article 54, paragraph (2) of that Act); if the license referred to in Article 3 of that Act is rescinded pursuant to the provisions of Article 44, paragraph (1) of that Act; if the registration referred to in Article 7, paragraph (1) of that Act is rescinded pursuant to the provisions of Article 45, paragraph (1) of that Act; if the license referred to in Article 53, paragraph (1) of that Act is rescinded pursuant to the provisions of Article 59, paragraph (1) of that Act; if the registration referred to in Article 54, paragraph (1) of that Act is rescinded pursuant to the provisions of Article 60, paragraph (1) of that Act; or if the authorization referred to in Article 1, paragraph (1) of the Act on Engagement in Trust Business by Financial Institutions is rescinded pursuant to the provisions of Article 10 of that Act, the term "resolution at a meeting of interest holders" in the preceding paragraph is deemed to be replaced with "resolution at a meeting of interest holders or a request from the Prime Minister".

(4) The provisions of Article 49 (excluding paragraph (1)) of the Trust Business Act apply mutatis mutandis to the cases referred to in the preceding paragraph.

(5) The provisions of Article 269, paragraph (4) apply mutatis mutandis to a resolution at a meeting of interest holders referred to in paragraph (1), and the provisions of Article 262 (excluding paragraph (5)) (Jurisdiction over Non-

Contentious Cases Concerning Trusts) of the Trust Act apply mutatis mutandis to cases of dismissal pursuant to the provisions of paragraph (2) (including as applied mutatis mutandis pursuant to paragraph (3)). In such a case, Cabinet Order provides for the necessary technical replacement of terms.

Article 275 (1) If a trustee trust company or financial institution resigns or is dismissed, the trust company or financial institution that was the trustee trust company or financial institution (hereinafter referred to as the "former trustee trust company or financial institution" in this Article), must, without delay, prepare an inventory of property and a balance sheet for the trust property and receive approval at a meeting of interest holders. In such a case, to apply the provisions of Article 77, paragraph (2) of the Trust Act, the phrase "a beneficiary (in cases where there is a trust administrator, the trust administrator; the same applies in the following paragraph) approves the accounting referred to in the preceding paragraph" in that paragraph is deemed to be replaced with "the inventory of property and balance sheet referred to in Article 275, paragraph (1) of the Act on Securitization of Assets are approved at a meeting of interest holders".

(2) The trust affairs must be handed over by a former trustee trust company or financial institution in the presence of a representative interest holder, if there is one, and in the presence of the person specified by resolution at a meeting of interest holders, if there is no representative interest holder.

(3) A former trustee trust company or financial institution must keep the documents referred to in paragraph (1) at its head office from one week prior to the date of the meeting of interest holders to vote on the approval referred to in that paragraph.

(4) The provisions of Article 244, paragraph (3) do not apply to the meeting of interest holders to vote on the approval referred to in paragraph (1).

(5) The provisions of Article 442, paragraph (3) (Keeping and Inspection of Financial Statements) of the Companies Act apply mutatis mutandis to the inventory of property and the balance sheet referred to in paragraph (1). In such a case, the term "The shareholders and creditors" in paragraph (3) of that Article is deemed to be replaced with "The beneficiary certificate holders and creditors from which the trust company or financial institution that served as the trustee trust company or financial institution has borrowed funds for administering the affairs of the specified purpose trust"; and Cabinet Order provides for any other necessary technical replacement of terms.

(Resolution to Terminate Specified Purpose Trust Agreements)

Article 276 (1) A specified purpose trust agreement may be terminated by resolution at a meeting of interest holders.

- (2) The provisions of Article 269, paragraph (4) apply mutatis mutandis to the resolution referred to in the preceding paragraph.
- (3) The provisions of Article 164 (Termination of a Trust by Agreement between the Settlor and Beneficiaries) of the Trust Act do not apply to a specified purpose trust.

(Judicial Decisions Ordering the Termination of Specified Purpose Trusts)

Article 277 (1) Notwithstanding the provisions of paragraph (1) of the preceding Article, in the following cases, if there are unavoidable circumstances, beneficiary certificate holders holding at least one-tenth of the shares of principal may file a claim with the court for the termination of the specified purpose trust:

- (i) if the trustee trust company or financial institution faces extreme difficulty in implementing the trust affairs and it has caused or is likely to cause irreparable harm to the trust property; or
 - (ii) if the administration or disposition of the trust property by the trustee trust company or financial institution is extremely inappropriate, and it has caused or is likely to cause irreparable harm to the trust property.
- (2) The provisions of Article 835, paragraph (1) (Jurisdiction over and Transfer of an Action) and Article 846 (Order to Provide Security) of the Companies Act apply mutatis mutandis to the claim referred to in the preceding paragraph. In such a case, Cabinet Order provides for the necessary technical replacement of terms.

(Causes for Termination of Specified Purpose Trust Agreements)

Article 278 A specified purpose trust agreement is terminated on any of the following grounds:

- (i) the occurrence of the grounds set forth in the items of Article 163 (Grounds for Termination of a Trust) of the Trust Act;
- (ii) a resolution at a meeting of interest holders referred to in Article 276;
- (iii) a judicial decision ordering the termination of the specified purpose trust referred to in paragraph (1) of the preceding Article; or
- (iv) the occurrence of any other grounds specified by Cabinet Order.

(Distribution of Trust Property on Termination of Specified Purpose Trust Agreements)

Article 279 (1) If a specified purpose trust agreement is terminated, the trustee trust company or financial institution must, without delay, dispose of the trust property, and distribute the monies gained through disposing them in accordance with the provisions of the asset trust securitization plan.

- (2) In the case referred to in the preceding paragraph, the provisions of Article 31

(Restrictions on Acts Involving Conflicts of Interest) of the Trust Act do not apply.

- (3) The provisions of Article 275, paragraphs (1), (3), and (4) of this Act and the provisions of Article 442, paragraph (3) (Keeping and Inspection of Financial Statements) of the Companies Act apply mutatis mutandis to the case referred to in paragraph (1). In such a case, the phrase "the trust company or financial institution that served as the trustee trust company or financial institution (hereinafter referred to as the "former trustee trust company or financial institution" in this Article)" in Article 275, paragraph (1) is deemed to be replaced with "the former trustee trust company or financial institution"; the term "The shareholders and creditors" in Article 442, paragraph (3) of the Companies Act is deemed to be replaced with "The beneficiary certificate holders"; and Cabinet Order provides for any other necessary technical replacement of terms.

