

Trust Act

(Act No. 108 of December 15, 2006)

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Chapter I General Provisions

(Purpose)

Article 1 The requirements and effect of trusts are governed by the provisions of this Act in addition to the provisions of other laws and regulations.

(Definitions)

Article 2 (1) The term "trust" as used in this Act means an arrangement in which a specific person, using any of the means set forth in the items of the following Article, administers or disposes of property in accordance with a certain purpose (excluding the purpose of exclusively pursuing their own interests; the same applies in the following Article) and performs other acts

that are necessary to achieve that purpose.

- (2) The term "terms of trust" as used in this Act means a document or record specified in each of the following items in accordance with the category of trusts set forth in each of those items:
 - (i) a trust created by the means set forth in item (i) of the following Article: a trust agreement referred to in that item;
 - (ii) a trust created by the means set forth in item (ii) of the following Article: a will referred to in that item; and
 - (iii) a trust created by the means set forth in item (iii) of the following Article: a manifestation of intention made by means of a document or electronic or magnetic record (meaning an electronic or magnetic record prescribed in that item) referred to in that item.
- (3) The term "trust property" as used in this Act means any and all property which belongs to a trustee and which is to be administered or disposed of through a trust.
- (4) The term "settlor" as used in this Act means a person who creates a trust by any of the means set forth in the items of the following Article.
- (5) The term "trustee" as used in this Act means a person who is under the obligation to administer or dispose of property that comes under trust property and to perform other acts that are necessary to achieve the purpose of a trust as provided for by the terms of trust.
- (6) The term "beneficiary" as used in this Act means a person who holds a beneficial interest in a trust.
- (7) The term "beneficial interest" as used in this Act means a right based on the terms of trust obliging a trustee to deliver property that comes under trust property to a beneficiary or to make any other distribution of trust property (hereinafter referred to as the "beneficial claims"), and the right to request a trustee or any other person to carry out certain acts based on the provisions of this Act in order to secure those claims.
- (8) The term "trustee's own property" as used in this Act means any and all property which belongs to a trustee and which is not the property that comes under trust property.
- (9) The term "obligations covered by the trust property" as used in this Act means obligations which a trustee is liable to perform through the use of property that comes under trust property.
- (10) The term "consolidation of trusts" as used in this Act means consolidating all trust properties of two or more trusts that have the same trustee into the trust property of a single new trust.
- (11) The term "absorption-type trust split" as used in this Act means the transfer of a part of a trust's trust property into the trust property of another trust that has the same trustee; the term "creation-type trust split" as used in this Act

means the transfer of a part of a trust's trust property into the trust property of a new trust that has the same trustee; the term "split of a trust" means an absorption-type trust split or creation-type trust split.

(12) The term "limited liability trust" as used in this Act means a trust in which a trustee is liable to perform all of the obligations covered by the trust property by only using the property that comes under trust property.

(Means of Creating Trusts)

Article 3 A trust is created by any of the following means:

- (i) means of concluding an agreement with a specific person which provides that property is to be transferred, a security right is to be established, and other property is to be disposed of for the specific person, and that the specific person is required to administer or dispose of the property in accordance with a certain purpose and perform other acts that are necessary for achieving that purpose (hereinafter referred to as the "trust agreement");
- (ii) means of making a will which states that property is to be transferred, a security right is to be established, and other property is to be disposed of for a specific person, and that the specific person is required to administer or dispose of the property in accordance with a certain purpose and perform other acts that are necessary for achieving that purpose; or
- (iii) means of a specific person to manifest the intention to administer or dispose of certain property that the person holds in accordance with a certain purpose and to perform other acts that are necessary for achieving that purpose themselves, through a notarial instrument or any other document or electronic or magnetic record (meaning a record which is created in electronic form, magnetic form, or any other form that cannot be perceived by human senses, and is specified by Order of the Ministry of Justice; the same applies hereinafter) in which the purpose, the particulars necessary for identifying the property, and other particulars specified by Order of the Ministry of Justice have been stated or recorded.

(Effectuation of Trusts)

Article 4 (1) A trust created by the means set forth in item (i) of the preceding Article comes into effect when a trust agreement is concluded between a person who is to be a settlor and a person who is to be a trustee.

(2) A trust created by the means set forth in item (ii) of the preceding Article comes into effect when the will takes effect.

(3) A trust created by the means set forth in item (iii) of the preceding Article comes into effect by the occurrence of the event specified in the following items in accordance with the category of cases set forth in each of those items:

- (i) if the trust is created by means of a notarial instrument, or any other

document or electronic or magnetic record authorized by a notary (hereinafter collectively referred to as the "notarial instrument, etc." in this item and the following item): creation of the notarial instrument, etc.; or (ii) if the trust is created by means of a document or electronic or magnetic record other than a notarial instrument, etc.: the fact that the trust has been created by means of an instrument bearing a certified date to the third party designated as the person who is to be the beneficiary (if there are two or more such third parties, to one of them) and the content of that notice.

(4) Notwithstanding the provisions of the preceding three paragraphs, when the terms of trust is subject to a condition precedent or a designated time of commencement, the trust comes into effect when the condition precedent is fulfilled or when the time of commencement arrives.

(Demand to Undertake a Trust in Testamentary Trusts)

Article 5 (1) If a trust is created by the means set forth in Article 3, item (ii), if the will contains a provision to designate a person who is to be the trustee, any interested party may specify a reasonable period of time and demand the person designated as the one who is to be the trustee to give a definite answer within that period of time with regard to whether that person will undertake the trust; provided, however, that if the provisions of the will is subject to a condition precedent or a designated time of commencement, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.

(2) If the demand under the provisions of the preceding paragraph has been made, and the person who is designated to be the trustee fails to give a definite answer to the settlor's heir within the period referred to in that paragraph, it is deemed that the person has not undertaken the trust.

(3) For the purpose of the application of the provisions of the preceding paragraph to cases in which the settlor has no heir at the time in question, the term "the settlor's heir" in that paragraph is deemed to be replaced with "the beneficiary (if there are two or more beneficiaries at the time in question, to one of them, and if there is a trust administrator at the time in question, to the trust administrator)".

(Appointment of Trustee by Court in Cases of Testamentary Trusts)

Article 6 (1) If a trust is created by the means set forth in Article 3, item (ii), and the will contains no clause concerning the designation of a trustee or if the person designated as a person who is to be the trustee does not undertake or is unable to undertake the trust, the court may appoint a trustee on the petition of an interested party.

(2) The judicial decision on the petition referred to in the preceding paragraph

must include the reasons for that decision.

- (3) Only a beneficiary or an existing trustee may file an immediate appeal against the judicial decision on the appointment of a trustee under the provisions of paragraph (1).
- (4) The immediate appeal referred to in the preceding paragraph has the effect of a stay of enforcement.

(Qualification of a Trustee)

Article 7 A minor may not serve as a trustee of a trust.

(Prohibition on Trustees Benefitting from Trusts)

Article 8 A trustees may not benefit from a trust under any name, unless the trustee benefits from the trust as a beneficiary.

(Prohibition of Trusts Created to Evade the Law)

Article 9 A person who is not allowed to enjoy a certain property right by laws and regulations is not allowed to enjoy, as a beneficiary, the same benefit as that derived from holding that right.

(Prohibition of Litigation Trusts)

Article 10 Trusts may not be created for the main purpose of having another person conduct litigation.

(Rescission of Fraudulent Trusts)

Article 11 (1) If a settlor has created a trust with the knowledge that it would harm the settlor's creditor, a creditor may, irrespective of whether or not the trustee knew that the creditor would be harmed, make a demand for rescission of fraudulent act under the provisions of Article 424, paragraph (3) of the Civil Code (Act No. 89 of 1896), with the trustee as the defendant; provided, however, that if there are any beneficiaries at the time in question, this applies only when all of the beneficiaries (if there is a person among the beneficiaries who has acquired beneficial interest, that beneficiary and all persons who transferred beneficial interest before that time) knew at the time when they became aware that they had been designated as beneficiaries that a creditor would be harmed (meaning to be designated as a beneficiary by the provisions of terms of trust, or to be designated as an initial beneficiary or a new beneficiary after a change in the provisions of the terms of trust as a result of the exercise of the right to designate or change a beneficiary as prescribed in Article 89, paragraph (1); the same applies hereinafter) (or at the time when the person has acquired beneficial interest, for the person who has acquired beneficial interest).

- (2) If a judgment upholding a demand for rescission of fraudulent act under the provisions of the preceding paragraph has become final and binding, if a creditor (excluding the one who is a settlor) who has a claim related to an obligation covered by the trust property did not know at the time when the creditor acquired the claim that the creditor would be harmed, the settlor becomes liable to perform the obligation covered by the trust property to the creditor who holds that claim; provided, however, that performance is limited to the value of the property to be transferred from the trustee to the settlor as a result of the demand for rescission of the fraudulent act under the provisions of that paragraph.
- (3) For the purpose of the application of the provisions of the preceding paragraph, the right that the trustee has pursuant to the provisions of Article 49, paragraph (1) (including as applied *mutatis mutandis* pursuant to Article 53, paragraph (2) and Article 54, paragraph (4)) is deemed to be a monetary claim.
- (4) If a settlor has created a trust with the knowledge that it would harm the settlor's creditor, if a beneficiary has been distributed the property that comes under trust property from the trustee, a creditor may make a demand for rescission of fraudulent act under the provisions of Article 424, paragraph (3) of the Civil Code with the beneficiary as the defendant; provided, however, that this applies only in the case the beneficiary (if the beneficiary is a person who has acquired beneficial interest, the beneficiary and all the persons who has transferred beneficial interest before that time) knew at the time when the beneficiary became aware that the beneficiary has been designated as a beneficiary that a creditor would be harmed (or at the time when the person has acquired beneficial interest, for the person who has acquired beneficial interest).
- (5) If a settlor has created a trust with the knowledge that it would harm the settlor's creditor, a creditor may demand that the beneficiary transfer the beneficiary's beneficial interest to the settlor, by filing an action with the beneficiary as a defendant. In such a case, the provisions of the proviso to the preceding paragraph apply *mutatis mutandis*.
- (6) The provisions of Article 426 of the Civil Code apply *mutatis mutandis* to the right to make a demand under the provisions of the preceding paragraph.
- (7) When designating a beneficiary or transferring a beneficial interest, it is not permitted to designate a person who does not know that any creditor could be harmed (hereinafter referred to as a "person without knowledge" in this paragraph) as a beneficiary without compensation (including cases in which designation is made with compensation that is to be considered equal to designation without compensation; the same applies in this paragraph), or to transfer beneficial interest to a person without knowledge without

compensation, for the purpose of unjustly circumventing the application of the provisions of the main clause of paragraph (1), the main clause of paragraph (4), or the first sentence of paragraph (5).

- (8) With regard to a person who becomes a beneficiary as a result of the designation of a beneficiary or the transfer of a beneficial interest in violation of the provisions of the preceding paragraph, the provisions of the proviso to paragraph (1) and the proviso to paragraph (4) (including as applied *mutatis mutandis* pursuant to the second sentence of paragraph (5)) do not apply.

(Avoidance of Fraudulent Trusts)

Article 12 (1) For the purpose of applying the provisions of Article 160, paragraph (1) of the Bankruptcy Act (Act No. 75 of 2004) to a trust created with a bankrupt as the settlor, the phrase "the person who has benefited from, at the time of the act" in the items of that paragraph is deemed to be replaced with "if there are any beneficiaries at the time in question, at the time all of the beneficiaries (if there is a person who acquired beneficial interest in the beneficiaries, the beneficiaries and all the persons who has transferred beneficial interest before that time) became aware that they had been designated as beneficiaries under Article 11, paragraph (1) of the Trust Act (or at the time when the person has acquired beneficial interest, for the person who has acquired beneficial interest)", and the phrase "that this does not apply when the person who has benefited from the act did not know" in the items of that paragraph is deemed to be replaced with "that this applies only when the person who has benefited from the act knows".

- (2) If a bankrupt has created a trust as a settlor with the knowledge that it would harm the bankruptcy creditors, a bankruptcy trustee may demand that the beneficiary return the beneficial interest to the bankruptcy estate by filing an action with the beneficiary as a defendant. In such a case, the provisions of the proviso to paragraph (4) of the preceding Article apply *mutatis mutandis*.

(3) For the purpose of applying the provisions of Article 127, paragraph (1) of the Civil Rehabilitation Act (Act No. 225 of 1999) to a trust created with the rehabilitation debtor as a settlor, the phrase "the person who has benefited from, at the time of the act" in the items of that paragraph is deemed to be replaced with "if there are any beneficiaries at the time in question, at the time all of the beneficiaries (if there is a person who has acquired beneficial interest in the beneficiaries, the beneficiaries and all the persons who has transferred beneficial interest before that time) became aware that they had been designated as beneficiaries under Article 11, paragraph (1) of the trust Act (Act No. 108 of 2006) (or at the time when the person acquired beneficial interest for the person who acquired beneficial interest)" and the phrase "that this does not apply when the person who has benefited from that act did not know" in

the items of that paragraph is deemed to be replaced with" that this applies only when the person who has benefited from that act knows".

- (4) If a rehabilitation debtor has created a trust as a settlor with the knowledge that it would harm the rehabilitation creditors, a supervisor granted authority to avoid or a trustee may demand that the beneficiary return the beneficial interest to the assets of the rehabilitation debtor (meaning the assets of the rehabilitation debtor prescribed in Article 12, paragraph (1), item (i) of the Civil Rehabilitation Act; the same applies in Article 25, paragraph (4)). In such a case, the provisions of the proviso to paragraph (4) of the preceding Article apply *mutatis mutandis*.
- (5) The provisions of the preceding two paragraphs apply *mutatis mutandis* to a reorganizing company (meaning a reorganizing company as defined in Article 2, paragraph (7) of the Corporate Reorganization Act (Act No. 154 of 2002) or a reorganizing company prescribed in Article 169, paragraph (7) of the Act on Special Measures for the Reorganization Proceedings of Financial Institutions (Act No. 95 of 1996)) or a reorganizing cooperative financial institution (meaning a reorganizing cooperative financial institution prescribed in Article 4, paragraph (7) of the Act on Special Measures for the Reorganization Proceedings of Financial Institutions). In such a case, in paragraph (3), the phrase "the provisions of Article 127, paragraph (1) of the Civil Rehabilitation Act (Act No. 225 of 1999)" is deemed to be replaced with "the provisions of Article 86, paragraph (1) of the Corporate Reorganization Act (Act No. 154 of 2002) and Article 57, paragraph (1) and Article 223, paragraph (1) of the Act on Special Measures for the Reorganization Proceedings for Financial Institutions (Act No. 95 of 1996)" and the term "the items of that paragraph" is deemed to be replaced with "these provisions", and in the preceding paragraph, the term "rehabilitation creditors" is deemed to be replaced with "reorganization creditors or secured reorganization creditors", the phrase "supervisor granted authority to avoid or a trustee" is deemed to be replaced with "a trustee" and the phrase "rehabilitation debtor's assets (meaning the rehabilitation debtor's assets prescribed in Article 12, paragraph (1), item (i) of the Civil Rehabilitation Act; the same applies in Article 25, paragraph (4))" is deemed to be replaced with "a reorganizing company's assets (meaning a reorganizing company's assets as defined in Article 2, paragraph (14) of the Corporate Reorganization Act or assets of a reorganizing company prescribed in Article 169, paragraph (14) of the Act on Special Measures for the Reorganization Proceedings of Financial Institutions) or assets of a reorganizing cooperative financial institution (meaning assets of a reorganizing cooperative financial institution prescribed in Article 4, paragraph (14) of the Act on Special Measures for the Reorganization Proceedings of Financial Institutions)".