Section 6 Rights and Obligations of Trustee Trust Companies and Financial Institutions

(Duty of Loyalty to Beneficiary Certificate Holders)

- Article 280 (1) A trustee trust company or financial institution must faithfully administer the trust affairs for the beneficiary certificate holders in accordance with laws and regulations and the specified purpose trust agreement.
- (2) A trustee trust company or financial institution must administer the trust affairs with the due care of a prudent manager in accordance with the specified purpose trust agreement.

(Right of Trustee Trust Company or Financial Institution to Claim Reimbursement of Costs)

- Article 281 A trustee trust company or financial institution may sell the trust property and exercise its rights in preference to other right holders as regards expenses such as taxes and other public charges it has borne in connection with the trust property and debts from funds borrowed pursuant to the provisions of Article 231, or as regards compensation for damage incurred through administering the trust affairs in the absence of negligence; provided, however, that it may not exercise these rights if doing so would run counter to the purpose of the trust.

(Remuneration of Trustee Trust Companies and Financial Institutions)

- Article 282 (1) A trustee trust company or financial institution may receive remuneration from the trust property based on the provisions of the specified purpose trust agreement.

- (2) The provisions of the preceding Article apply mutatis mutandis to the case referred to in the preceding paragraph.

(Public Notice of Specified Purpose Trust Agreements and Beneficiary Certificate Holder Registers)

Article 283 (1) A trustee trust company or financial institution must keep a duplicate or certified copy of the written specified purpose trust agreement at its head office and branch offices, and must keep the beneficiary certificate holder register at its head office.

- (2) Notwithstanding the provisions of the preceding paragraph, if there is an administrator for the beneficiary certificate holder register, a trustee trust company or financial institution must keep the beneficiary certificate holder register at its business office.

- (3) A creditor from which the trustee trust company or financial institution has borrowed funds in administering the trust affairs for a specified purpose trust, any beneficiary certificate holder, the representative interest holder, or the specified trust administrator may request to inspect or copy the documents referred to in the preceding two paragraphs at any time during the business hours of the trustee trust company or financial institution, or the administrator of the beneficiary certificate holder register.

(Entrustment of Business)

Article 284 (1) If the trustee trust company or financial institution entrusts another person with the business of administering or disposing the trust property, the person it entrusts must be the originator or a person with a sufficient financial basis and personnel structure to appropriately carry out the administration and disposition of the trust property.

- (2) In the case referred to in the preceding paragraph, if the trustee trust company or financial institution entrusts a person with the business of purchasing and selling, exchanging, or leasing real property (meaning buildings or building lots prescribed in Article 2, item (i) of the Real Estate Brokerage Act) that constitutes trust property, the person it entrusts must be one that does not fall under any of the items of Article 6 (excluding item (xii)) of the Act on Specified Joint Real Estate Ventures.

- (3) The provisions of Article 200, paragraph (3) and Article 202 apply mutatis mutandis to the entrustment referred to in paragraph (1). In such a case, Cabinet Order provides for any necessary technical replacement of terms.

(Subscription for Beneficiary Certificates)

Article 285 If a trustee trust company or financial institution engages in the act referred to in Article 2, paragraph (8), item (vi) of the Financial Instruments

and Exchange Act using its own assets and acquires all of the beneficiary certificates, it must dispose of them at an appropriate time.

(Public Offerings and Private Placements of Beneficiary Certificates)

Article 286 (1) The provisions of Article 208, paragraph (2) and Article 209 apply mutatis mutandis to a public offering or private placement (meaning a public offering of securities or private placement of securities prescribed in Article 2, paragraph (3) of the Financial Instruments and Exchange Act; the same applies in the following paragraph) of beneficiary certificates by the originator. In such a case, Cabinet Order provides for any necessary technical replacement of terms.

- (2) The other party to a public offering or private placement of beneficiary certificates may pay the cost prescribed in the specified purpose trust agreement and file a request with the trustee trust company or financial institution to be issued a certified copy or extract of the written specified purpose trust agreement or other documents that Cabinet Office Order prescribes.
- (3) Having received a request referred to in the preceding paragraph, a trustee trust company or financial institution must respond to the request.
- (4) The provisions of Article 40, paragraph (9) apply mutatis mutandis to the issuance of a certified copy or extract of the written specified purpose trust agreement or other documents that Cabinet Office Order prescribes. In such a case, the terms "director", "the preceding paragraph", "the offeror", and "information that is required to be entered in the certified copy or extract of the asset securitization plan" in that paragraph are deemed to be replaced with "trustee trust company or financial institution", "Article 286, paragraphs (2) and (3)", "the other party to the public offering or private placement of beneficiary certificates", and "information that is required to be entered in the certified copy or extract of the written specified purpose trust agreement and the information that Cabinet Office Order prescribes", respectively.

Section 7 Miscellaneous Provisions

(Special Provisions on the Real Property Registration Act)

Article 287 To apply the provisions of Article 97, paragraph (1) (Information Required to be Entered for Registration of Trust) of the Real Property Registration Act (Act No. 123 of 2004) to specified purpose trusts, the term "trust administrator" in item (iii) of that paragraph is deemed to be replaced with "representative interest holder or specified trust administrator".

(Means of Public Notice)

Article 288 The public notice issued with regard to a specified purpose trust pursuant to the provisions of this Act must be issued through the means of public notice (and also the period of public notice) used by the trustee trust company or financial institution (or, in the case of a public notice issued after the termination of duties of one trustee trust company or financial institution and prior to the assumption of duties by a new trustee trust company or financial institution, by the former trustee trust company or financial institution) of the specified purpose trust.

Part IV Miscellaneous Provisions

(Submission of Materials to Minister of Finance)

Article 289 (1) If the Minister of Finance finds that it is necessary to do so in order to undertake planning or policymaking for asset securitization systems in connection with the financial failure resolution system or financial crisis management under the Minister's jurisdiction, the Minister may ask the Prime Minister to submit necessary materials and provide explanations.