(Accounting Principles)

Article 13 The accounting for trusts is to be subject to accounting practices that are generally accepted as fair and appropriate.

Chapter II Trust Property

(Requirements for Perfection of Property that Comes Under Trust Property)

Article 14 With regard to a property for which the acquisition, loss, and modification of rights may not be asserted against a third party unless it is registered, the fact that the property comes under trust property may not be asserted against a third party unless the trust is registered.

(Succession of Defect in Possession of Property That Comes Under Trust Property)

Article 15 A trustee succeeds to a settlor's defect in possession of property that comes under trust property.

(Scope of Trust Property)

Article 16 In addition to property specified by terms of trust that it is to come under trust property, the following property comes under trust property:

- (i) a property obtained by the trustee as a result of the administration, disposal, loss or, damage of property that comes under trust property, or due to other reasons ; and
- (ii) a property that has come under trust property pursuant to the provisions of the following Article, Article 18, Article 19 (including as applied mutatis mutandis by pursuant to Article 84 following the deemed replacement of terms; hereinafter the same applies in this item), Article 226, paragraph (3), Article 228, paragraph (3), and Article 254, paragraph (2) (including any co-ownership interest that is deemed to come under trust property pursuant to the provisions of Article 18, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (3) of that Article) and any property considered to come under trust property as a result of the division under the provisions of Article 19).

(Accession to Property That Comes Under Trust Property)

Article 17 If property that comes under trust property is joined by accession to or commingled with the trustee's own property or any property that comes under trust property of another trust, or if processing is conducted using these properties as materials, the property that comes under trust property of the respective trusts and the property that comes under trustee's own property are deemed to belong to their respective owners, and the provisions of Articles 242

through 248 of the Civil Code apply.

- Article 18 (1) If property that comes under trust property becomes indistinguishable from property that comes under trustee's own property (excluding the case prescribed in the preceding Article), it is deemed that co-ownership interest in each of those properties comes under both the trust property and the trustee's own property. In such a case, the proportion of the co-ownership interests will be in proportion to the prices of the respective properties at the time when they became indistinguishable from each other.
- (2) The co-ownership interests referred to in the preceding paragraph are presumed to be equal.
- (3) The provisions of the preceding two paragraphs apply mutatis mutandis to cases in which a trustee of a trust also serves as a trustee of another trust, and the properties that come under trust properties of each of those trusts have become indistinguishable from each other (excluding the case prescribed in the preceding Article). In such a case, the phrase "the trust property and the trustee's own property" in paragraph (1) is deemed to be replaced with "the trust properties of those trusts."

(Division of Properties in Co-ownership that Come Under Both Trust Property and Trustee's Own Property)

- Article 19 (1) If a co-ownership interest in a specific property that belongs to a trustee comes under both trust property and trustee's own property, the property may be divided by the following means:
- (i) the means specified by the terms of trust;
 - (ii) by deliberation between the trustee and the beneficiary (if there is a trust administrator at the time in question, the trust administrator); and
 - (iii) by decision of the trustee, if the division of the property is found to be reasonably necessary in order to achieve the purpose of the trust and it is obvious that the division will not harm the interests of the beneficiary, or if there are legitimate grounds in light of the impact of the division on the trust property, the purpose and manner of the division, the status of substantial relationship between the trustee and the beneficiary as interested parties, and other circumstances.
- (2) In the case prescribed in the preceding paragraph, if the deliberation referred to in item (ii) of that paragraph does not reach an agreement or if it is otherwise not possible to divide the property by any of the means set forth in the items of that paragraph, the trustee or the beneficiary (if there is a trust administrator at the time in question, the trust administrator) may make a demand to the court for the division of the property in co-ownership referred to in that paragraph.

- (3) If a co-ownership interest in a specific property that belongs to a trustee is an interest that comes under both trust property and trust property of another trust, that property may be divided by the following means:
- (i) the means specified by the terms of trust for each trust;
 - (ii) by deliberation between the beneficiaries of each trust (if there is a trust administrator for each trust at the time in question, the trust administrators); and
 - (iii) by decision of the trustees of each trust, if the division of the property is found to be reasonably necessary in order to achieve the purpose of each trust and it is obvious that the division will not harm the interest of the beneficiaries, or if there are legitimate grounds in light of the impact of the division on the trust property, the purpose and manner of the division, the status of substantial relationship between the trustees and the beneficiaries as interested parties, and other circumstances.
- (4) In the case prescribed in the preceding paragraph, if the deliberation referred to in item (ii) of that paragraph does not reach an agreement or if it is otherwise not possible to divide the property by any of the means set forth in the items of that paragraph, the beneficiary of each trust (if there is a trust administrator at the time in question, the trust administrator) may make a demand to the court for the division of the property in co-ownership referred to in that paragraph.

(Special Provisions on the Confusion of Property That Comes Under Trust Property)

- Article 20 (1) If ownership rights and any other real rights on the same property belongs to the trust property and the trustee's own property, or the trust property of another trust respectively, the other real rights will not be extinguished, notwithstanding the provisions of the main clause of Article 179, paragraph (1) of the Civil Code.
- (2) If real rights other than ownership rights and any other rights for which the real rights are the object belongs to the trust property and the trustee's own property, or the trust property of another trust respectively, the other rights will not be extinguished, notwithstanding the provisions of the first sentence of Article 179, paragraph (2) of the Civil Code.
- (3) In the following cases, the claim will not be extinguished, notwithstanding the provisions of the main clause of Article 520 of the Civil Code:
- (i) if an obligation related to a claim belonging to the trust property has been vested in the trustee (excluding cases in which the obligation has become an obligation covered by the trust property);
 - (ii) if a claim regarding an obligation covered by the trust property has been vested in the trustee (excluding cases in which the claim has come to belong

- to the trust property);
- (iii) if an obligation regarding a claim belonging to the trustee's own property or the trust property of another trust has been vested in the trustee (limited to cases in which the obligation has become an obligation covered by the trust property); and
- (iv) if a claim regarding a trustee's obligation (excluding an obligation covered by the trust property) has been vested in the trustee (limited to cases in which the claim has come to belong to the trust property).

(Scope of Obligations Covered by the Trust Property)

Article 21 (1) Obligations regarding the following claims are the obligations covered by the trust property:

- (i) beneficial claims;
- (ii) a right arising on property that comes under trust property from a cause that occurred prior to the creation of the trust;
- (iii) a claim arising against the settlor prior to the creation of the trust, for which it is provided for by the terms of trust that the obligation regarding the claim is to be an obligation covered by the trust property;
- (iv) a beneficiary's right to demand that the trustee acquire the beneficial interest pursuant to the provisions of Article 103, paragraph (1) or (2);
- (v) a right arising from an act performed in the interest of the trust property and which falls within the scope of the trustee's authority;
- (vi) a right arising from any of the following acts performed in the interest of the trust property and which does not fall within the scope of the trustee's authority;
 - (a) an act that may not be rescinded pursuant to the provisions of Article 27, paragraph (1) or (2) (including as applied *mutatis mutandis* pursuant to Article 75, paragraph (4); the same applies in sub-item (b)) (excluding cases in which the other party to the act did not know, at the time of the act, that the act was being performed in the interest of the trust property (excluding the act of establishing or transferring a right on the property that comes under trust property));
 - (b) an act that may be rescinded pursuant to the provisions of Article 27, paragraph (1) or (2) and that has not been rescinded;
- (vii) a right arising from a disposal or any other act prescribed in Article 31, paragraph (6) or from an act prescribed in paragraph (7) of that Article, which may not be rescinded pursuant to those provisions or which may be rescinded pursuant to those provisions that has not been rescinded;
- (viii) a right arising from a tort committed by the trustee in administering trust affairs; and
- (ix) beyond what is set forth in item (v) through the preceding item, a right

arising from administering trust affairs.

- (2) With regard to obligations for the following rights which fall under obligations covered by the trust property, a trustee is liable to perform those obligations only by using property that comes under trust property:
- (i) beneficial claims ;
 - (ii) a trust claim (meaning a claim regarding an obligation covered by the trust property, other than a beneficial claim; the same applies hereinafter) in cases in which the terms of trust contain the provisions of Article 216, paragraph (1) and a registration has been made as provided for in Article 232;
 - (iii) beyond what is set forth in the preceding two items, a trust claim in cases in which the trustee is considered to be liable to perform the obligation only by using property that comes under trust property pursuant to the provisions of this Act; and
 - (iv) a trust claim in cases in which there is an agreement between the trustee and the holder of the trust claim (hereinafter referred to as the "trust creditor") to the effect that the trustee is to be liable to perform the obligation only by using property that comes under trust property.

(Restriction on Set-Off of Claims That Comes Under Trust Property)

Article 22 (1) A person who holds a claim regarding an obligation which the trustee is liable to perform only by using property that comes under trustee's own property or trust property of another trust (referred to as the "trustee's own property or trust property" in item (i)) (the obligations are referred to as "obligations covered by trustee's own property only" in item (i) and item (ii)) is may not use that claim to set off the person's obligation regarding a claim belonging to the trust property; provided, however, that this does not apply in the following cases:

- (i) if a person who holds the claim covered by the trustee's own property did not know and was not negligent in failing to know that the claim belonging to the trust property did not belong to the trustee's own property or trust property at the time when the person acquired the claim or when the person assumed the obligation for the claim belonging to the trust property, whichever occurred later; or
 - (ii) if a person who holds the claim covered by the trustee's own property did not know and was not negligent in failing to know that the obligations covered by trustee's own property were not obligations covered by the trust property at the time when the person acquired the claim or when the person assumed the obligation for the claim belonging to the trust property, whichever occurred later.
- (2) The provisions of the main clause of the preceding paragraph do not apply to

the cases set forth in the items of Article 31, paragraph (2), in which the trustee has approved the set-off referred to in that paragraph.

- (3) A person who holds the claim for an obligation covered by the trust property (limited to an obligation that the trustee is liable to perform only by using property that comes under trust property) may not use the claim to set off the person's obligation regarding a claim belonging to the trustee's own property; provided, however, that this does not apply if the person who holds the claim covered by the trust property did not know and was not negligent in failing to know that the claim belonging to the trustee's own property did not belong to the trust property at the time when the person acquired the claim or when the person assumed the obligation for the claim belonging to the trustee's own property, whichever occurred later.
- (4) The provisions of the main clause of the preceding paragraph do not apply if the trustee has approved the set-off referred to in that paragraph.

(Restriction on Enforcement Against Property That Comes Under Trust Property)

Article 23 (1) Except in the cases based on claims for an obligation covered by the trust property (including a right arising on property that comes under trust property; the same applies in the following paragraph), enforcement, provisional seizure, provisional disposition, exercise of a security right, or an auction (excluding an auction as the exercise of a security right; the same applies hereinafter), or collection of national tax delinquency (including a disposition made under the same rules; the same applies hereinafter) may not be exercised against property that comes under trust property.

- (2) If a trust has been created by the means set forth in Article 3, item (iii), when a settlor has created the trust knowing that it would harm settlor's creditors, notwithstanding the provisions of the preceding paragraph, in addition to a creditor who holds a claim for an obligation covered by the trust property, a person who holds a claim against the settlor (limited to cases in which the settlor is a trustee) which has arisen prior to the creation of the trust may carry out enforcement, provisional seizure, provisional disposition, or exercise of a security right, or auction, or collection of national tax delinquency against property that comes under trust property.
- (3) The provisions of Article 11, the proviso to paragraph (1), paragraph (7), and paragraph (8) apply mutatis mutandis to the application of the provisions of the preceding paragraph.
- (4) The provisions of the preceding two paragraphs do not apply when two years have elapsed since the trust referred to in paragraph (2) has been created.
- (5) A trustee or a beneficiary may assert an objection to enforcement, provisional seizure, provisional disposition, or exercise of a security right or auction that

has been carried out in violation of the provisions of paragraph (1) or paragraph (2). In such a case, the provisions of Article 38 of the Civil Execution Act (Act No. 4 of 1979) and the provisions of Article 45 of the Civil Provisional Remedies Act (Act No. 91 of 1989) apply mutatis mutandis.

- (6) A trustee or a beneficiary may assert an objection to the collection of national tax delinquency that has been carried out in violation of the provisions of paragraph (1) or paragraph (2). In such a case, the assertion of the objection is to be made by filing an appeal against the collection of national tax delinquency.

(Payment of Expenses or Remuneration)

- Article 24 (1) If a beneficiary who has filed a suit to assert an objection under the provisions of paragraph (5) or (6) of the preceding Article has won the suit (including cases of partially winning the suit), when the beneficiary has paid any expenses (excluding court costs) that were necessary for the suit or is required to pay remuneration to an attorney-at-law, a legal professional corporation, a judicial scrivener, or a judicial scrivener corporation, the expenses or remuneration is to be paid from the trust property, up to the amount considered reasonable that does not exceed the actual amount.
- (2) Even if the beneficiary who has filed the suit referred to in the preceding paragraph has lost the suit, the beneficiary is not liable to compensate the trustee for any damage arising from the suit, except in cases the beneficiary has acted in bad faith.

(Relationship between Trust Property and Bankruptcy Proceedings Against Trustees)

- Article 25 (1) Even if a trustee has received an order of commencement of bankruptcy proceedings, a property that comes under trust property is not to be included in the bankruptcy estate.
- (2) In the case referred to in the preceding paragraph, a beneficial claim will not be treated as a bankruptcy claim. The same applies to a trust claim that the trustee is liable to satisfy only by using property that comes under trust property.
- (3) In the case referred to in paragraph (1), a discharge of an obligation regarding a trust claim (excluding a trust claim prescribed in the preceding paragraph) based on a discharge order referred to in Article 252, paragraph (1) of the Bankruptcy Act may not be asserted as effective in relation to the trust property.
- (4) Even if a trustee has received an order of commencement of rehabilitation proceedings, the property that comes under trust property is not to be included in the rehabilitation debtor's assets.

- (5) In the case referred to in the preceding paragraph, a beneficial claim will not be treated as a rehabilitation claim. The same applies to a trust claim that the trustee is liable to satisfy only by using property that comes under trust property.
- (6) In the case referred to in paragraph (4), a discharge of or a modification to an obligation regarding a trust claim (excluding a trust claim prescribed in the preceding paragraph) based on a rehabilitation plan, an order of confirmation of the rehabilitation plan, or a discharge order referred to in Article 235, paragraph (1) of the Civil Rehabilitation Act may not be asserted as effective in relation to the trust property.
- (7) The provisions of the preceding three paragraphs apply *mutatis mutandis* when a trustee has received an order for commencement of rehabilitation proceedings. In such a case, the term "rehabilitation debtor's assets" in paragraph (4) is deemed to be replaced with "reorganizing company's assets (meaning a reorganizing company's assets as defined in Article 2, paragraph (14) of the Corporate Reorganization Act or a reorganizing company's assets prescribed in Article 169, paragraph (14) of the Act on Special Measures for the Reorganization Proceedings of Financial Institutions) or the assets of a reorganizing cooperative financial institution (meaning the assets of a reorganizing cooperative financial institution prescribed in Article 4, paragraph (14) of the Act on Special Measures for Reorganization Proceedings of Financial Institutions)," the term "rehabilitation claims" in paragraph (5) is deemed to be replaced with "reorganization claims or secured reorganization claims," and the phrase "a rehabilitation plan, an order of confirmation of the rehabilitation plan, or a discharge order referred to in Article 235, paragraph (1) of the Civil Rehabilitation Act" in the preceding paragraph is deemed to be replaced with "a reorganization plan or an order of confirmation of the reorganization plan".

Chapter III Trustees

Section 1 Trustee's Authority

(Scope of Trustee's Authority)

Article 26 A trustee has the authority to administer or dispose of property that comes under trust property and to perform any other acts that are necessary to achieve the purpose of the trust; provided, however, that this does not preclude the authority from being restricted by the terms of trust .

(Rescission of Acts Performed by Trustees Beyond Their Authority)

Article 27 (1) If an act performed by a trustee in the interest of the trust property does not fall within the scope of the trustee's authority, and all of the

following conditions are met, a beneficiary may rescind that act,:

- (i) the other party to the act knew, at the time of performing the act, that the act was performed in the interest of the trust property; and
 - (ii) the other party to the act knew or was grossly negligent in failing to know, at the time of performing the act, that the act did not fall within the scope of the trustee's authority.
- (2) Notwithstanding the provisions of the preceding paragraph, if an act performed by a trustee to establish or transfer a right for property that comes under trust property (limited to property for which a registration of trust referred to in Article 14 may be made) does not fall within the scope of trustee's authority, a beneficiary may rescind that act limited to cases in which all of the following conditions are met:
- (i) at the time of performing the act, the registration of trust referred to in Article 14 existed with regard to the property that comes under trust property; and
 - (ii) the other party to the act knew or was grossly negligent in failing to know, at the time of performing the act, that the act did not fall within the scope of the trustee's authority.
- (3) If one of the two or more beneficiaries has exercised the right to rescind pursuant to the provisions of the preceding two paragraphs, the rescission has the same effect on other beneficiaries.
- (4) The right to rescind pursuant to the provisions of paragraph (1) or paragraph (2) is extinguished by prescription if it is not exercised within three months from the time when the beneficiary (if there is a trust administrator at the time in question, the trust administrator) becomes aware of the existence of the grounds for rescission. The same applies when one year has elapsed from the time of the act.

(Entrustment of Administration of Trust Affairs to a Third Party)

Article 28 In the following cases, a trustee may entrust the administration of trust affairs to a third party:

- (i) when it is provided by the terms of trust that the administration of trust affairs is to be entrusted or may be entrusted to a third party;
- (ii) when the terms of trust does not contain a clause concerning the entrustment of the administration of trust affairs to a third party, and entrusting the administration of trust affairs to a third party is found to be appropriate in light of the purpose of the trust; and
- (iii) when it is provided by the terms of trust that the trustee may not entrust the administration of trust affairs to a third party, and compelling reasons are found to exist for entrusting the administration of trust affairs to a third party in light of the purpose of the trust.

Section 2 Obligations of Trustees

(Duty of Care of Trustees)

Article 29 (1) A trustee must administer trust affairs in accordance with the main purpose of the trust.

(2) A trustee must administer trust affairs with the due care of a prudent manager; provided, however, that if it is otherwise provided for by the terms of trust, the trustee must administer trust affairs with the care provided for in the terms of trust.

(Obligation of Loyalty)

Article 30 A trustee must administer trust affairs and perform other acts faithfully on behalf of a beneficiary.

(Restriction on Acts in Conflict of Interest)

Article 31 (1) A trustee must not engage in the following acts:

(i) to have property that comes under trust property (including any right for that property) to be included in the trustee's own property, or to have property that belongs to the trustee's own property (including any right for that property) to be included in the trust property;

(ii) to have property that comes under trust property (including any right for that property) to be included in the trust property of another trust;

(iii) an act performed for the trust property with a third party while serving as the third party's agent; and

(iv) to establish a security right on property that comes under trust property in order to secure a claim related to an obligation that the trustee is liable to perform only by using property that comes under trustee's own property, or to perform any other act with a third party for the trust property that would create a conflict of interest between the trustee or their interested party and the beneficiary.

(2) Notwithstanding the provisions of the preceding paragraph, in any of the following cases, a trustee may perform the acts set forth in the items of that paragraph; provided, however, that this does not apply to the case set forth in item (ii), if it is provided for by the terms of trust that the trustee may not perform the acts even in the case falling under that item:

(i) if it is provided for by the terms of trust that the trustee is allowed to perform the acts;

(ii) if the trustee has disclosed material facts for those acts and obtained approval from the beneficiary for performing them;

(iii) if a right to property that comes under trust property has been included in

the trustee's own property due to inheritance or any other universal succession; or

- (iv) if it is found reasonably necessary for the trustee to perform the acts in order to achieve the purpose of the trust, and it is obvious that the acts conducted by the trustee will not harm the interests of the beneficiary, or if there are legitimate grounds for the trustee to perform the acts in light of the impact on trust property, the purpose and manner of the acts, the status of substantial relationship between the trustee and the beneficiary as interested parties, and other circumstances.
- (3) When having performed any of the acts set forth in the items of paragraph (1), the trustee must give notice of the material facts concerning that act to the beneficiary; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (4) If the acts set forth in paragraph (1), item (i) or (ii) are performed in violation of the provisions of paragraph (1) or paragraph (2), those acts are null and void.
- (5) The acts set forth in the preceding paragraph come into effect retroactively to the time of the act, if ratified by the beneficiary.
- (6) In the case prescribed in paragraph (4), when the trustee has disposed of or performed any other act regarding the property set forth in paragraph (1), item (i) or (ii) with a third party, the beneficiary may rescind the disposal or other act only if the third party knew or was grossly negligent in failing to know that the act set forth in paragraph (1), item (i) or (ii) was performed in violation of the provisions of paragraph (1) or paragraph (2). In such a case, the provisions of Article 27, paragraphs (3) and (4) apply *mutatis mutandis*.
- (7) If an act set forth in paragraph (1), item (iii) or (iv) has been performed in violation of the provisions of paragraph (1) and paragraph (2), the beneficiary may rescind the act only if the third party knew or was grossly negligent in failing to know that the act was performed in violation of those provisions. In such a case, the provisions of Article 27, paragraphs (3) and (4) apply *mutatis mutandis*.

Article 32 (1) With regard to an act that a trustee may carry out in administering trust affairs based on their authority as a trustee, if the trustee's failure to perform the act would be contrary to the interests of a beneficiary, they may not perform the act on the account of the trustee's own property or on the account of an interested party of the trustee.

- (2) Notwithstanding the provisions of the preceding paragraph, in any of the following cases, the trustee may perform the act prescribed in that paragraph on the account of the trustee's own property or on the account of the interested party of the trustee; provided, however, that this does not apply to the reason set forth in item (ii) if it is provided by the terms of trust that a trustee may

not perform the act on the account of the trustee's own property or on the account of an interested party of the trustee even in the case falling under that item:

- (i) when it is provided by the terms of trust that the trustee is allowed to perform the act on the account of the trustee's own property or on the account of an interested party of the trustee; or
 - (ii) when the trustee has disclosed material facts and obtained approval from the beneficiary for performing the act on the account of the trustee's own property or on the account of an interested party of the trustee.
- (3) when the trustee has performed the act prescribed in paragraph (1) on the account of the trustee's own property or on the account of an interested party of the trustee, the trustee must give a notice of the material facts concerning the act to the beneficiary; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (4) If the trustee has performed an act prescribed in paragraph (1) in violation of the provisions of paragraph (1) and paragraph (2), the beneficiary may deem that the act has been performed in the interest of the trust property; provided, however, that this may not harm the rights of a third party.
- (5) The rights under the provisions of the preceding paragraph are extinguished when one year has elapsed from the time of the act.

(Duty of Impartiality)

Article 33 In the case of a trust with two or more beneficiaries, a trustee must impartially perform their duties on behalf of those beneficiaries.

(Obligation of Separate Management of Trust Property)

Article 34 (1) A trustee must manage trust property by separating property that comes under trust property from property that comes under trustee's own property and property that comes under trust property of other trusts by the means specified in the following items in accordance with the category of property prescribed in the respective items; provided, however, that if the terms of the trust otherwise provides for the means of separate management, the clause prevails:

- (i) property for which the registration of trust referred to in Article 14 may be made (excluding the property set forth in item (iii)): registration of the trust;
- (ii) property for which the registration of trust referred to in Article 14 may not be made (excluding the property set forth in the following item): the means specified in the following sub-item (a) or (b) in accordance with the category of property set forth in sub-item (a) or (b):
 - (a) movable property (excluding money): the means of retaining property in a manner in which it is possible to distinguish the property that comes under

- trust property from the property that comes under trustee's own property and property that comes under trust property of other trusts on sight; or
- (b) money and property other than those set forth in sub-item (a): the means of clarifying their accounting; or
- (iii) property specified by Order of the Ministry of Justice: the means specified by Order of the Ministry of Justice as means of managing property by appropriately separating the property.
- (2) Notwithstanding the provisions of the proviso to the preceding paragraph, the trustee may not be exempted from the obligation of making the registration referred to in Article 14 for the property set forth in item (i) of the preceding paragraph.

(Obligation to Appoint and Supervise a Third Party in Entrusting Administration of Trust Affairs)

- Article 35 (1) When entrusting the administration of trust affairs to a third party pursuant to the provisions of Article 28, a trustee must entrust the administration to a suitable person in light of the purpose of the trust.
- (2) When the trustee has entrusted the administration of trust affairs to a third party pursuant to the provisions of Article 28, the trustee must perform necessary and appropriate supervision over the third party in order to achieve the purpose of the trust.
- (3) When the trustee has entrusted the administration of trust affairs to any of the following third parties, the provisions of the preceding two paragraphs do not apply; provided, however, that when the trustee becomes aware that the third party is unsuitable or unfaithful or that the administration of trust affairs by the third party is inappropriate, the trustee must give a notice to the beneficiary of that fact, cancel the entrustment to the third party, or take other necessary measures:
- (i) a third party designated by the terms of trust; or
- (ii) if it is provided by the terms of trust that the administration of trust affairs is to be entrusted to a third party designated by the settlor or the beneficiary, the third party designated pursuant to the clause.
- (4) Notwithstanding the provisions of the proviso to the preceding paragraph, if it is otherwise provided for by the terms of trust, the clause prevails.

(Obligation to Report on the Status of Administration of Trust Affairs)

- Article 36 A settlor or a beneficiary may request a trustee to report on the status of administration of trust affairs as well as the status of property that comes under trust property and the obligation covered by the trust property.

(Obligation to Prepare, Report On, and Preserve Books)

- Article 37 (1) The trustee must prepare books and other documents or electronic or magnetic records relating to the trust property, as provided for by Order of the Ministry of Justice, in order to clarify the accounting on trust affairs as well as the status of property that comes under trust property and the obligation covered by the trust property.
- (2) The trustee must prepare a balance sheet, profit and loss statement, and any other documents or electronic or magnetic records specified by Order of the Ministry of Justice once each year at a fixed time, as provided for by Order of the Ministry of Justice.
- (3) When the trustee has prepared the documents or electronic or magnetic records referred to in the preceding paragraph, the trustee must report their content to a beneficiary (if there is a trust administrator at the time in question, to the trust administrator); provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (4) When the trustee has prepared the documents or electronic or magnetic records referred to in paragraph (1), the trustee must preserve the documents (if electronic or magnetic records are prepared in lieu of those documents by the means specified by Order of the Ministry of Justice, the electronic or magnetic records) or the electronic or magnetic records (if documents are prepared in lieu of those electronic or magnetic records, the documents) for ten years from the date of preparation (or until the date of the completion of the liquidation of the trust if this occurs within that ten-year period; the same applies in the following paragraph); provided, however, that this does not apply if the trustee has delivered those documents or their copies to the beneficiary (if there are two or more beneficiaries at the time in question, to all beneficiaries; if there is a trust administrator at the time in question, to the trust administrator; the same applies in the proviso to paragraph (6)), or has provided the beneficiary with information recorded in those electronic or magnetic records by the means specified by Order of the Ministry of Justice.
- (5) When the trustee has prepared or acquired a written contract relating to the disposal of property that comes under trust property or any other documents or electronic or magnetic records concerning the administration of trust affairs, the trustee must preserve the documents (if electronic or magnetic records are prepared in lieu of those documents by the means specified by Order of the Ministry of Justice, the electronic or magnetic records) or the electronic or magnetic records (if documents are prepared in lieu of those electronic or magnetic records, the documents) for ten years from the date of the preparation or acquisition. In such a case, the provisions of the proviso to the preceding paragraph apply *mutatis mutandis*.
- (6) When the trustee has prepared the documents or electronic or magnetic records referred to in paragraph (2), the trustee must preserve the documents

(if electronic or magnetic records are prepared in lieu of those documents by the means specified by Order of the Ministry of Justice, the electronic or magnetic records) or the electronic or magnetic records (if documents are prepared in lieu of those electronic or magnetic records, the documents) until the date of the completion of the liquidation of the trust; provided, however that this does not apply if the trustee has, after ten years have elapsed from the date of their preparation, delivered those documents or their copies to the beneficiary, or has provided the beneficiary with information recorded in those electronic or magnetic records by the means specified by Order of the Ministry of Justice.

(Request to Inspect Books and Other Requests)

- Article 38 (1) A beneficiary may make the following requests to a trustee. In such a case, the beneficiary must clarify the reasons for the request.
- (i) a request to inspect or copy the documents referred to in paragraph (1) or (5) of the preceding Article; and
 - (ii) a request to inspect or copy an object that displays the information recorded in the electronic or magnetic records referred to in paragraph (1) or (5) of the preceding Article by a means specified by Order of the Ministry of Justice.
- (2) If the request referred to in the preceding paragraph is made, the trustee may not refuse the request unless it is found that any of the following cases applies:
- (i) if the person making the request (hereinafter referred to as the "requester" in this paragraph) has made the request for purposes other than conducting an investigation for securing or exercising their rights;
 - (ii) if the requester has made the request at an inappropriate time;
 - (iii) if the requester has made the request for the purpose of obstructing the administration of trust affairs or harming the common interests of the beneficiaries;
 - (iv) if the requester conducts or engages in business which is substantially in competition with the business related to the trust;
 - (v) if the requester has made the request in order to notify a third party of the facts that the requester learned by inspecting or copying documents or any other object pursuant to the provisions of the preceding paragraph for profit; or
 - (vi) if the requester has notified a third party of the facts learned by inspecting or copying documents or any other object pursuant to the provisions of the preceding paragraph for profit, within the past two years.
- (3) The provisions of the preceding paragraph (excluding item (i) and item (ii)) do not apply when the request referred to in paragraph (1) is made by all beneficiaries of the trust that has two or more beneficiaries, or when the request referred to in that paragraph is made by the beneficiary of the trust

that has one beneficiary.

- (4) If it is provided by the terms of trust that a request to inspect or copy documents or any other object under the provisions of paragraph (1) may not be made for information other than the following information when a beneficiary has given consent, the beneficiary who has given the consent (including the beneficiary's successor; hereinafter the same applies in this Article) is not allowed to withdraw the consent:
- (i) information that is indispensable for preparing the documents or electronic or magnetic records referred to in paragraph (2) of the preceding Article or other material information concerning the trust; and
 - (ii) information that is unlikely to harm the interests of any person other than the beneficiary.
- (5) Upon receiving a request to inspect or copy documents or any other object under the provisions of paragraph (1) from the beneficiary who has given the consent referred to in the preceding paragraph, the trustee may refuse the request, except for the part that falls under the information set forth in the items of the preceding paragraph.
- (6) An interested party may make the following requests to the trustee:
- (i) a request to inspect or copy the documents referred to in paragraph (2) of the preceding Article; and
 - (ii) a request to inspect or copy an object that displays the information recorded in the electronic or magnetic records referred to in paragraph (2) of the preceding Article by the means specified by Order of the Ministry of Justice.