(2) If the Minister of Finance finds it particularly necessary to do so in order to undertake planning or policymaking for asset securitization systems in connection with the financial failure resolution system or financial crisis management under the Minister's jurisdiction, the Minister, within the scope of that necessity, may ask a specified purpose company to submit materials, and provide explanations or any other cooperation.

(Delegation of Authority)

Article 290 (1) The Prime Minister delegates the authority under this Act (other than that which Cabinet Order prescribes) to the Commissioner of the Financial Services Agency.

(2) The Commissioner of the Financial Services Agency delegates the following authority that has been delegated thereto pursuant to the provisions of the preceding paragraph to the Securities and Exchange Surveillance Commission (hereinafter referred to as the "Commission"); provided, however, that this does not preclude the Commissioner of the Financial Services Agency from personally exercising the authority to order reporting or the submission of materials:

(i) the authority under the provisions of Article 217, paragraph (1) as applied mutatis mutandis pursuant to Article 209, paragraph (2) (but only authority in connection with the provisions that Cabinet Order prescribes as ensuring fairness in transactions that involve the handling of public offerings and private placements of asset-backed securities); and

(ii) the authority prescribed in Article 217, paragraph (1) as applied mutatis

mutandis pursuant to Article 209, paragraph (2) as applied mutatis mutandis pursuant to Article 286, paragraph (1) (but only authority in connection with the provisions that Cabinet Order as ensuring fairness in transactions that involve public offerings and private placements of beneficiary certificates).

- (3) The Commissioner of the Financial Services Agency may delegate the authority under the provisions of Article 217, paragraph (1) (including as applied mutatis mutandis pursuant to Article 209, paragraph (2) (including as applied mutatis mutandis pursuant to Article 286, paragraph (1))) that has been delegated thereto pursuant to the provisions of paragraph (1) (other than what is delegated to the Commission pursuant to the provisions of the preceding paragraph) to the Commission, pursuant to the provisions of Cabinet Order.
- (4) The Commission, having exercised the authority delegated pursuant to the provisions of the preceding paragraph, is to promptly report the results of this to the Commissioner of the Financial Services Agency.
- (5) The Commissioner of the Financial Services Agency, pursuant to the provisions of Cabinet Order, may delegate a part of the authority delegated pursuant to the provisions of paragraph (1) (other than what is delegated to the Commission pursuant to the provisions of paragraphs (2) and (3)) to the Director-General of a Local Finance Bureau or the Director-General of a Local Finance Branch Bureau.
- (6) The Commission, pursuant to the provisions of Cabinet Order, may delegate a part of the authority delegated pursuant to the provisions of paragraphs (2) and (3) to the Director-General of a Local Finance Bureau or the Director-General of a Local Finance Branch Bureau.
- (7) The Commissioner directs and supervises the Director-General of the Local Finance Bureau or the Director-General of the Local Finance Branch Bureau in conducting the affairs involved in the authority delegated to the Director-General of the Local Finance Bureau or the Director-General of the Local Finance Branch Bureau pursuant to the provisions of the preceding paragraphs.

(Request for Administrative Review of Orders Issued by the Commission)

Article 291 A request for an administrative review of an order to report or to submit materials issued by the Commission pursuant to the provisions of paragraph (2) or (3) of the preceding Article (including if such an order is issued by the Director-General of a Local Finance Bureau or the Director-General of a Local Finance Branch Bureau pursuant to the provisions of paragraph (6) of that Article) may only be filed with the Commission.

(Delegation to Cabinet Office Orders)

Article 292 Beyond what is provided for in this Act, Cabinet Office Order prescribes the procedures for notifications under this Act and the necessary particulars for the implementation of this Act.

(Transitional Measures)

Article 293 If an order is enacted, amended, or repealed based on the provisions of this Act, the necessary transitional measures (including transitional measures concerning penal provisions) may be provided for by that order to the extent considered reasonably necessary for the enactment, amendment or repeal.

Part V Penal Provisions

Article 294 If there has been a violation as set forth in one of the following items, the person that has committed the violation is subject to imprisonment with work for not more than three years, a fine of not more than three million yen, or both:

- (i) a person engages in the business of asset securitization without filing a notification, in violation of Article 4, paragraph (1) or Article 11, paragraph (1);
- (ii) a person violates Article 7, paragraph (2) (including as applied *mutatis mutandis* pursuant to Article 11, paragraph (5); hereinafter the same applies in this item) in issuing asset-backed securities without submitting the materials prescribed in Article 7, paragraph (2) (or, if the materials are prepared as electronic or magnetic records, the electronic or magnetic records that Cabinet Office Order prescribes or documents stating the information recorded in the electronic or magnetic records);
- (iii) a person fails to file a notification, in violation of Article 9, paragraph (1);
- (iv) a person violates the provisions of Article 195, paragraph (1);
- (v) a person violates the provisions of Article 196;
- (vi) a person fails to entrust the business prescribed in Article 203 to a person prescribed in that Article and personally carries out that business, in violation of the provisions of that Article;
- (vii) a person violates Article 207 in conducting the affairs involved in public offering or private placement;
- (viii) a person violates Article 208, paragraph (2) (including as applied *mutatis mutandis* pursuant to Article 286, paragraph (1)) in handling public offering or private placement without filing a notification;
- (ix) a person violates the provisions of Article 39, paragraph (1) of the Financial Instruments and Exchange Act as applied *mutatis mutandis* pursuant to Article 209, paragraph (1) (including as applied *mutatis*

- mutandis pursuant to Article 286, paragraph (1));
- (x) a person violates Article 225, paragraph (1) in concluding a specified purpose trust agreement without filing a notification, or the person files a false notification;
 - (xi) a person violates Article 227, paragraph (1) in failing to file a notification; or
 - (xii) the person enters or records false information in a written notification referred to in Article 4, paragraph (2) (including as applied mutatis mutandis pursuant to Article 11, paragraph (5)); in the materials set forth in the items of Article 4, paragraph (3) (including as applied mutatis mutandis pursuant to Article 11, paragraph (5)); in the electronic or magnetic record set forth in Article 4, paragraph (4) (including as applied mutatis mutandis pursuant to Article 11, paragraph (5)); in the materials prescribed in Article 7, paragraph (2) (including as applied mutatis mutandis pursuant to Article 11, paragraph (5)); in a written notification referred to in Article 9, paragraph (2) (including as applied mutatis mutandis pursuant to Article 227, paragraph (2)); in the documents set forth in the items of Article 9, paragraph (3) (including as applied mutatis mutandis pursuant to Article 227, paragraph (2)); in the documents referred to in Article 11, paragraph (3), or in the documents set forth in the items of Article 225, paragraph (2), and submits them.

Article 295 If there has been a violation as set forth in one of the following items, the person that has committed the violation is subject to imprisonment with work for not more than two years, a fine of not more than three million yen, or both:

- (i) a person violates the provisions of Article 213 (other than in the case falling under item (i) or item (iv) of the preceding Article); or
- (ii) a person violates an order for a full or partial suspension of business under Article 219 (including as applied mutatis mutandis pursuant to Article 209, paragraph (2) (including as applied mutatis mutandis pursuant to Article 286, paragraph (1))).

Article 296 If there has been a violation as set forth in one of the following items, the person committing the violation is subject to imprisonment with work for not more than one year, a fine of not more than three million yen, or both:

- (i) a person fails to prepare or preserve books and materials under Article 215, or prepares false books or materials;
- (ii) a person fails to submit business reports under Article 216, or submits false business reports; or
- (iii) a person fails to submit reports or materials under Article 217, paragraph (1) (including as applied mutatis mutandis pursuant to Article 298,

paragraph (2) (including as applied mutatis mutandis pursuant to Article 286, paragraph (1)); hereinafter the same applies in this item); submits false reports or materials; refuses, hinders, or avoids an inspection under Article 217, paragraph (1); fails to answer a question under that paragraph; or gives a false answer to such a question.

Article 297 If there has been a violation as set forth in one of the following items, the person that has committed the violation is subject to imprisonment with work for not more than one year, a fine of not more than one million yen, or both:

- (i) a person violates the provisions of Article 39, paragraph (2) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 209, paragraph (1) (including as applied mutatis mutandis pursuant to Article 286, paragraph (1); the same applies in the following item); or
- (ii) a person enters false information in the written application or documents referred to in Article 39, paragraph (7) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 209, paragraph (1) and submits them.

Article 298 Having violated an order under Article 218 (including as applied mutatis mutandis pursuant to Article 209, paragraph (2) (including as applied mutatis mutandis pursuant to Article 286, paragraph (1))), the person that has committed the violation is subject to imprisonment with work for not more than six months or a fine of not more than one million yen.

Article 299 If there has been a violation as set forth in one of the following items, the person that has committed the violation is subject to a fine of not more than 500,000 yen:

- (i) a person fails to file the notification under Article 10, paragraph (1) or Article 228, or files a false notification;
- (ii) a person violates the provisions of Article 211 or Article 214; or
- (iii) a person violates the provisions of Article 231 or Article 232.

Article 300 A person that fails to issue a document under Article 37-4, paragraph (1) of the Financial Instruments and Exchange Act as applied mutatis mutandis pursuant to Article 209, paragraph (1) (including as applied mutatis mutandis pursuant to Article 286, paragraph (1)) or issues a document that states false information is subject to a fine of not more than 300,000 yen.

Article 301 If the representative of a corporation or the agent, employee, or other worker of a corporation or individual commits a violation referred to in

Article 294 through the preceding Article in connection with the business of that corporation or individual, in addition to the offender being subject to punishment, the fine prescribed in the relevant Article is also imposed on the corporation or individual.

(Crime of Aggravated Breach of Trust by Directors)

Article 302 (1) If one of the following persons, for the purpose of promoting their own interests or the interests of a third party or causing damage to a specified purpose company, acts in breach of their duties and causes financial damage to the specified purpose company, that person is subject to imprisonment with work for not more than ten years, a fine of not more than 10 million yen, or both:

- (i) an incorporator of a specified purpose company;
- (ii) a director at incorporation or company auditor at incorporation of a specified purpose company;
- (iii) a director, accounting advisor, or company auditor of a specified purpose company;
- (iv) a person who is to perform the duties of the director or company auditor of a specified purpose company, as appointed pursuant to a provisional disposition order prescribed in Article 56 of the Civil Provisional Remedies Act (Act No. 91 of 1989);
- (v) a person who is to temporarily perform the duties of an officer (meaning an officer prescribed in Article 68, paragraph (1)) of a specified purpose company, as appointed pursuant to Article 76, paragraph (2); or a person who is to temporarily perform the duties of a representative director of a specified purpose company, as appointed pursuant to Article 351, paragraph (2) of the Companies Act as applied *mutatis mutandis* pursuant to Article 85;
- (vi) a manager of a specified purpose company;
- (vii) an employee entrusted with a certain kind of particular or a specific particular concerning the business of a specified purpose company; or
- (viii) an inspector of a specified purpose company.

(2) The preceding paragraph also applies if one of the following persons, for the purpose of promoting their own interests or the interests of a third party or causing damage to a specified purpose company in liquidation, acts in breach of their duties and causes financial damage to the specified purpose company in liquidation:

- (i) a liquidator of a specified purpose company in liquidation;
- (ii) a person who is to perform the duties of the liquidator of a specified purpose company in liquidation, as appointed pursuant to a provisional disposition order prescribed in Article 56 of the Civil Provisional Remedies Act;

- (iii) a person who is to temporarily perform the duties of a liquidator or representative liquidator of a specified purpose company in liquidation, as appointed pursuant to Article 76, paragraph (2) as applied mutatis mutandis pursuant to Article 168, paragraph (5) or Article 351, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 171, paragraph (6);
 - (iv) a liquidators' agent of a specified purpose company in liquidation;
 - (v) a supervisor of a specified purpose company in liquidation; or
 - (vi) an examiner of a specified purpose company in liquidation.
- (3) The provisions of paragraph (1) also apply if one of the following persons, for the purpose of promoting their own interests or the interests of a third party or causing damage to a beneficiary certificate holder of a specified purpose trust, acts in breach of their duties and causes financial damage to that beneficiary certificate holder:
- (i) a director or executive officer of a trustee trust company or financial institution;
 - (ii) a manager of a trustee trust company or financial institution;
 - (iii) an employee entrusted with a certain kind of particular or a specific particular concerning business of a trustee trust company or financial institution; or
 - (iv) a person entrusted with business pursuant to the provisions of Article 284 (or, if that person is a corporation, its director, executive officer, manager, or employee entrusted with a certain kind of particular or a specific particular concerning business).
- (4) An attempt to commit the crime referred to in the preceding three paragraphs is also punishable.