(Request for Disclosure of Names of Other Beneficiaries)

- Article 39 (1) In the case of a trust with two or more beneficiaries, each beneficiary may request that a trustee disclose the following particulars by appropriate means. In such a case, the beneficiary must clarify the reasons for the request.
- (i) the names and addresses of the other beneficiaries; and
 - (ii) the content of the beneficial interest held by other beneficiaries.
- (2) If the request referred to in the preceding paragraph is made, the trustee may not refuse the request unless it is found that any of the following cases applies:
- (i) if the person making that request (hereinafter referred to as the "requester" in this paragraph) has made the request for purposes other than conducting an investigation for securing or exercising their rights;
 - (ii) if the requester has made the request at an inappropriate time;
 - (iii) if the requester has made the request for the purpose of obstructing the administration of trust affairs or harming the common interests of the beneficiaries;
 - (iv) if the requester has made the request in order to notify a third party of the

- facts learned by the disclosure under the provisions of the preceding paragraph for profit; or
- (v) if the requester has notified a third party of the facts learned by the disclosure under the provisions of the preceding paragraph for profit, within the past two years.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if it is otherwise provided by the terms of trust, the clause prevails.

Section 3 Trustee's Liabilities

(Trustee's Liability to Compensate for Losses)

Article 40 (1) If any of the cases set forth in the following items has occurred due to a trustee's breach of the duties, a beneficiary may demand that the trustee take the measures specified in the respective items; provided, however, that this does not apply to the measures specified in item (ii), if it is extremely difficult to restore the trust property, if the restoration requires excessive expenses, or if there are other special circumstances in which it is inappropriate to have the trustee restore the trust property:

- (i) if any loss has occurred to the trust property: compensation for the loss; and
- (ii) if any change has occurred to the trust property: restoration of the trust property.
- (2) If the trustee has entrusted the administration of trust affairs to a third party in violation of the provisions of Article 28, and a loss or change has occurred to the trust property, the trustee may not be exempted from the liability referred to in the preceding paragraph unless the trustee proves that the loss or change would have occurred even if the trustee had not entrusted the administration of trust affairs to a third party.
- (3) If the trustee has performed an act in violation of the provisions of Article 30, Article 31, paragraphs (1) and (2), or Article 32, paragraphs (1) and (2), the trustee is presumed to have caused a loss to the trust property in the same amount as the amount of the profit obtained by the trustee or an interested party of the trustee as a result of that act.
- (4) If the trustee has administered property that comes under trust property in violation of the provisions of Article 34, and a loss or change has occurred to the trust property, the trustee may not be exempted from the liability referred to in paragraph (1) unless the trustee proves that the loss or change would have occurred even if the trustee had separately managed the property in accordance with the provisions of that Article.

(Joint and Several Liability of Officers of Trustee That Is a Corporation)

Article 41 If a trustee that is a corporation assumes the liability under the

provisions of the preceding Article, when the corporation has acted in bad faith or with gross negligence in violating laws and regulations or the provisions of the terms of trust, the trustee's director, company director, executive officer, or any other person equivalent to them is liable to compensate the beneficiary for any loss incurred in the trust property or to restore the trust property jointly and severally with the corporation.

(Exemption from Liability to Compensate for Losses)

Article 42 A beneficiary may exempt a trustee from the following liabilities:

- (i) liability under the provisions of Article 40; and
- (ii) liability under the provisions of the preceding Article.

(Limitation to the Period for Claims Regarding Liability to Compensate for Losses)

Article 43 (1) The extinctive prescription of a claim regarding liability under the provisions of Article 40 is governed by the provisions on extinctive prescription of claims regarding liability arising from the failure to perform an obligation.

(2) The claim regarding liability under the provisions of Article 41 is extinguished by prescription in the following cases:

- (i) if the beneficiary does not exercise the claim for five years from the time they came to know that the claim may be exercised;
- (ii) if the beneficiary does not exercise the claim for ten years from the time the claim may be exercised.

(3) The period of the extinctive prescription of a beneficiary's claim regarding liability under the provisions of Article 40 or Article 41 does not begin to run until the beneficiary becomes aware that the beneficiary has been designated as beneficiary (if there is no beneficiary at the time in question, until a trust administrator is appointed).

(4) The claim prescribed in the preceding paragraph is extinguished when 20 years have elapsed from the time a loss or change has occurred to the trust property due to the trustee's breach of duties.

(Cessation of Trustee's Acts by a Beneficiary)

Article 44 (1) If a trustee has performed an act or is likely to perform an act that violates laws and regulations or the provisions of the terms of trust, and the act is likely to cause extreme harm to the trust property, a beneficiary may demand that the trustee cease that act.

(2) If a trustee has performed an act or is likely to perform an act that violates the provisions of Article 33, and the act is likely to cause extreme harm to some of the beneficiaries, those beneficiaries may demand that the trustee cease that act.

(Payment of Expenses or Remuneration)

- Article 45 (1) If a beneficiary who has filed a suit regarding the demand under the provisions of Article 40, Article 41, or the preceding Article has won the suit (including cases of partially winning the suit), when the beneficiary has paid any expenses (excluding court costs) that were necessary for the suit or if the beneficiary is required to pay remunerations to an attorney-at-law, a legal professional corporation, a judicial scrivener, or a judicial scrivener corporation, the expenses or remuneration is to be paid from the trust property, up to the amount considered reasonable that does not exceed the actual amount.
- (2) Even if the beneficiary who filed the suit referred to in the preceding paragraph has lost the suit, the beneficiary is not liable to compensate the trustee for any damage arising from the suit, except in cases the beneficiary has acted in bad faith.

(Appointment of Inspectors)

- Article 46 (1) If there are sufficient grounds to suspect misconduct or material facts that constitute violation of laws and regulations or the clauses of the terms of trust in connection with the administration of trust affairs by a trustee, a beneficiary may file a petition with the court for the appointment of an inspector in order to have the inspector investigate the status of the administration of trust affairs as well as the status of property that comes under trust property and the obligation covered by the trust property.
- (2) If the petition set forth in the preceding paragraph is filed, the court must appoint an inspector, except for cases it dismisses the petition as being unlawful.
- (3) A judicial decision dismissing the petition referred to in paragraph (1) must include the reasons for that decision.
- (4) No appeal may be entered against the judicial decision on the appointment of an inspector under the provisions of paragraph (1).
- (5) The inspector set forth in paragraph (2) may receive remuneration determined by the court from the trust property.
- (6) Before making the judicial decision to determine the remuneration for the inspector under the provisions of the preceding paragraph, the court must hear statements from the trustee and the inspector referred to in paragraph (2).
- (7) Only a trustee or an inspector referred to in paragraph (2) may file an immediate appeal against the judicial decision that determines the remuneration for the inspector pursuant to the provisions of paragraph (5).

- Article 47 (1) If it is necessary for the performance of duties, the inspector referred to in paragraph (2) of the preceding Article may request that a trustee

report on the status of the administration of trust affairs as well as the status of the property that comes under trust property and the obligation covered by the trust property, or may investigate the books, documents, and any other articles regarding the trust.

- (2) The inspector referred to in paragraph (2) of the preceding Article must conduct the necessary investigation, and must make a report to the court by submitting documents or electronic or magnetic records (limited to those specified by Order of the Ministry of Justice) in which the results of the investigation are entered or recorded.
- (3) If the court finds it necessary for clarifying the content of the report or confirming the basis of the report referred to in the preceding paragraph, it may request the inspector referred to in paragraph (2) of the preceding Article to make a further report referred to in the preceding paragraph.
- (4) When the inspector referred to in paragraph (2) of the preceding Article has made the report referred to in paragraph (2), the inspector must deliver a copy of the documents referred to in paragraph (2) to the trustee and the beneficiary who filed the petition referred to in paragraph (1) of that Article, or must provide them with the information recorded in the electronic or magnetic records referred to in paragraph (2) by the means specified by Order of the Ministry of Justice.
- (5) If the trustee has received a copy of the documents or the information recorded in the electronic or magnetic records by the means specified by Order of the Ministry of Justice pursuant to the provisions of the preceding paragraph, the trustee must immediately give notice of that fact to the beneficiaries (excluding the beneficiary who filed the petition referred to in paragraph (1) of the preceding Article; the same applies in the following paragraph); provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (6) If the report referred to in paragraph (2) has been made, when the court finds it necessary, it must order the trustee to give notice of the results of the investigation referred to in that paragraph to the beneficiary or to take any other appropriate measures to make the content of the report known to the public.

Section 4 Expenses and Trust Fees for Trustees

(Reimbursement of Expenses from Trust Property)

Article 48 (1) If a trustee has paid the expenses that are found necessary for the administration of trust affairs from the trustee's own property, the trustee may receive reimbursement for those expenses and their interest that has accrued from the date of payment (hereinafter referred to as the "expenses and

interest") from the trust property; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (2) If the expenses for the administration of trust affairs are required, the trustee may receive advance payment from the trust property; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (3) In order to receive advance payment of expenses from the trust property pursuant to the provisions of the main clause of the preceding paragraph, the trustee must give notice to the beneficiary of the amount of advance payment to be received and the basis for the calculation of that amount; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (4) Notwithstanding the provisions of paragraph (1) or paragraph (2), if the trustee has assumed obligations under the provisions of Article 40, the trustee may not receive reimbursement for the expenses and interest or advance payment of expenses until after the trustee performs those obligations; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (5) In the case referred to in paragraph (1) or paragraph (2), the trustee is not prevented from receiving reimbursement for expenses and interest or advance payment of expenses from the beneficiary based on an agreement between the trustee and the beneficiary.

(Means of Reimbursement for Expenses and Interest)

- Article 49 (1) If a trustee may receive reimbursement for expenses and interest or advance payment of expenses from the trust property pursuant to the provisions of paragraph (1) or (2) of the preceding Article, the trustee may have money that belongs to the trust property to be included in the trustee's own property, to the extent of the amount receivable.
- (2) In the case prescribed in the preceding paragraph, when necessary to do so, the trustee may dispose of property that comes under trust property (excluding the case in which it will not be possible to achieve the purpose of the trust by disposal); provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
 - (3) In the case prescribed in paragraph (1), if any of the items of Article 31, paragraph (2) apply, the trustee may have property that comes under trust property other than money to be included in the trustee's own property, in lieu of exercising the right held pursuant to the provisions of paragraph (1); provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
 - (4) If proceedings are commenced for enforcement against, or for the exercise of a security right of, property that comes under trust property, the right that the

trustee holds pursuant to the provisions of paragraph (1) is deemed to be a monetary claim in relation to those proceedings.

- (5) In the case referred to in the preceding paragraph, the trustee who has proved to have the right prescribed in that paragraph by means of a document certifying the existence of that right may also demand a distribution in the proceedings for enforcement or for exercise of a security right referred to in that paragraph.
- (6) The right that the trustee has pursuant to the provisions of paragraph (1) concerning expenses and interest for the preservation, liquidation, or distribution of the property that comes under trust property, which has been implemented in the common interest of the creditors (limited to creditors who hold claims regarding the obligation covered by the trust property; hereinafter the same applies in this paragraph and the following paragraph) prevails over the rights of other creditors (in cases in which the expenses and interest were not beneficial to all creditors, those who did not benefit from the expenses and interest are excluded) in the proceedings for enforcement or for exercise of a security right referred to in paragraph (4). In such a case, the right has the same rank in the order of priority as a statutory lien prescribed in Article 307, paragraph (1) of the Civil Code.
- (7) The right that the trustee holds pursuant to the provisions of paragraph (1) concerning the expenses and interest which fall under the following items prevails over the rights of other creditors for the amount specified in the respective items in accordance with the category of expenses set forth in the items in the proceedings for enforcement against or for the exercise of a security right referred to in paragraph (4) for the property:
- (i) the amount of expenses paid for the preservation of property that comes under trust property or any other amount that is found to be necessary for maintaining the value of that property: that amount; and
 - (ii) the amount of expenses paid for improving the property that comes under trust property or any other amount that is found to be beneficial for increasing the value of that property: that amount or the amount of the increase in value at the time in question, whichever is smaller.

(Subrogation of Trustees through Performance of Obligations Covered by the Trust Property)

Article 50 (1) If a trustee has performed an obligation covered by the trust property by using the trustee's own property, and is to acquire the right under the provisions of paragraph (1) of the preceding Article through that performance, the trustee is subrogated to the creditor who holds the claim regarding the obligation covered by the trust property. In such a case, the right that the trustee has pursuant to the provisions of that paragraph is deemed to

be a monetary claim in relation to the subrogation.

- (2) If the trustee is subrogated to the creditor referred to in the preceding paragraph pursuant to the provisions of that paragraph, the trustee must give notice to the creditor, without delay, of the fact that the claim held by the creditor is a claim regarding an obligation covered by the trust property and that the trustee has performed the obligation by using the trustee's own property.

(Reimbursement of Expenses and Interest and Simultaneous Performance)

Article 51 Until the right that the trustee holds pursuant to the provisions of Article 49, paragraph (1) is extinguished, the trustee may refuse the performance of the obligation of distribution of trust property to a beneficiary or to a holder of a vested right prescribed in Article 182, paragraph (1), item (ii); provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(Measures in the Case Trust Property is Insufficient for Reimbursement of Expenses and Interest)

Article 52 (1) If, in receiving reimbursement for expenses and interest or advance payment of expenses pursuant to the provisions of Article 48, paragraph (1) or (2), the trust property (excluding any property that may not be disposed of pursuant to the provisions of Article 49, paragraph (2); the same applies in item (i) and paragraph (4)) is insufficient to provide the reimbursement or advance payment, and the trustee has given notice of the following particulars to a settlor and a beneficiary but has not received reimbursement of expenses and interest or advance payment of expenses from the settlor or the beneficiary even when a reasonable period of time set forth in item (ii) has elapsed, the trustee may terminate the trust:

- (i) a statement to the effect that the trustee is unable to receive reimbursement of expenses and interest or advance payment of expenses due to the trust property being insufficient; and
 - (ii) a statement to the effect that the trustee will terminate the trust if the trustee is unable to receive reimbursement of expenses and interest or advance payment of expenses from the settlor or the beneficiary within a reasonable period of time specified by the trustee.
- (2) For the purpose of applying the provisions of the preceding paragraph to cases in which there is no settlor at the time in question, the terms "a settlor and a beneficiary" and "the settlor or the beneficiary" in that paragraph are deemed to be replaced with "the beneficiary".
- (3) For the purpose of applying the provisions of paragraph (1) to cases in which there is no beneficiary at the time in question, the terms "a settlor and a

beneficiary" and "the settlor or the beneficiary" in that paragraph are deemed to be replaced with "the settlor".

- (4) If the trust property is insufficient to provide for reimbursement of expenses and interest or advance payment of expenses pursuant to the provisions of Article 48, paragraph (1) or (2), and there is neither the settlor nor the beneficiary of the trust at the time in question, the trustee may terminate the trust.

(Compensation for Damages out of Trust Property)

Article 53 (1) In the cases set forth in the following items, a trustee may receive compensation from the trust property for the amount of damages specified in the respective items; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails:

- (i) if the trustee has suffered any damages for administering trust affairs without their own negligence: the amount of damages; and
- (ii) if the trustee has suffered any damages for administering trust affairs due to an intentional or negligent act of a third party (excluding the case set forth in the preceding item): the amount of compensation that may be demanded from the third party.

- (2) The provisions of Article 48, paragraphs (4) and (5), Article 49 (excluding paragraph (6) and paragraph (7)), and the preceding two Articles apply *mutatis mutandis* to the compensation for damages from the trust property under the provisions of the preceding paragraph.

(Trust Fees for Trustees)

Article 54 (1) In addition to the case in which the provisions of Article 512 of the Commercial Code (Act No. 48 of 1899) apply to the acceptance of a trust, a trustee may receive trust fees (meaning an economic benefit to be received by the trustee as the consideration for the administration of trust affairs; the same applies hereinafter) from the trust property only if it is provided by the terms of trust that the trustee is to receive trust fees from the trust property.

- (2) In the case referred to in the preceding paragraph, if the terms of trust contain a clause concerning the amount of trust fees or the means of their calculation, the amount of trust fees are determined pursuant to the clause, and if there are no such clause, the amount is to be a reasonable amount.
- (3) If there are no clause referred to in the preceding paragraph, in order to receive trust fees from the trust property, the trustee must give notice to a beneficiary of the amount of trust fees and the basis for their calculation.
- (4) The provisions of Article 48, paragraphs (4) and (5), Article 49 (excluding paragraph (6) and paragraph (7)), Article 51, and Article 52, as well as the provisions of Article 648, paragraphs (2) and (3), and Article 648-2 of the Civil

Code, apply mutatis mutandis to the trustee's trust fees.

(Exercise of Security Rights by Trustees)

Article 55 In the case of a trust whose security right is trust property, if it is provided by the terms of trust that a beneficiary is a creditor of the claim to be secured by that security right, a trustee that is a holder of the security right may file a petition for the exercise of the security right as trust affairs and have the proceeds of the sale distributed or payment money delivered.

Section 5 Change of Trustees

Subsection 1 Termination of Trustee's Duties

(Grounds for Termination of Trustee's Duties)

Article 56 (1) A trustee's duties terminate on the following grounds, in addition to the completion of the liquidation of the trust; provided, however, that in the case of termination on the grounds set forth in item (ii) or item (iii), if it is otherwise provided for by the terms of trust, the clause prevails:

(i) the death of an individual who is a trustee:

(ii) a decision to establish a guardianship or a curatorship against an individual who is a trustee:

(iii) an order of commencement of bankruptcy proceedings against a trustee (excluding cases of dissolution by an order of commencement of bankruptcy proceedings);

(iv) the dissolution of a corporation that is a trustee for reasons other than a merger;

(v) the resignation of a trustee pursuant to the provisions of the following Article;

(vi) the dismissal of a trustee pursuant to the provisions of Article 58; or

(vii) any grounds provided for by the terms of trust.

(2) If a corporation that is a trustee has implemented a merger, a corporation that survives the merger or a corporation that is incorporated in the merger is to take over the trustee's duties. If a corporation that is a trustee has implemented a split, the same applies to the corporation that succeeds to the rights and obligations of the trustee as a result of the split.

(3) Notwithstanding the provisions of the preceding paragraph, if it is otherwise provided for by the terms of trust, the clause prevails.

(4) If the grounds set forth in paragraph (1), item (iii) occur, and a trustee's duties are not terminated pursuant to the provisions of the proviso to that paragraph, the bankrupt performs the duties of the trustee.

(5) A trustee's duties do not terminate on the grounds that the trustee has received an order of commencement of rehabilitation proceedings; provided,

however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (6) In the case prescribed in the main clause of the preceding paragraph, if there is a rehabilitation trustee, the right of the trustee to perform the trustee's duties and administer and dispose of property that comes under trust property is vested exclusively in the rehabilitation trustee. The same applies to cases in which there is a temporary administrator in charge of rehabilitation proceedings.
- (7) The provisions of the preceding two paragraphs apply mutatis mutandis to cases in which the trustee receives an order of commencement of rehabilitation proceedings. In such a case, the phrase "there is a rehabilitation trustee" in the preceding paragraph is deemed to be replaced with "there is a reorganization trustee (excluding the period referred to in Article 74, paragraph (2) of the Corporate Reorganization Act (including as applied mutatis mutandis pursuant to Article 47 and Article 213 of the Act on Special Measures for the Reorganization Proceedings of Financial Institutions))".

(Resignation of Trustees)

- Article 57 (1) A trustee may resign with the consent of a settlor and a beneficiary; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (2) The trustee may resign with the permission of the court when there is a compelling reason for the resignation.
 - (3) When filing a petition for the permission referred to in the preceding paragraph, the trustee must make a prima facie showing of the facts constituting the grounds for the petition.
 - (4) The judicial decision dismissing the petition for permission referred to in paragraph (2) must include the reasons for that decision.
 - (5) No appeal may be entered against the judicial decision on permission for resignation under the provisions of paragraph (2).
 - (6) The provisions of the main clause of paragraph (1) do not apply if there is no settlor at the time in question.

(Dismissal of Trustees)

- Article 58 (1) A settlor and a beneficiary may dismiss a trustee at any time based on an agreement between them.
- (2) If a settlor and a beneficiary have dismissed the trustee at a time that is detrimental to the trustee, the settlor and the beneficiary must compensate the trustee for any damages; provided, however, that this does not apply if there was a compelling reason for the dismissal.
 - (3) Notwithstanding the provisions of the preceding two paragraphs, if it is

- otherwise provided for by the terms of trust, the clause prevails.
- (4) If a trustee has caused substantial damage to the trust property through a breach of duties or if there are other material grounds, the court may dismiss the trustee upon the petition of the settlor or the beneficiary.
 - (5) Before dismissing the trustee pursuant to the provisions of the preceding paragraph, the court must hear statements from the trustee.
 - (6) The judicial decision on the petition for permission referred to in paragraph (4) must include the reasons for the decision.
 - (7) Only the settlor, the trustee, or the beneficiary may file an immediate appeal against the judicial decision on the dismissal pursuant to the provisions of paragraph (4).
 - (8) The provisions of paragraph (1) and paragraph (2) do not apply if there is no settlor at the time in question.

Subsection 2 Obligations of the Former Trustee

(Former Trustee's Obligation to Give Notice and Retain Property)

- Article 59 (1) If the trustee's duties have terminated due to any of the grounds set forth in Article 56, paragraph (1), items (iii) through (vii), the person who was the trustee (hereinafter referred to as the "former trustee") must give notice of that fact to the beneficiary; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (2) If the trustee's duties have terminated due to the grounds set forth in Article 56, paragraph (1), item (iii), the former trustee must give notice to the bankruptcy trustee of the content and location of property that comes under trust property, the content of the obligation covered by the trust property, and other particulars specified by Order of the Ministry of Justice.
 - (3) If the trustee's duties have terminated due to any of the grounds set forth in Article 56, paragraph (1), items (iv) through (vii), the former trustee must continue to retain property that comes under trust property and must conduct the necessary actions for the transfer of trust affairs until a new trustee (if a trust property administrator is appointed pursuant to the provisions of Article 64, paragraph (1), the trust property administrator; hereinafter referred to as the "new trustee or administrator" in this Section) becomes able to administer trust affairs; provided, however, that if it is otherwise provided for by the terms of trust, the obligations of the former trustee may be expanded.
 - (4) Notwithstanding the provisions of the preceding paragraph, if the trustee's duties have terminated due to the grounds set forth in Article 56, paragraph (1), item (v) (limited to grounds under the provisions of the provisions of Article 57, paragraph (1)), the former trustee continues to have the rights and obligations as trustee until the new trustee or administrator becomes able to

administer trust affairs; provided, however, that if is otherwise provided for by the terms of trust, the clause prevails.

- (5) In the cases referred to in paragraph (3) (excluding the case prescribed in the main clause of the preceding paragraph), if the former trustee seeks to dispose of property that comes under trust property, the beneficiary may demand that the former trustee cease the disposal of the property; provided, however, that this does not apply after a new trustee or administrator becomes able to administer trust affairs.

(Obligation of the Former Trustee's Heir or Equivalent Person to Give Notice and Retain Property)

Article 60 (1) If the trustee's duties have terminated on any of the grounds set forth in Article 56, paragraph (1), item (i) or (ii), if the former trustee's heir (if there is a legal representative at the time in question, the legal representative) or a guardian or a curator of the trustee (hereinafter collectively referred to as the "former trustee's heir, etc." in this Section) knows that fact, the former trustee's heir, etc. must give notice of the fact to the known beneficiaries; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (2) If the trustee's duties have terminated due to any of the grounds set forth in Article 56, paragraph (1), item (i) or (ii), the former trustee's heir, etc. must continue to retain property that comes under trust property and must conduct the necessary actions for the transfer of trust affairs until the new trustee or administrator, or the incorporated trust property administrator becomes able to administer trust affairs,.

- (3) In the case referred to in the preceding paragraph, if the former trustee's heir, etc. seeks to dispose of property that comes under trust property, the beneficiary may demand that those persons cease the disposal of the property; provided, however, that this does not apply after the new trustee or administrator or the incorporated trust property administrator becomes able to administer trust affairs.

- (4) If the trustee's duties have terminated due to the grounds set forth in Article 56, paragraph (1), item (iii), a bankruptcy trustee must continue to retain property that comes under trust property and must conduct the necessary actions for the transfer of trust affairs until the new trustee or administrator becomes able to administer trust affairs.

- (5) In the case referred to in the preceding paragraph, if the bankruptcy trustee seeks to dispose of property that comes under trust property, the beneficiary may demand that the bankruptcy trustee cease the disposal of the property; provided, however, that this does not apply after the new trustee or administrator becomes able to administer trust affairs.

- (6) The former trustee's heir, etc., or the bankruptcy trustee may demand reimbursement of expenses paid for conducting the actions under the provisions of paragraph (1), paragraph (2), or paragraph (4), and of their interest that has accrued from the date of payment, to the new trustee or administrator, or the incorporated trust property administrator.
- (7) The provisions of Article 49, paragraphs (6) and (7) apply mutatis mutandis to the right that the former trustee's heir, etc. or the bankruptcy trustee holds, pursuant to the provisions of the preceding paragraph.

(Payment of Expenses or Remuneration)

- Article 61 (1) If a beneficiary who has filed suit regarding the demand under the provisions of Article 59, paragraph (5), or paragraph (3) or (5) of the preceding Article has won the suit (including cases of partially winning the suit), when the beneficiary has paid any expenses (excluding court costs) that were necessary in relation to the suit or if the beneficiary is required to pay remuneration to an attorney-at-law, a legal professional corporation, a judicial scrivener, or a judicial scrivener corporation, those expenses or remunerations are to be paid from the trust property, up to the amount considered reasonable that does not exceed the actual amount.
- (2) Even if the beneficiary who has filed the suit referred to in the preceding paragraph has lost the suit, the beneficiary is not be liable to compensate the trustee for any damage arising from the suit, except in cases the beneficiary acted in bad faith.

Subsection 3 Appointment of New Trustees

- Article 62 (1) If the trustee's duties have terminated due to any of the grounds set forth in the items of Article 56, paragraph (1), if the terms of trust contain no clause concerning a new trustee (hereinafter referred to as the "new trustee"), or if the person designated by the clause of the terms of trust as a person who is to be the new trustee does not accept or is unable to accept the trust, the settlor and the beneficiary may appoint a new trustee based on an agreement between them.
- (2) If the trustee's duties have terminated due to any of the grounds set forth in the items of Article 56, paragraph (1), and the terms of trust contain a clause to designate a particular person to be the new trustee, an interested party may specify a reasonable period of time and make a demand to the person designated to be the new trustee to give a definite answer on whether the person will assume office within that period of time; provided, however, that if the clause is subject to a condition precedent or a designated time of commencement, this may only be done after the condition precedent is fulfilled

or after the time of commencement arrives.

- (3) If a demand under the provisions of the preceding paragraph has been made and the person designated to be the new trustee fails to give a definite answer to the settlor and the beneficiary (if there are two or more beneficiaries at the time in question, to one of them; if there is a trust administrator at the time in question, to the trust administrator) within the period referred to in that paragraph, it is deemed that the person has not accepted the assumption of office.
- (4) In the case referred to in paragraph (1), if the court finds it necessary in light of the status of deliberations regarding the agreement referred to in that paragraph and any other circumstances, the court may appoint a new trustee upon petition of an interested party,.
- (5) The judicial decision on the petition referred to in the preceding paragraph must include the reasons for the decision.
- (6) Only a settlor, a beneficiary, or a trustee at the time in question may file an immediate appeal against the judicial decision on the appointment of a new trustee under the provisions of paragraph (4).
- (7) The immediate appeal referred to in the preceding paragraph has the effect of a stay of enforcement.
- (8) For the purpose of the application of the provisions of the preceding paragraphs to cases in which there is no settlor at the time in question, the phrase "the settlor and the beneficiary may appoint a new trustee based on an agreement between them" in paragraph (1) is deemed to be replaced with "the beneficiary may", the term "the settlor and the beneficiary" in paragraph (3) is deemed to be replaced with "the beneficiary", and the phrase "status of deliberations regarding the agreement referred to in that paragraph" in paragraph (4) is deemed to be replaced with "status of the beneficiary".

Subsection 4 Trust Property Administrators

(Trust Property Administration Orders)

- Article 63 (1) If the trustee's duties have terminated due to any of the grounds set forth in the items of Article 56, paragraph (1), when a new trustee has not been appointed and the court finds it necessary, the court may make a disposition ordering administration by a trust property administrator (hereinafter referred to as the "trust property administration order" in this Subsection) upon petition of an interested party, until a new trustee is appointed.
- (2) The judicial decision dismissing the petition referred to in the preceding paragraph must include the reasons for the dismissal.
 - (3) The court may change or revoke the trust property administration order.

- (4) Only an interested party may file an immediate appeal against the trust property administration order and the decision made pursuant to the provisions of the preceding paragraph.

(Appointment of Trust Property Administrators)

Article 64 (1) If the court issues a trust property administration order, it must appoint a trust property administrator in the trust property administration order.

- (2) No appeal may be entered against the judicial decision on the appointment of the trust property administrator made pursuant to the provisions of the preceding paragraph.

(3) If the court has made the judicial decision on the appointment of the trust property administrator pursuant to the provisions of paragraph (1), it must immediately give public notice of the following particulars:

- (i) a statement to the effect that the trust property administrator has been appointed; and
- (ii) the name of the trust property administrator.

(4) The provisions of item (ii) of the preceding paragraph apply *mutatis mutandis* to cases in which there is a change to the particulars set forth in that item.

(5) If the trust property administration order is issued, and a court clerk becomes aware of the existence of a right that belongs to the trust property that has been registered, the court clerk must commission registration of the trust property administration order on their own authority and without delay.

(6) If a judicial decision on the revocation of a trust property administration order is made or if a new trustee who has been appointed after the trust property administration order was issued has filed a petition to commission cancellation of the registration of the trust property administration order, a court clerk must commission cancellation of the registration of the trust property administration order on their own authority and without delay.

(Effect of Juridical Acts by Former Trustees)

Article 65 (1) A juridical act performed by the former trustee with respect to property that comes under trust property after a judicial decision on the appointment of a trust property administrator has been made under the provisions of paragraph (1) of the preceding Article, may not be asserted as effective in relation to the trust property.