(Crime of Aggravated Breach of Trust by Representative Specified Bondholder)
Article 303 (1) If a representative specified bondholder or resolution administrator (meaning a resolution administrator as referred to in Article 737, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 129, paragraph (2); the same applies hereinafter) of a specified purpose company, for the purpose of promoting their own interests or the interests of a third party or causing damage to a specified bondholder, acts in breach of their duties and causes financial damage to that specified bondholder, that person is subject to imprisonment with work for not more than five years, a fine of not more than five million yen, or both.

(2) The preceding paragraph also applies if the representative interest holder or specified trust administrator of a specified purpose trust or the person specified through a resolution at a meeting of interest holders under Article 246, paragraph (1), for the purpose of promoting their own interests or the

interests of a third party or causing damage to a beneficiary certificate holder of a specified purpose trust, acts in breach of their duties and causes financial damage to that beneficiary certificate holder.

- (3) An attempt to commit the crime referred to in the preceding two paragraphs is also punishable.

(Crimes that Endanger the Property of Specified Purpose Companies)

Article 304 (1) If a person referred to in Article 302, paragraph (1), item (i) or (ii) gives a false statement or conceals a fact from the court in connection with the information set forth in the items of Article 16, paragraph (3) or the payment or delivery under Article 19, paragraph (1), that person is subject to imprisonment with work for not more than five years, a fine of not more than five million yen, or both.

(2) The preceding paragraph also applies if a person referred to in Article 302, paragraph (1), items (iii) through (v) gives a false statement or conceals a fact from the court or at a general meeting of members in connection with the information set forth in Article 36, paragraph (1), item (iii).

(3) The provisions of paragraph (1) also apply if an inspector gives a false statement or conceals a fact from the court in connection with the information set forth in the items of Article 16, paragraph (3) or Article 36, paragraph (1), item (iii).

(4) The provisions of paragraph (1) also apply if a person referred to in Article 302, paragraph (1), items (iii) through (vii) falls under one of the following cases:

(i) in effecting a reduction in the amount of preferred capital or cancelation of preferred equity through the approval at a general meeting of members under Article 159, the person gives a false statement or conceals a fact at the general meeting of members of a specified purpose company in connection with the amount of net assets on the balance sheet referred to in paragraph (1) of that Article;

(ii) the person, under any name, unlawfully acquires specified equity or preferred equity from a specified purpose company on the account of the specified purpose company, or receives such specified equity or preferred equity as the subject of a pledge;

(iii) the person, in violation of laws and regulations, the provisions of the articles of incorporation, or the asset securitization plan, effects a distribution of profits, a distribution of monies under Article 115, paragraph (1), or the cancelation of specified equity or preferred equity; or

(iv) the person disposes of the property of the specified purpose company for the purpose of speculative trading outside the scope of purpose of the specified purpose company.

- (5) The provisions of paragraph (1) also apply if the director, executive officer, or manager of a trustee trust company or financial institution or its employee that is entrusted with a certain kind of particular or a specific particular concerning business falls under one of the following items:
- (i) the person distributes monies in violation of the provisions of laws and regulations or the asset trust securitization plan; or
 - (ii) the person disposes of specified purpose trust property for the purpose of speculative trading outside the scope of the specified purpose trust agreement.

(Crime of Using False Documentation)

Article 305 (1) If, in soliciting persons to subscribe for asset-backed securities, one of the following persons makes use of a material that states an explanation about the business of a specified purpose company or other information, an advertisement advertising the solicitation or any other document related to the solicitation that contains false statements with regard to material information, or uses any electronic or magnetic record that has been prepared in lieu of those documents and that contains a false record with regard to material information, for conducting the affairs for the solicitation for subscription, that person is subject to imprisonment with work for not more than five years, a fine of not more than five million yen, or both:

- (i) a person set forth in Article 302, paragraph (1), items (iii) through (vii); or
 - (ii) a person entrusted with soliciting persons to subscribe for asset-backed securities.
- (2) The provisions of the preceding paragraph also apply if a person making a secondary distribution of asset-backed securities makes use of a document related to that secondary distribution that contains false statements with regard to material information, or uses any electronic or magnetic record that has been prepared in lieu of such a document and that contains a false record with regard to material information, for conducting the affairs for the secondary distribution.

(Crime of Borrowing and Depositing Monies)

Article 306 If one of the persons set forth in Article 302, paragraph (1), items (i) through (vii) borrows and deposits monies for disguising the payment related to the issuance of specified equity or preferred equity, that person is subject to imprisonment with work for not more than five years, a fine of not more than five million yen, or both. The same applies to a person that accepts the borrowing and depositing of monies.

(Crime of Excessive Issuance)

Article 307 If one of the following persons issues asset-backed securities other than those entered or recorded in the asset securitization plan to which the notification under Article 4, paragraph (1) or Article 11, paragraph (1) pertains; or issues asset-backed securities exceeding the total number of units, the total amount, or the limit on the amount of asset-backed securities it may issue that is entered or recorded in the asset securitization plan, that person is subject to imprisonment with work for not more than five years or a fine of not more than five million yen:

- (i) a director of a specified purpose company or a liquidator of a specified purpose company in liquidation;
- (ii) a person who is to perform the duties of the director of a specified purpose company or the liquidator of a specified purpose company in liquidation, as appointed by a provisional disposition order under Article 56 of the Civil Provisional Remedies Act; or
- (iii) a person who is to temporarily perform the duties of an officer of a specified purpose company or the duties of a liquidator of a specified purpose company in liquidation, as appointed pursuant to Article 76, paragraph (2) (including as applied mutatis mutandis pursuant to Article 168, paragraph (5)).