(2) A juridical act performed by the former trustee on the day on which the judicial decision on the appointment of the trust property administrator is made under the provision of paragraph (1) of the preceding Article is presumed to have been performed after the judicial decision was made.

(Authority of Trust Property Administrators)

- Article 66 (1) If a trust property administrator is appointed pursuant to the provisions of Article 64, paragraph (1), a trustee's right to perform the duties and administer and dispose of property that comes under trust property is vested exclusively in the trust property administrator.
- (2) If there are two or more trust property administrators, they perform the acts within their authority jointly; provided, however, that with the permission of a court, they may perform their duties independently or divide their duties among themselves.
- (3) If there are two or more trust property administrators, it is sufficient for a third party to make a manifestation of intention to one of them.
- (4) The trust property administrator must obtain the court's permission in order to perform an act beyond the scope of the following acts:
- (i) an act of preservation; and
 - (ii) an act performed for the purpose of using or improving property that comes under trust property, to the extent that the act does not change the nature of that property.
- (5) An act performed by the trust property administrator in violation of the provisions of the preceding paragraph is null and void; provided, however, that the administrator may not assert this against a third party who has no knowledge of the violation.
- (6) When filing a petition for the permission referred to in the proviso to paragraph (2) or paragraph (4), the trust property administrator must make a prima facie showing of the facts constituting the grounds for the petition.
- (7) The judicial decision dismissing the petition for the permission referred to in the proviso to paragraph (2) or paragraph (4) must include the reasons for the dismissal.
- (8) No appeal may be entered against the judicial decision on the permission under the provisions of the proviso to paragraph (2), or paragraph (4).

(Administration of Property That Comes Under Trust Property)

Article 67 A trust property administrator must commence the administration of property that comes under trust property immediately after assuming office.

(Standing to Sue or to Be Sued)

Article 68 In an action relating to trust property, the trust property administrator is to be either a plaintiff or a defendant.

(Obligations of Trust Property Administrators)

Article 69 A trust property administrator, when performing their duties, assumes the same obligations and liabilities as a trustee.

(Resignation and Dismissal of Trust Property Administrators)

Article 70 The provisions of Article 57, paragraphs (2) through (5) apply mutatis mutandis to the resignation of a trust property administrator, and the provisions of Article 58, paragraph (4) through (7) apply mutatis mutandis to the dismissal of a trust property administrator. In such a case, the phrase "there is a compelling reason" in Article 57, paragraph (2) is deemed to be replaced with "there are legitimate grounds."

(Remuneration for Trust Property Administrators)

Article 71 (1) A trust property administrator may receive advance payment of expenses and remuneration in an amount specified by the court from the trust property.

(2) Before making a judicial decision to specify the amount of expenses or remuneration under the provisions of the preceding paragraph, the court must hear the statement of the trust property administrator.

(3) Only the trust property administrator may file an immediate appeal against the judicial decision determining the amount of expenses or remuneration under the provisions of paragraph (1).

(Transfer of Trust Affairs from Trust Property Administrators to New Trustees)

Article 72 The provisions of Article 77 apply mutatis mutandis to cases in which a new trustee assumes the office as trustee after the appointment of trust property administrator. In such a case, the phrase "the beneficiary (if there are two or more beneficiaries at the time in question, from all of them, and if there is a trust administrator at the time in question, from the trust administrator)" in paragraph (1) of that Article, the phrase "beneficiary (if there is a trust administrator at the time in question, the trust administrator; the same applies in the following paragraph)" in paragraph (2) of that Article, and the term "the beneficiary" in paragraph (3) of that Article are deemed to be replaced with "the new trustee," and the term "the beneficiary" in paragraph (2) of that Article is deemed to be replaced with "the new trustee".

(Authority of a Person Performing Trustee's Duties on Behalf of a Trustee)

Article 73 The provisions of Article 66 apply mutatis mutandis to a person performing a trustee's duties on behalf of a trustee who has been appointed by a provisional disposition order to appoint a person to perform the duties of a trustee on behalf of a trustee.

(Ownership of Trust Property upon Termination of Duties Due to Death of the

Trustee)

- Article 74 (1) If a trustee's duties have terminated due to the grounds set forth in Article 56, paragraph (1), item (i), the trust property is to be incorporated as a corporation.
- (2) In the case prescribed in the preceding paragraph, when the court finds it necessary, the court may make a disposition ordering administration of the trust by an incorporated trust property administrator (hereinafter referred to as the "incorporated trust property administration order" in paragraph (6)), upon petition of an interested party.
- (3) The provisions of Article 63, paragraphs (2) through (4) apply mutatis mutandis to a case regarding the petition referred to in the preceding paragraph.
- (4) If a new trustee assumes office, the corporation referred to in paragraph (1) is deemed not to have been incorporated; provided, however, that this does not preclude the effect of an act performed by the incorporated trust property administrator within the authority of the administrator.
- (5) The incorporated trust property administrator's authority of representation is extinguished when the new trustee becomes able to administer trust affairs.
- (6) The provisions of Article 64 apply mutatis mutandis to cases in which an incorporated trust property administration order is issued, and the provisions of Articles 66 through 72 apply mutatis mutandis to an incorporated trust property administrator.

Subsection 5 Succession to Rights and Obligations upon Change of Trustee

(Succession to Rights and Obligations Concerning Trusts)

- Article 75 (1) If a trustee's duties have terminated due to any of the grounds set forth in the items of Article 56, paragraph (1), and a new trustee has assumed office, it is deemed that the new trustee has succeeded to the former trustee's rights and obligations concerning the trust existing at the time of the termination of the former trustee's duties.
- (2) Notwithstanding the provisions of the preceding paragraph, if the trustee's duties have terminated (excluding the case referred to in the proviso to Article 59, paragraph (4)) due to the grounds set forth in Article 56, paragraph (1), item (v) (limited to those under the provisions of Article 57, paragraph (1)), it is deemed that the new trustee has succeeded to the former trustee's rights and obligations concerning the trust existing at the time of assumption of office by a new trustee or administrator.
- (3) The provisions of the preceding two paragraphs do not preclude the effect of an act performed by the former trustee, the administrator of trust property, or

the incorporated trust property administrator within their authority before the new trustee assumes office.

- (4) The provisions of Article 27 apply mutatis mutandis to cases in which the former trustee performs an act that does not fall within their authority before the new trustee or administrator assumes office.
- (5) If the former trustee (including the former trustee's heir; hereinafter the same applies in this Article) assumes the liability under the provision of Article 40, or if a director, company director, executive officer, or any other person equivalent to them (hereinafter collectively referred to as the "director, etc." in this paragraph) of the former trustee that is a corporation assumes the liability under the provision of Article 41, the new trustee or administrator, or the incorporated trust property administrator may make a claim under the provisions of Article 40 or Article 41 against the former trustee, or the director, etc.
- (6) If the former trustee may receive reimbursement of expenses and interest or compensation for damages from trust property, or may receive trust fees from the trust property, the former trustee may make a demand against the new trustee or administrator, or the incorporated trust property administrator for reimbursement of expenses and interest, compensation for damages, or payment of trust fees; provided, however, that the new trustee or administrator, or the incorporated trust property administrator is liable for the performance of the obligation by only using the property that comes under trust property.
- (7) The provisions of Article 48, paragraph (4) and Article 49, paragraphs (6) and (7) apply mutatis mutandis to the right that the former trustee holds pursuant to the provisions of the preceding paragraph.
- (8) Proceedings for enforcement, execution of provisional seizure or provisional disposition, exercise of a security right, or an auction which has already been commenced against property that comes under trust property before the new trustee assumes office, may be continued against the new trustee.
- (9) The former trustee may retain property that comes under trust property until the former trustee receives payment of the claim regarding the demand under the provisions of paragraph (6).

(Liabilities of Former Trustees and New Trustees for Obligations Succeeded to)
Article 76 (1) Even if obligations regarding trust claims are succeeded to by a new trustee pursuant to the provisions of paragraph (1) or (2) of the preceding Article, the former trustee is liable to perform the obligations succeeded to using the former trustee's own property; provided, however, that this does not apply if the former trustee is liable to only use property that comes under trust property to perform those obligations.

(2) When the new trustee has succeeded to the obligations prescribed in the main clause of the preceding paragraph, the new trustee is liable to only use property that comes under trust property to perform those obligations.

(Transfer of Trust Affairs from Former Trustees to New Trustees)

Article 77 (1) When the new trustee or administrator assumes office, the former trustee must, without delay, settle the accounts on trust affairs and request approval for the settlement of accounts from a beneficiary (if there are two or more beneficiaries at the time in question, from all of them; if there is a trust administrator at the time in question, from the trust administrator), and must transfer the trust affairs required in order for the new trustee or administrator to administer those affairs.

(2) If the beneficiary (if there is a trust administrator at the time in question, the trust administrator; the same applies in the following paragraph) has approved the settlement of accounts referred to in the preceding paragraph, the former trustee is deemed to have been exempted from the liability to the beneficiary to transfer trust affairs under the provisions of that paragraph; provided, however, that this does not apply if the former trustee has committed misconduct in performing the duties.

(3) If the beneficiary has not made any objection within one month from the time when the beneficiary was requested by the former trustee to give an approval for the settlement of accounts referred to in paragraph (1), the beneficiary is deemed to have approved the settlement of accounts referred to in that paragraph.

(Transfer of Trust Affairs from Former Trustee's Heirs or Equivalent Persons, or Bankruptcy Trustees to New Trustees)

Article 78 The provisions of the preceding Article apply mutatis mutandis to the former trustee's heir, etc. if the trustee's duties have terminated due to the grounds set forth in Article 56, paragraph (1), item (i) or (ii), and to the bankruptcy trustee if the trustee's duties have terminated due to the grounds set forth in item (iii) of that paragraph.

Section 6 Special Provisions on Trusts with Two or More Trustees

(Joint Ownership of Trust Property)

Article 79 In the case of a trust with two or more trustees, the trust property is to be held under joint ownership.

(Means of Administering Trust Affairs)

Article 80 (1) In the case of a trust with two or more trustees, decisions on the

administration of trust affairs are made by the majority of the trustees.

- (2) Notwithstanding the provisions of the preceding paragraph, decisions on an act of preservation may be made by each trustee independently.
- (3) If a decision is made on the trust affairs pursuant to the provisions of the preceding two paragraphs, each trustee may execute trust affairs based on that decision.
- (4) Notwithstanding the provisions of the preceding three paragraphs, if the terms of trust contain a clause concerning the division of duties among the trustees, each trustee makes decisions on the trust affairs and executes the affairs pursuant to the clause.
- (5) With regard to an act to be performed in the interest of the trust property based on the decision on the trust affairs made under the provisions of the preceding two paragraphs, each trustee has the authority to represent other trustees.
- (6) Notwithstanding the provisions of the preceding paragraphs, if it is otherwise provided for by the terms of trust, the clause prevails.
- (7) In the case of a trust with two or more trustees, it is sufficient for a third party to make a manifestation of intention to any one of them; provided, however, that if it is otherwise provided for by the terms of trust concerning a manifestation of intention by a beneficiary, the clause prevails.

(Standing to Sue or to Be Sued of Trustees with Separated Duties)

Article 81 In the case prescribed in paragraph (4) of the preceding Article, each trustee stands as a plaintiff or a defendant in a suit against the trust property on behalf of the other trustees with respect to their duties.

(Entrustment to Other Trustees to Make Decisions on Trust Affairs)

Article 82 In the case of a trust with two or more trustees, each trustee may not entrust other trustees to make decisions on trust affairs (excluding those falling under ordinary business), except when it is otherwise provided for by the terms of trust or there is a compelling reason to do so.

(Assumption of Obligations in Administering Trust Affairs)

Article 83 (1) In the case of a trust with two or more trustees, if each trustee has assumed an obligation to a third party in administering trust affairs, each trustee is to be a joint and several obligor.

- (2) Notwithstanding the provisions of the preceding paragraph, if the terms of trust contain a clause concerning the division of duties among the trustees, and one of the trustees has assumed an obligation to a third party in administering trust affairs pursuant to the clause in the terms of trust, other trustees are liable to perform the obligation only by using property that comes under trust

property; provided, however, that if the third party knew at the time of the act that is the cause of the assumption of the obligation that the act was performed in administering trust affairs and that there were two or more trustees for the trust, and did not know and was not negligent in failing to know that the terms of trust contained a clause concerning the division of duties among the trustees, the other trustees may not assert this against the third party.

(Special Provisions on Division of Property in Co-ownership Which Is Both Trust Property and Trustee's Own Property)

Article 84 For the purpose of applying the provisions of Article 19 to a trust with two or more trustees, the phrase "If a co-ownership interest in a specific property that belongs to a trustee comes under both the trust property and the trustee's own property" in paragraph (1) of that Article is deemed to be replaced with "If a co-ownership interest in a specific property that belongs to a trustee comes under both the trust property and the trustee's own property, and there are two or more trustees for the trust regarding the trust property"; the term "trustee" in paragraph (1), item (ii) of that Article is deemed to be replaced with "trustee whose own property includes co-ownership interests"; the term "trustee" in paragraph (1), item (iii) of that Article is deemed to be replaced with "trustee whose own property includes co-ownership interests"; the term "trustee" in paragraph (2) of that Article is deemed to be replaced with "trustee whose own property includes co-ownership interests"; the phrase "If a co-ownership interest in a specific property that belongs to a trustee comes under both the trust property and the trust property of another trust" in paragraph (3) of that Article is deemed to be replaced with "If a co-ownership interest in a specific property that belongs to a trustee comes under both the trust property and the trust property of another trust, and there are two or more trustees for the trust or another trust regarding the trust property"; in paragraph (3), item (iii) of the that Article, the term "trustees" is deemed to be replaced with "trustees to whom the co-ownership interests for each trust property belong" and the phrase "based on a decision by the trustees" is deemed to be replaced with "based on a deliberation between the trustees"; and in paragraph (4) of that Article, the term "item (ii)" is deemed to be replaced with "item (ii) or item (iii)."

(Special Provisions on Trustee's Liability)

Article 85 (1) In the case of a trust with two or more trustees, if two or more trustees assumes the liability under the provisions of Article 40 for performing an act in breach of their duties, the trustees who have performed that act are to be joint and several obligors.

(2) For the purpose of applying the provisions of Article 40, paragraph (1) and

Article 41 to a trust with two or more trustees, the term "beneficiary" in these provisions is deemed to be replaced with "beneficiary or other trustees".

- (3) In the case of a trust with two or more trustees, and any of those trustees is exempted from the liability under the provisions of Article 40 or Article 41 pursuant to the provisions of Article 42, other trustees may not file a claim to hold the person who should assume the liability pursuant to the provisions of Article 40 or Article 41 liable; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (4) For the purpose of applying the provisions of Article 44 to a trust with two or more trustees, the term "beneficiary" in paragraph (1) of that Article is deemed to be replaced with "beneficiary or other trustees" and the term "those beneficiaries" in paragraph (2) of that Article is deemed to be replaced with "those beneficiaries or other trustees".