(Crime of Giving or Accepting a Bribe by Directors)

Article 308 (1) If one of the following persons accedes to an unlawful request and accepts, solicits, or promises to accept an economic benefit in connection with their duties, that person is subject to imprisonment with work for not more than five years or a fine of not more than five million yen:

- (i) a person set forth in the items of Article 302, paragraph (1) or the items of Article 302, paragraph (2);
 - (ii) a person prescribed in Article 303, paragraph (1); or
 - (iii) an accounting auditor of a specified purpose company, or a person who is to temporarily perform the duties of accounting auditor as appointed pursuant to the provisions of Article 76, paragraph (4).
- (2) A person that provides an economic benefit as referred to in the preceding paragraph or offers or promises to accept such a benefit is subject to imprisonment with work for not more than three years or a fine of not more than three million yen.

(Crime of Bribery Concerning Exercise of Rights as a Member or Similar Person)

Article 309 (1) A person that accedes to an unlawful request and accepts an economic benefit in connection with the following things, or a person that solicits or promises to accept such a benefit, is subject to imprisonment with

- work for not more than five years or a fine of not more than five million yen:
- (i) for making a statement or exercising a voting right at a general meeting of members, specified bondholders meeting, or creditors meeting of a specified purpose company;
 - (ii) for exercising the right of a member as prescribed in Article 36, paragraph (5); Article 42, paragraph (5); Article 210 of the Companies Act as applied mutatis mutandis pursuant to Article 138, paragraph (1) or Article 147, paragraph (1); Article 53, paragraph (1) or (2); Article 297, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 53, paragraph (5); Article 57, paragraphs (1) through (3); Article 58, paragraph (1); Article 81, paragraph (1); Article 82 (including as applied mutatis mutandis pursuant to Article 170, paragraph (3)); Article 83 (including as applied mutatis mutandis pursuant to Article 170, paragraph (3)); Article 100, paragraph (1); or Article 168, paragraph (4); exercising the right of a member or creditor as prescribed in Article 180, paragraph (2) of this Act or in Article 522, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 180, paragraph (2) or (4); or exercising the right of a creditor as prescribed in Article 547, paragraph (1) or (3) of the Companies Act as applied mutatis mutandis pursuant to Article 180, paragraph (4);
 - (iii) for exercising the right of a specified bondholder that holds specified bonds accounting for at least one-tenth of the total amount of specified bonds (other than the amount of specified bonds that have been redeemed);
 - (iv) for filing an action as prescribed in this Act or the Companies Act as applied mutatis mutandis pursuant to this Act (but only one filed by a member, creditor, or person holding convertible specified bonds or specified bonds with preferred equity subscription rights in a specified purpose company);
 - (v) for a member's intervention in an action under the provisions of Article 849, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to this Act;
 - (vi) for making a statement or exercising a voting right at a meeting of interest holders or class meeting of interest holders of a specified purpose trust;
 - (vii) for exercising a right as a beneficiary certificate holder that holds a share of principal representing at least one-tenth of the beneficial interest of a specified purpose trust;
 - (viii) for exercising a right prescribed in Article 44 of the Trust Act as applied mutatis mutandis pursuant to Article 260, paragraph (5); or
 - (ix) for exercising a right prescribed in Article 262.
- (2) The provisions of the preceding paragraph also apply to a person that provides an economic benefit as referred to in that paragraph or offers or

promises to accept such a benefit.

(Confiscation and Collection of Equivalent Value)

Article 310 In the case referred to in Article 308, paragraph (1) or paragraph (1) of the preceding Article, any benefit that the offender accepts is confiscated. If all or part of the benefit cannot be confiscated, an equivalent value is collected.

(Crime of Providing Benefits for Exercise of Rights as a Member or Similar Person)

Article 311 (1) If one of the persons set forth in Article 302, paragraph (1), items (iii) through (vi) or any other employee of a specified purpose company provides a person with an economic benefit on the account of the specified purpose company for a person's exercise of a right as a member of a specified purpose company or as a specified bondholder, the holder of a specified promissory note, or a creditor from which specified borrowings have been borrowed (but only for that person's exercise of a right as prescribed in Article 64, paragraph (1) or Article 82 of this Act, or in Article 828, paragraph (1) (but only the part that involves item (v)) or paragraph (2) (but only the part that involves item (v)) of the Companies Act as applied mutatis mutandis pursuant to Article 112; this is referred to as a person's "exercise of a right as a member or similar person" in paragraph (4)), that person is subject to imprisonment with work for not more than three years or a fine of not more than three million yen.

(2) The provisions of the preceding paragraph also apply if a person set forth in Article 302, paragraph (3), item (i) or (ii) or any other employee of a trustee trust company or financial institution provides a person with an economic benefit on the account of the specified purpose trust property in association with a person's exercise of a right as a beneficiary certificate holder.

(3) The provisions of paragraph (1) also apply to a person that has knowingly accepted the benefits referred to in the preceding two paragraphs or that caused such benefits to be provided to a third party.

(4) The provisions of paragraph (1) also apply to a person that has demanded one of the persons prescribed in paragraph (1) to provide the person or a third party with the benefits referred to in that paragraph on the account of a specified purpose company in association with a person's exercise of a right as the member or similar person of a specified purpose company.

(5) The provisions of paragraph (1) also apply to a person that has demanded one of the persons prescribed in paragraph (2) to provide the person or a third party with the benefits referred to in paragraph (2) on the account of the specified purpose trust property in association with a person's exercise of a right as a beneficiary certificate holder.

(6) If a person that has committed one of the crimes referred to in the preceding

three paragraphs has intimidated the person prescribed in paragraph (1) or paragraph (2) in committing that crime, the person is subject to imprisonment with work for not more than five years or a fine of not more than five million yen.

- (7) A person that has committed one of the crimes referred to in paragraph (3) through the preceding paragraph may be sentenced to both imprisonment with work and a fine, depending on the circumstances.
- (8) If a person that has committed one of the crimes referred to in paragraph (1) or (2) surrenders, the punishment may be reduced or remitted.

(Crimes Committed Outside Japan)

Article 312 (1) The provisions on the crimes referred to in Articles 302 through 304; Article 306; Article 307; Article 308, paragraph (1); Article 309, paragraph (1); and paragraphs (1) and (2) of the preceding Article also apply to persons that commits those crimes outside Japan.

(2) The crimes referred to in Article 308, paragraph (2); Article 309, paragraph (2); and paragraphs (3) through (6) of the preceding Article are governed by Article 2 of the Penal Code.

(Application of Penal Provisions to Corporations)

Article 313 If a person prescribed in Article 302, paragraph (1) or (2); Article 303, paragraph (1); Article 304, paragraphs (1) through (4); Articles 305 through 307; or Article 308, paragraph (1) is a corporation, those provisions and the provisions of Article 302, paragraph (4) and Article 303, paragraph (3) apply to the director, executive officer, executive managing officer, or manager that has committed the act.

(Crime of Entering False Information)

Article 314 A person that, in violation of the provisions of Article 955, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 194, paragraph (4), fails to enter or record what the Ministry of Justice Order prescribes with regard to the electronic public notice investigation prescribed in Article 955, paragraph (1) of that Act in the investigation record book, etc. (meaning the investigation record book, etc. prescribed in that paragraph; hereinafter the same applies in this Article); makes a false entry or record in the investigation record book, etc.; or fails to preserve the investigation record book, etc., in violation of Article 955, paragraph (1) of that Act, is subject to a fine of not more than 300,000 yen.

(Dual Criminal Liability Provisions)

Article 315 If the representative of a corporation or the agent, employee, or

other worker of a corporation or individual commits one of the violations 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 also subject to the punishment referred to in that Article.

(Acts Subject to Civil Fine)

Article 316 (1) If an incorporator, a director at incorporation, a company auditor at incorporation, a director, an accounting advisor or a member performing their duties, a company auditor, an accounting auditor or member performing their duties, a liquidator, a liquidator's agent; a director appointed by a provisional disposition order prescribed in Article 56 of the Civil Provisional Remedies Act, a person who is to temporarily perform the duties of a company auditor or representative director, a person who is to temporarily perform the duties of director, accounting advisor, company auditor, or representative director as prescribed in Article 302, paragraph (1), item (v), a person who is to temporarily perform the duties of liquidator or representative liquidator as prescribed in Article 302, paragraph (2), item (iii), a person who is to temporarily perform the duties of accounting auditor as prescribed in Article 308, paragraph (1), item (iii), an inspector, supervisor, or examiner, the administrator of the register of specified equity members or the administrator of the register of preferred equity members, the specified bond register administrator, specified bond manager, or specified bond manager that takes over the affairs, the representative specified bondholder or resolution administrator; the trustee of the specified purpose trust, or the representative interest holder for a meeting of interest holders, specified trust administrator, or person prescribed by resolution at a meeting of interest holders under the provisions of Article 246, paragraph (1), for a specified purpose company, falls under one of the following items, that person is subject to a civil fine of not more than one million yen; provided, however that this does not apply if a criminal punishment should be imposed for the act in question:

- (i) the person neglects to complete the registration under the provisions of Part II, Chapter II (including the provisions of the Companies Act as applied mutatis mutandis pursuant to the provisions of that Chapter; hereinafter the same applies in this Article);
- (ii) the person has failed to give public notice or notice under the provisions of Part II, Chapter II or Part III, Chapter III (or under the provisions of the Companies Act as applied mutatis mutandis pursuant to the provisions of Part III, Chapter III; hereinafter the same applies in this Article); or has given improper public notice or notice;
- (iii) the person has failed to make a disclosure pursuant to the provisions of

Part II, Chapter II;

- (iv) the person refuses to allow a person to inspect or copy a document or something that has been made to show the information recorded in an electronic or magnetic record through the means that Cabinet Office Order prescribes, to issue its certified copy or extract, to provide a person with the information recorded in an electronic or magnetic record by electronic or magnetic means, or to issue a document stating that information, without legitimate grounds for refusing to do so, in violation of the provisions of Part II, Chapter II or of Part III, Chapter III;
- (v) the person obstructs an investigation under the provisions of Part II, Chapter II;
- (vi) the person gives a false statement to or conceals a fact from a government agency or at a general meeting of members, a general meeting referred to in Article 66, paragraph (1), a specified bondholders meeting, a meeting of interest holders, or a class meeting of interest holders with regard to information prescribed in the provisions of Part II, Chapter II or Chapter IV, or the provisions of Part III, Chapter III;
- (vii) the person fails to enter or record the information that is required to be entered or recorded in the articles of incorporation, register of specified equity members, register of preferred equity members, specified bonds register, interest holder register, meeting minutes, inventory of property, accounting books, balance sheet, profit and loss statement, business report, administrative report, annexed detailed statements prescribed in Article 102, paragraph (2) or Article 177, paragraph (1), accounting advisor's report, audit report, financial audit report, statement of accounts, proposal concerning the appropriation of profits or disposition of losses, annexed detailed statements referred to in Article 264, paragraph (1), reports referred to in Article 264, item (iii), or documents or electronic or magnetic records referred to in Article 122, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 28, paragraph (3); Article 149, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 32, paragraph (6); Article 182-2, paragraph (1) or Article 182-6, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 38; Article 182-2, paragraph (1) or Article 182-6, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 50, paragraph (1); or Article 682, paragraph (1) or Article 695, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 125; or makes a false entry or record in them;
- (viii) the person fails to keep books, documents, papers, or an electronic or magnetic record, in violation of the provisions of Article 63, paragraph (2); Article 105, paragraph (1) or (2) (including as applied mutatis mutandis

pursuant to Article 105, paragraph (3)); Article 264, paragraph (3) or (4); Article 275, paragraph (3) (including as applied mutatis mutandis pursuant to Article 279, paragraph (3)); or Article 283, paragraph (1) or (2) of this Act; or the provisions of Article 31, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 16, paragraph (6); in violation of Article 125, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 28, paragraph (3) or Article 43, paragraph (3); in violation of Article 182-2, paragraph (1) or Article 182-6, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 38, Article 182-2, paragraph (1); in violation of Article 182-6, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 50, paragraph (1); in violation of Article 311, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 61, Article 65, paragraph (2), or Article 245, paragraph (2) (including as applied mutatis mutandis pursuant to Article 253); in violation of Article 310, paragraph (6) of the Companies Act as applied mutatis mutandis pursuant to Article 65, paragraph (1); in violation of Article 312, paragraph (4) of the Companies Act as applied mutatis mutandis pursuant to Article 65, paragraph (2); in violation of Article 318, paragraph (2) or (3) of the Companies Act as applied mutatis mutandis pursuant to Article 65, paragraph (3); in violation of Article 378, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 86, paragraph (2); in violation of Article 731, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 129, paragraph (2) or Article 249 (including as applied mutatis mutandis pursuant to Article 253); in violation of Article 496, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 177, paragraph (3); or in violation of Article 684, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 125;