(Special Provisions on Change of Trustees)

- Article 86 (1) For the purpose of applying the provisions of Article 59 to a trust with two or more trustees, the term "beneficiary" in paragraph (1) of that Article is deemed to be replaced with "beneficiary and other trustees" and the phrase "a trustee's duties" in paragraphs (3) and (4) of that Article is deemed to be replaced with "all trustees' duties".
- (2) For the purpose of applying the provisions of Article 60 to a trust with two or more trustees, the term "beneficiary" in paragraph (1) of that Article is deemed to be replaced with "beneficiary and other trustees" and the phrase "a trustee's duties" in paragraphs (2) and (4) of that Article is deemed to be replaced with "all trustees' duties".
 - (3) For the purpose of applying the provisions of Article 74, paragraph (1) to a trust with two or more trustees, the phrase "a trustee's duties" in that paragraph is deemed to be replaced with "all trustees' duties".
 - (4) In the case of a trust with two or more trustees, notwithstanding the provisions of Article 75, paragraphs (1) and (2), when one of the trustees' duties have terminated due to any of the grounds set forth in the items of Article 56, paragraph (1), other trustees succeed to the rights and obligations concerning the trust existing at of the time of termination of the duties and performs those duties; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(Special Provisions on Termination of Trusts)

- Article 87 (1) For the purpose of applying the provisions of Article 163, item (iii) to a trust with two or more trustees, the phrase "if the trust lacks a trustee" in that item is deemed to be replaced with "if the trust lacks all of its trustees".
- (2) In the case of a trust with two or more trustees, the trust also terminates

when the trust lacks some of the trustees and the duties of that trustee are not performed by other trustees pursuant to the provisions of the proviso to paragraph (4) of the preceding Article and a new trustee has not assumed office for one year.

Chapter IV Beneficiaries

Section 1 Acquisition and Exercise of Rights by Beneficiaries

(Acquisition of Beneficial Interest)

Article 88 (1) A person designated by the clause of the terms of trust as the person who is to be a beneficiary (including a person designated as an initial beneficiary or as a new beneficiary as a result of the exercise of the right to designate or change beneficiaries prescribed in paragraph (1) of the following Article) automatically acquires a beneficial interest; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(2) If a person designated as the person who is to be a beneficiary prescribed in the preceding paragraph does not know that the person has acquired the beneficial interest pursuant to the provisions of that paragraph, the trustee must notify that person of that fact without delay; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(Right to Designate or Change Beneficiaries)

Article 89 (1) In the case of a trust that establishes the persons who have the right to designate or change a beneficiary (hereinafter referred to as the "right to designate or change a beneficiary" in this Article), the right to designate or change a beneficiary is exercised by manifesting an intention to do so to the trustee.

(2) Notwithstanding the provisions of the preceding paragraph, the right to designate or change a beneficiary may be exercised through a will.

(3) If the right to designate or change a beneficiary is exercised through a will pursuant to the provisions of the preceding paragraph, and the trustee does not know that fact, the acquisition of the status of a beneficiary through the exercise of that right may not be asserted against the trustee.

(4) If the person who was the beneficiary has lost the beneficial interest as a result of the exercise of the right to change a beneficiary, the trustee must notify that person of that fact without delay; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(5) The right to designate or change a beneficiary is not succeeded to through inheritance; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(6) For the purpose of applying the provisions of paragraph (1) to cases in which

the person who has the right to designate or change a beneficiary is a trustee, the term "trustee" in that paragraph is deemed to be replaced with "person who is to be a beneficiary".

(Special Provisions on Trusts that Provide for Acquisition of Beneficial Interest upon the Death of a Settlor)

Article 90 (1) In the case of the trusts set forth in each of the following items, a settlor referred to in each of those items has the right to change a beneficiary; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails:

(i) a trust establishing that a person designated as the person who is to be a beneficiary acquires a beneficial interest at the time of the settlor's death; and

(ii) a trust establishing that a beneficiary receives distribution of trust property after the time of the settlor's death.

(2) The beneficiary referred to in item (ii) of the preceding paragraph does not have the right as a beneficiary until the settlor referred to in that item dies; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(Special Provisions on Trusts Establishing Acquisition of New Beneficial Interest by Another Person upon the Death of a Beneficiary)

Article 91 A trust establishing that upon a beneficiary's death the beneficial interest held by the beneficiary is extinguished and another person acquires a new beneficial interest (including provisions that upon the death of the predecessor beneficiary, another person acquires a beneficial interest as the successor beneficiary) is effective from the time an existing beneficiary acquires a beneficial interest pursuant to the clause after 30 years have elapsed since the trust was created until the beneficiary dies, or until that beneficial interest is extinguished.

(Prohibition of Exercise of Rights by a Beneficiary by the Clause of the Terms of Trust)

Article 92 The beneficiary's exercise of the following rights may not be restricted by the clause of the terms of trust:

(i) the right to file a petition with the court pursuant to the provisions of this Act;

(ii) the right to make a demand pursuant to the provisions of Article 5, paragraph (1);

(iii) the right to assert an objection pursuant to the provisions of Article 23, paragraph (5) or (6);

- (iv) the right to demand payment pursuant to the provisions of Article 24, paragraph (1);
- (v) the right to rescind pursuant to the provisions of Article 27, paragraph (1) or (2) (including as applied mutatis mutandis pursuant to Article 75, paragraph (4));
- (vi) the right to rescind pursuant to the provisions of Article 31, paragraph (6) or (7);
- (vii) the right to request a report pursuant to the provisions of Article 36;
- (viii) the right to request to inspect or copy materials pursuant to the provisions of Article 38, paragraph (1) or (6);
- (ix) the right to demand compensation for a loss or restoration of the trust property pursuant to the provisions of Article 40;
- (x) the right to demand compensation for a loss or restoration of the trust property pursuant to the provisions of Article 41;
- (xi) the right to demand a cessation pursuant to the provisions of Article 44;
- (xii) the right to demand payment pursuant to the provisions of Article 45, paragraph (1);
- (xiii) the right to demand a cessation pursuant to the provisions of Article 59, paragraph (5);
- (xiv) the right to demand a cessation pursuant to the provisions of Article 60, paragraph (3) or (5);
- (xv) the right to demand payment pursuant to the provisions of Article 61, paragraph (1);
- (xvi) the right to make a demand pursuant to the provisions of Article 62, paragraph (2);
- (xvii) the right to waive a beneficial interest pursuant to the provisions of Article 99, paragraph (1);
- (xviii) the beneficiary's right to demand that the trustee acquire the beneficial interest pursuant to the provisions of Article 103, paragraph (1) or (2);
- (xix) the right to make a demand pursuant to the provisions of Article 131, paragraph (2);
- (xx) the right to make a demand pursuant to the provisions of Article 138, paragraph (2);
- (xxi) the right to request the delivery of documents or provision of records pursuant to the provisions of Article 187, paragraph (1);
- (xxii) the right to request to inspect or copy materials pursuant to the provisions of Article 190, paragraph (2);
- (xxiii) the right to request that a particular be entered or recorded in the register pursuant to the provisions of Article 198, paragraph (1)
- (xxiv) the right to demand compensation of money or payment of money pursuant to the provisions of Article 226, paragraph (1);

(xxv) the right to demand compensation of money or payment of money pursuant to the provisions of Article 228, paragraph (1); and
(xxvi) the right to demand compensation for a loss pursuant to the provisions of Article 254, paragraph (1).

Section 2 Beneficial Interest

Subsection 1 Transfer of Beneficial Interest

(Transferability of Beneficial Interest)

Article 93 (1) A beneficiary may transfer beneficial interest to another person; provided, however, that this does not apply if the nature of the beneficiary's interest does not permit this.

(2) Notwithstanding the provisions of the preceding paragraph, the clause of the terms of trust that prohibits or restricts the transfer of a beneficial interest (hereinafter referred to as "clause of restriction on transfer" in this paragraph) may be asserted against a transferee or other third party who knew or was grossly negligent in failing to know that the clause of restriction on transfer was provided.

(Requirements for Perfection of Transfer of Beneficial Interest)

Article 94 (1) Transfer of a beneficial interest may not be asserted against a trustee or other third party unless the transferor notifies the trustee of the transfer or the trustee consents to the transfer.

(2) The notice and the consent referred to in the preceding paragraph may not be asserted against a third party other than a trustee unless they are made by means of an instrument bearing a certified date.

(Trustee's Defense upon Transfer of Beneficial Interest)

Article 95 A trustee may assert against the transferee any grounds that have arisen in relation to the transferor before the notice or consent referred to in paragraph (1) of the preceding Article is given.

(Requirements for Perfection of Succession of Beneficial Interest in Joint Inheritance)

Article 95-2 If a beneficial interest is succeeded to by inheritance and a coheir who succeeded to the beneficial interest in excess of the inheritance share calculated pursuant to Article 900 and Article 901 of the Civil Code notifies the trustee of the inheritance by clarifying the content of the will regarding the beneficial interest (if the beneficial interest is succeeded to by division of inheritance property, the content of the division of inheritance property regarding the beneficial interest), all of the coheirs are deemed to have notified

the trustee, and the provisions of Article 899-2, paragraph (1) of the Civil Code apply.

(Pledges of Beneficial Interest)

Article 96 (1) A beneficiary may create a pledge on a beneficial interest; provided, however, that this does not apply if the nature of the beneficial interest does not permit the pledge.

(2) Notwithstanding the provisions of the preceding paragraph, the clause of the terms of trust that prohibit or restrict pledge of a beneficial interest (hereinafter referred to as "clause of restriction on pledge" in this paragraph) may be asserted against a pledgee or other third party who knew or was grossly negligent in failing to know that the clause of restriction on pledge was provided.

(Effect of Pledge of a Beneficial Interest)

Article 97 A pledge on a beneficial interest exists on the following money or property (meaning money or other property; hereinafter the same applies in this Article and the following Article):

- (i) money or other property that the beneficiary who holds the beneficial interest has received from the trustee as distribution of trust property;
- (ii) money or other property that the beneficiary who holds the beneficial interest receives as a result of the demand that the trustee acquire the beneficial interest prescribed in Article 103, paragraph (6);
- (iii) money or other property that the beneficiary who holds the beneficial interest receives through the consolidation of beneficial interests or split of a beneficial interest as a result of a modification of the trust;
- (iv) money or other property that the beneficiary who holds the beneficial interest receives through the consolidation or split of trust (meaning consolidation of trusts or split of a trust; the same applies hereinafter); and
- (v) beyond what is set forth in the preceding items, money or other property that the beneficiary who holds the beneficial interest receives in lieu of that beneficial interest.

Article 98 (1) A pledgee of beneficial interest may receive money or other property referred to in the preceding Article (limited to money) and appropriate them for payment of their claim in preference to other creditors.

(2) Before the claim referred to in the preceding paragraph becomes due, the pledgee of a beneficial interest may have the trustee deposit an amount equivalent to the money or other property prescribed in that paragraph. In such a case, the pledge exists on those deposited money.

Subsection 2 Waiver of Beneficial Interest

Article 99 (1) A beneficiary may manifest an intention to waive a beneficial interest to a trustee; provided, however, that this does not apply if the beneficiary is a party to the terms of trust.

(2) If a beneficiary has made the manifestation of intention pursuant to the provisions of the preceding paragraph, the beneficiary is deemed to have never held the beneficial interest; provided, however, that this may not prejudice a third party's rights.

Subsection 3 Beneficial Claims

(Trustee's Liability for Beneficial Claims)

Article 100 A trustee is liable to only use property that comes under trust property to perform obligations underlying beneficial claims.

(Relationship between Beneficial Claims and Trust Claims)

Article 101 A beneficial claim is subordinated to trust claims.

(Limitation to the Period of Beneficial Claims)

Article 102 (1) Except for the particulars specified in the following paragraph and paragraph (3), the extinctive prescription of a beneficial claim is governed by the provisions on the extinctive prescription for claims.

(2) The extinctive prescription of a beneficial claim does not begin to run until the beneficiary becomes aware that they have been designated as a beneficiary (if there is no beneficiary at the time in question, until the trust administrator is appointed).

(3) The extinctive prescription of a beneficial claim may be invoked only in the following cases:

(i) if the trustee, without delay after the expiration of the period of extinctive prescription, notifies the beneficiary of the existence and content of the beneficial claim by specifying a reasonable period of time and does not receive the beneficiary's request for performance within that period; or

(ii) if, after the expiration of the period of extinctive prescription, the beneficiary's whereabouts are unknown, or if there are legitimate grounds for not giving the beneficiary the notice under the provisions of the preceding item, in light of the clauses of the terms of trust, the status of the beneficiary, the loss of relevant materials, or other circumstances.

(4) A beneficial claim is extinguished when 20 years have elapsed since it became possible to exercise that claim.

Subsection 4 Beneficiary's Right to Demand that the Trustee Acquire the Beneficial Interest

(Beneficiary's Right to Demand That the Trustee Acquire the Beneficial Interest)

Article 103 (1) If modification is to be made to a trust regarding the following particulars (referred to as a "material modification to the trust" in paragraph (3)), a beneficiary who is likely to suffer damages from the modification may demand that the trustee acquire the beneficial interest of the beneficiary at a fair price; provided, however, that if modification of a trust is to be made regarding the particulars set forth in item (i) or item (ii), it is not necessary for the beneficiary to be in risk of suffering damages from the modification :

- (i) a change in purpose of the trust;
- (ii) restrictions on the transfer of a beneficial interest;
- (iii) a reduction or exemption of trustee's obligation in whole or in part (excluding the case in which the terms of trust contain clauses on the scope of the reduction or exemption and the means of making decisions on the reduction or exemption);
- (iv) a change in the content of a beneficial claim (excluding the case in which the terms of trust contain clauses on the scope of the change and the means of making decisions on the change); and
- (v) the particulars provided for by the terms of trust.

(2) If a trust is to be consolidated or split, a beneficiary who is likely to suffer from damages from the consolidation or split may demand that the trustee acquire the beneficial interest of the beneficiary at a fair price; provided, however, that if the consolidation or split of the trust is to involve a modification of the trust regarding the particulars set forth in item (i) or (ii) of the preceding paragraph, it is not necessary for the beneficiary to be in risk of suffering damages from the consolidation or split.

(3) If the beneficiary referred to in the preceding two paragraphs is involved in the decision to make a material modification to the trust or implement a consolidation of trusts or a split of a trust (hereinafter referred to as the "material modification to, or consolidation or split of the trust" in this Chapter), and has manifested the intention to approve the material modification to, or consolidation or split of the trust in making the decision, the provisions of the preceding two paragraphs do not apply to that beneficiary.

(4) The trustee must notify the beneficiary of the following particulars within 20 days from the date of the decision on the material modification to, or consolidation or split of the trust has been made:

- (i) a statement to the effect that the material modification to, or consolidation or split of the trust is to be made;

- (ii) the day on which the material modification to, consolidation or split of the trust becomes effective (referred to as the "effective day" in paragraph (1) of the following Article); and
 - (iii) conditions for canceling the material modification to, consolidation or split of the trust, if any such conditions are specified.
- (5) Public notice in the Official Gazette may be given in lieu of the notice pursuant to the provisions of the preceding paragraph.
- (6) A demand under the provisions of paragraph (1) or paragraph (2) (hereinafter referred to as the "demand that the trustee acquire the beneficial interest" in this Subsection) must be made within 20 days from the date of the notice under the provisions of paragraph (4) or the date of the public notice under the provisions of the preceding paragraph, by disclosing the content of the beneficial interest subject to the demand that the trustee acquire the beneficial interest.
- (7) The beneficiary who has made the demand that the trustee acquire the beneficial interest may withdraw the demand that the trustee acquire the beneficial interest only if they have obtained approval from the trustee.
- (8) If the material modification to, consolidation or split of the trust is cancelled, the beneficiary's demand that the trustee acquire the beneficial interest ceases to be effective.