(ix) the person violates Article 20 in transferring the right to become a specified equity member through specified equity issued at incorporation;

(x) the person violates Article 34, paragraph (6) or Article 46, paragraph (2) in neglecting to dispose of specified equity or a pledge thereon, to take procedures to invalidate preferred equity, or to dispose of preferred equity or a pledge thereon;

(xi) the person issues securities payable to order or in bearer form for specified equity, in violation of Article 37;

(xii) the person, in violation of Article 40, paragraph (1), Article 122, paragraph (1), Article 133, paragraph (1), or Article 141, paragraph (1), fails to notify or gives false notice of the information referred to in those provisions to a person seeking to make an offer to subscribe for preferred equity for subscription or specified bonds for subscription;

- (xiii) the person fails to issue preferred equity securities or specified bond certificates without delay, in violation of Article 48, paragraph (1) of this Act; Article 215, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 48, paragraph (3); or Article 696 of the Companies Act as applied mutatis mutandis pursuant to Article 125;
- (xiv) the person violates Article 48, paragraph (2) in issuing preferred equity securities;
- (xv) the person fails to enter the information that is required to be entered in preferred equity securities, specified bond certificates, preferred equity subscription warrants, or beneficiary certificates, or enters false information in them;
- (xvi) the person fails to convene a general meeting of members, in violation of an order of the court under the provisions of Article 52, paragraph (1) of this Act; Article 307, paragraph (1), item (i) of the Companies Act as applied mutatis mutandis pursuant to Article 58, paragraph (2); or Article 359, paragraph (1), item (i) of the Companies Act as applied mutatis mutandis pursuant to Article 81, paragraph (2);
- (xvii) having received a request under Article 57, paragraph (1) (including as applied mutatis mutandis pursuant to Article 66, paragraph (3)), the person fails to make the matter to which the request pertains the subject matter of a general meeting of members or general meeting referred to in Article 66, paragraph (1);
- (xviii) the person fails to explain the information about which the members or beneficiary certificate holders have requested an explanation at a general meeting of members, a general meeting referred to in Article 66, paragraph (1), a meeting of interest holders, or a class meeting of interest holders, without legitimate grounds for failing to do so;
- (xix) there is a vacancy among the directors, accounting advisors, company auditors, or accounting auditors specified in this Act or the articles of incorporation, and the person neglects to carry out the procedures for appointing a person to that position (including appointing a person who is to temporarily perform the duties of accounting auditor);
- (xx) the person violates Article 111, paragraph (2) or (4) in reducing the amount of specified capital or the amount of preferred capital;
- (xxi) the person violates Article 113 in failing to incorporate the reduction surplus referred to in Article 113 into the preferred capital;
- (xxii) the person violates Article 126 in issuing specified bonds or fails to designate the specified bond manager to succeed to the administration of affairs for specified bonds, in violation of Article 714, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 127, paragraph (8);

- (xxiii) the person neglects to file a petition to commence bankruptcy proceedings, in violation of Article 484, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 170, paragraph (3), or neglects to file a petition to commence special liquidation, in violation of Article 180, paragraph (3);
 - (xxiv) the person inappropriately fixes the period referred to in Article 499, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 179, paragraph (1) for the purpose of delaying the completion of liquidation;
 - (xxv) the person violates Article 500, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 179, paragraph (1) or Article 537, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 180, paragraph (4) in performing obligations;
 - (xxvi) the person violates Article 502, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 179, paragraph (1) in distributing the property of a specified purpose company in liquidation;
 - (xxvii) the person violates the provisions of Article 535, paragraph (1) or Article 536, paragraph (1) of the Companies Act as applied mutatis mutandis pursuant to Article 180, paragraph (4)
 - (xxviii) the person violates a temporary restraining order under the provisions of Article 540, paragraph (1) or (2) or Article 542 of the Companies Act as applied mutatis mutandis pursuant to Article 180, paragraph (4);
 - (xxix) the person fails to request an investigation under Article 941 of the Companies Act, in violation of that Article as applied mutatis mutandis pursuant to Article 194, paragraph (4); or
 - (xxx) the person violates Article 265 or Article 279 in distributing monies.
- (2) The provisions of the preceding paragraph also apply to a person that violates Article 70, paragraph (1) (including as applied mutatis mutandis pursuant to Article 72, paragraph (2); hereinafter the same applies in this paragraph) in becoming the director or company auditor of a specified purpose company and to a director or company auditor of a specified purpose company that becomes a person set forth in Article 70, paragraph (1), items (vii) through (x).

Article 317 A person that falls under one of the following items is subject to a civil fine of not more than one million yen:

- (i) a person that fails to make a report, , or that makes a false report, in violation of Article 946, paragraph (3) of the Companies Act as applied mutatis mutandis pursuant to Article 194, paragraph (4);
- (ii) a person that refuses a request set forth in the items of Article 951, paragraph (2) or the items of Article 955, paragraph (2) of the Companies Act as applied mutatis mutandis pursuant to Article 194, paragraph (4) without

legitimate grounds for doing so.

Article 318 A person that falls under one of the following items is subject to a civil fine of not more than one million yen:

- (i) a person that fails to file a notification under Article 12, paragraph (1) or that files a false notification;
- (ii) a person that uses a letter in its name or trade name that is likely to be mistaken for a specified purpose company, in violation of Article 15, paragraph (3); or
- (iii) a person that uses a name or trade name that is likely to be mistaken for another specified purpose company, in violation of Article 15, paragraph (4).