(Determination of Price of Beneficial Interest)

- Article 104 (1) When a beneficiary's demand that the trustee acquire the beneficial interest has been made, if an agreement is reached between the trustee and the beneficiary on the determination of the price of the beneficial interest, the trustee must pay that price before 60 days have elapsed from the date the demand that the trustee acquire the beneficial interest has been made (or the effective day if it has not arrived by that date).
- (2) If an agreement is not reached on the determination of the price of the beneficial interest within 30 days from the date the demand that the trustee acquire the beneficial interest has been made, the trustee or the beneficiary may file a petition with the court to determine the price within 30 days after the 30-day period has elapsed.
- (3) In making a decision to determine the price pursuant to the provisions of the preceding paragraph, the court must hear the statements of the persons who are entitled to file the petition referred to in that paragraph.
- (4) The judicial decision on the petition referred to in paragraph (2) must include the reasons for that decision.
- (5) Only the petitioner and an person entitled to file a petition referred to in paragraph (2) may file an immediate appeal against the judicial decision on the determination of the price under the provisions of that paragraph.

- (6) The immediate appeal referred to in the preceding paragraph has the effect of a stay of enforcement.
- (7) Notwithstanding the provisions of paragraph (7) of the preceding Article, in the case prescribed in paragraph (2), if a petition referred to in that paragraph has not been made within 60 days from the date the demand that the trustee acquire the beneficial interest has been made, the beneficiary may withdraw the demand that the trustee acquire the beneficial interest at any time after the expiration of that period.
- (8) The trustee referred to in paragraph (1) must also pay the interest on the price determined by the court for the period from the date on which the period referred to in that paragraph has elapsed.
- (9) The trustee may pay the amount that the trustee finds to be a fair price to the beneficiary until the price of the beneficial interest is determined.
- (10) The acquisition of the beneficial interest by the trustee as a result of the demand that the trustee acquire the beneficial interest comes into effect at the time the money equivalent to the price of the beneficial interest is paid.
- (11) If a demand that the trustee acquire the beneficial interest is made with regard to a beneficial interest for which a beneficiary certificate (meaning a beneficiary certificate prescribed in Article 185, paragraph (1); hereinafter the same applies in this Chapter) is issued, money equivalent to the price of the beneficial interest to be acquired as a result of the demand that the trustee acquire the beneficial interest must be paid in exchange for the beneficiary certificate.
- (12) The trustee is liable to only use property that comes under trust property to perform obligations regarding the beneficiary's demand that the trustee acquire the beneficial interest; provided, however, that if it is otherwise provided for by the terms of trust or by the decision to make material modification, consolidation or split to the trust, the clause or decision prevails.
- (13) If the trustee has acquired the beneficial interest pursuant to the provisions of paragraph (1) or (2) of the preceding Article, the beneficial interest is extinguished; provided, however, that if it is otherwise provided for by the terms of trust or by the decision to make material modification, consolidation or split of the trust, the clause or decision prevails.

**Section 3 Special Provisions on Means of Decision Making Involving Two
or More Beneficiaries**
Subsection 1 General Provisions

Article 105 (1) In the case of a trust with two or more beneficiaries, the beneficiaries' decisions (excluding decisions on the exercise of the rights set forth in the items of Article 92) are made with the unanimous agreement of all

beneficiaries; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (2) In the case referred to in the proviso to the preceding paragraph, if it is provided in the terms of trust that the beneficiaries' decisions are to be made by a majority vote at a beneficiaries meeting, the provisions of the following Subsection apply; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (3) Notwithstanding the provisions of the proviso to paragraph (1) or the preceding paragraph, provisions of the terms of trust on the means of making decisions on exemption from liability under the provisions of Article 42 comes into effect only if it is provided that the means are to be a majority vote at the beneficiaries meeting as prescribed in the following Subsection.
- (4) The provisions of the proviso to paragraph (1) and the preceding two paragraphs do not apply to exemption from liability set forth as follows:
 - (i) a total exemption from liability pursuant to the provisions of Article 42;
 - (ii) a partial exemption from liability pursuant to the provisions of Article 42, item (i) (limited to liability arising from the trustee acting in bad faith or with gross negligence in performing their duties); and
 - (iii) a partial exemption from liability pursuant to the provisions of Article 42, item (ii).

Subsection 2 Beneficiaries Meetings

(Convocation of Beneficiaries Meetings)

Article 106 (1) Beneficiaries meetings may be convened at any time as necessary.

- (2) Beneficiaries meetings are convened by a trustee (if there is a trust supervisor at the time in question, the trustee or the trust supervisor).

(Beneficiary's Request for Convocation)

Article 107 (1) A beneficiary may request that a trustee (if there is a trust supervisor at the time in question, the trustee or the trust supervisor) convene a beneficiaries meeting by indicating the matters that are the purpose of the beneficiaries meeting and the reasons for the convocation.

- (2) In the following cases, when significant harm to the trust property is likely to occur, the beneficiary who has made the request pursuant to the provisions of the preceding paragraph may convene a beneficiaries meeting:
 - (i) if convocation procedures are not conducted after the request under the provisions of the preceding paragraph was made, without delay; or
 - (ii) if a notice of convocation of a beneficiaries meeting that designates a day falling within a period of eight weeks from the date of the request under the provisions of the preceding paragraph is made as the date of the beneficiaries

meeting, is not issued.

(Decision to Convene Beneficiaries Meetings)

Article 108 A person who convenes a beneficiaries meeting (hereinafter referred to as the "convener" in this Subsection) must specify the following particulars when convening the beneficiaries meeting:

- (i) the date and venue of the beneficiaries meeting;
- (ii) if there is any matter that is the purpose of the beneficiaries meeting, that matter;
- (iii) if there is an arrangement in which a beneficiary who does not attend the beneficiaries meeting is entitled to exercise their vote by an electronic or magnetic means (meaning a means of using an electronic data processing system or any other means of using information and communications technology that is specified by Order of the Ministry of Justice; hereinafter the same applies in this Subsection), a statement to that effect; and
- (iv) beyond what is set forth in the preceding three items, any particulars specified by Order of the Ministry of Justice.

(Notice of Convocation of Beneficiaries Meetings)

Article 109 (1) In order to convene a beneficiaries meeting, a convener must give a notice in writing to the known beneficiary and trustee (if there is a trust supervisor at the time in question, to the known beneficiary, trustee, and trust supervisor) by no later than two weeks prior to the date of the beneficiaries meeting.

- (2) In lieu of giving the notice in writing referred to in the preceding paragraph, the convener may give the notice by electronic or magnetic means with the consent of the persons who are to receive the notice referred to in that paragraph, as prescribed by Cabinet Order. In such a case, the convener is deemed to have given the notice in writing referred to in that paragraph.
- (3) The particulars set forth in the items of the preceding Article must be entered or recorded in the notice referred to in the preceding two paragraphs.
- (4) In order to convene a beneficiaries meeting when bearer certificates of beneficial interest are issued, the convener must give public notice in the Official Gazette of the fact that a beneficiaries meeting is being convened and the particulars set forth in the items of the preceding Article, by no later than three weeks prior to the date of the beneficiaries meeting.

(Delivery of Reference Documents for the Beneficiaries Meeting and Voting Forms)

Article 110 (1) Upon giving a notice referred to in paragraph (1) of the preceding Article, a convener must deliver to the known beneficiaries documents stating

the particulars which would serve as reference information for exercising voting rights (hereinafter referred to as the "reference documents for beneficiaries meeting" in this Article) and documents for the beneficiaries to exercise their voting rights (hereinafter referred to as the "voting form" in this Subsection), as provided for by Order of the Ministry of Justice.

- (2) If the convener gives the notice by electronic or magnetic means referred to in paragraph (2) of the preceding Article to the beneficiaries who have given their consent referred to in that paragraph, the convener may provide information on the particulars that are required to be entered in those documents by electronic or magnetic means in lieu of delivering the reference documents for beneficiaries meeting and the voting form under the provisions of the preceding paragraph; provided, however, that when requested by a beneficiary, the convener must deliver those documents to the beneficiary.
- (3) If the convener has given public notice under the provisions of paragraph (4) of the preceding Article, and the convener is requested by a beneficiary of a bearer beneficial interest (meaning a beneficial interest for which a bearer certificate of beneficial interest is issued; the same applies in Chapter VIII) by one week prior to the date of the beneficiaries meeting, the convener must immediately deliver the reference documents for beneficiaries meeting and the voting form to that beneficiary.
- (4) In lieu of delivering the reference documents for beneficiaries meeting and the voting form under the provisions of the preceding paragraph, with the consent of the beneficiary and as provided for by Cabinet Order, a convener may provide information that are required to be stated in those documents by electronic or magnetic means. In such a case, the convener is deemed to have delivered the documents under the provisions of that paragraph.

Article 111 (1) If the convener has specified the particulars set forth in Article 108, item (iii), in giving the notice by electronic or magnetic means to the beneficiary who has given their consent referred to in Article 109, paragraph (2), the convener must provide the beneficiaries with the information that are required to be stated in the voting form by electronic or magnetic means, as provided for by Order of the Ministry of Justice.

- (2) If the convener has specified the particulars set forth in Article 108, item (iii), and the convener is requested by a beneficiary who has not given the consent referred to in Article 109, paragraph (2) to provide the information on the particulars that are required to be stated in the voting form by electronic or magnetic means by no later than one week prior to the date of the beneficiaries meeting, the convener must immediately provide the beneficiary with the information on those particulars by electronic or magnetic means.

(Voting Rights of Beneficiaries)

Article 112 (1) Beneficiaries have voting rights at beneficiaries meetings according to the particulars specified in the following items for the cases set forth in the respective items:

- (i) if the content of each beneficial interest is equal: the number of beneficial interests: or
 - (ii) in cases other than the case set forth in the preceding item: the price of beneficial interest at the time of the decision to convene a beneficiaries meeting.
- (2) Notwithstanding the provisions of the preceding paragraph, if a beneficial interest belongs to the trust property of the trust regarding the beneficial interest, the trustee has no voting rights for that beneficial interest.

(Resolutions at Beneficiaries Meetings)

Article 113 (1) A resolution at a beneficiaries meeting is adopted by a majority of the votes of the beneficiaries present, and the beneficiaries who are present at the meeting hold a majority of the voting rights of all the beneficiaries who are entitled to exercise their voting rights.

(2) Notwithstanding the provisions of the preceding paragraph, a resolution at a beneficiaries meeting concerning each of the following matters must be adopted at a meeting in which the beneficiaries who hold a majority of the voting rights of all the beneficiaries who are entitled to exercise their voting rights are present and by at least a two-thirds majority of the votes of the beneficiaries present:

- (i) an exemption from liability pursuant to the provisions of Article 42 (excluding an exemption set forth in each item of Article 105, paragraph (4));
 - (ii) an agreement prescribed in Article 136, paragraph (1), item (i);
 - (iii) an agreement prescribed in Article 143, paragraph (1), item (i);
 - (iv) an agreement prescribed in Article 149, paragraph (1) or paragraph (2), item (i), or a manifestation of intention prescribed in paragraph (3) of that Article;
 - (v) an agreement prescribed in Article 151, paragraph (1) or paragraph (2), item (i);
 - (vi) an agreement prescribed in Article 155, paragraph (1) or paragraph (2), item (i);
 - (vii) an agreement prescribed in Article 159, paragraph (1) or paragraph (2), item (i); and
 - (viii) an agreement prescribed in Article 164, paragraph (1).
- (3) Notwithstanding the provisions of the preceding two paragraphs, a resolution at a beneficiaries meeting concerning the material modification to, consolidation or split of the trust related to the particulars set forth in Article

103, paragraph (1), items (ii) through (iv) (for the particulars set forth in item (iv), excluding a particular that would change the balance among beneficiaries) must be adopted by at least half of the beneficiaries who are entitled to exercise their voting rights at that beneficiaries meeting, and by at least a two-thirds majority of the votes of those beneficiaries.

- (4) Notwithstanding the provisions of the preceding three paragraphs, a resolution at a beneficiaries meeting concerning the material modification to, consolidation or split of the trust related to the particulars set forth in Article 103, paragraph (1), item (i) or (iv) (for the particulars set forth in item (iv), limited to a particular that would change the balance among beneficiaries) must be adopted by at least half of all of the beneficiaries, and by at least a three-fourths majority of the votes of all beneficiaries.
- (5) A beneficiaries meeting may not adopt a resolution on a particulars other than the particular set forth in Article 108, item (ii).

(Exercise of Voting Rights by Proxy)

Article 114 (1) A beneficiary may exercise the voting rights by proxy. In such a case, the beneficiary or the proxy must submit a document certifying the authority to act as proxy to the convener.

- (2) The authority to act as proxy referred to in the preceding paragraph must be granted at each beneficiaries meeting.
- (3) In lieu of submitting the document certifying the authority to act as proxy, the beneficiary or the proxy referred to in paragraph (1) may provide the information that are required to be stated in the document by electronic or magnetic means as provided for by Cabinet Order, with the approval of the convener. In such a case, the beneficiary or the proxy is deemed to have submitted the document.
- (4) The convener may not refuse to give the approval referred to in the preceding paragraph to the beneficiary who has given the consent as set forth in Article 109, paragraph (2), without legitimate grounds.

(Exercise of Voting Rights in Writing)

Article 115 (1) A beneficiary who does not attend a beneficiaries meeting may exercise the voting rights in writing.

- (2) The exercise of voting rights in writing is performed by entering the necessary particulars in the voting form and submitting the voting form stating the particulars to the convener by the time specified by Order of the Ministry of Justice.
- (3) Voting rights exercised in writing pursuant to the provisions of the preceding paragraph are deemed to be voting rights exercised by voting right holders present at the meeting.

(Exercise of Voting Rights by Electronic or Magnetic Means)

Article 116 (1) Exercise of voting rights by electronic or magnetic means is performed by providing the convener with the information that are required to be stated in the voting form by electronic or magnetic means by the time specified by Order of the Ministry of Justice as prescribed by Cabinet Order, with the consent of the convener.

(2) The convener may not refuse to give the consent referred to in the preceding paragraph to the beneficiary who has given the consent referred to in Article 109, paragraph (2), without legitimate grounds.

(3) The voting rights exercised by electronic or magnetic means pursuant to the provisions of paragraph (1) are deemed to be voting rights exercised by voting right holders present at the meeting.

(Diverse Exercise of Voting Rights)

Article 117 (1) Beneficiaries may exercise their voting rights diversely. In such a case, that fact and the reasons for the diversity must be notified to the convener by no later than three days prior to the date of a beneficiaries meeting.

(2) If the beneficiary referred to in the preceding paragraph is not a person who holds a beneficial interest on behalf of another person, the convener may refuse to allow the beneficiary to diversely exercise the voting rights they hold pursuant to the provisions of that paragraph.

(Attendance of Trustees)

Article 118 (1) A trustee (for a trustee that is a corporation, their representative or agent; the same applies in the following paragraph) may attend a beneficiaries meeting or state their opinion in writing.

(2) If it is found to be necessary, a beneficiaries meeting or a convener may demand that the trustee attend the meeting. In such a case, a resolution to demand the attendance must be adopted at the beneficiaries meeting.

(Resolution for Postponement or Continuation)

Article 119 If a resolution is adopted at a beneficiaries meeting for the postponement or continuation of that meeting, the provisions of Article 108 and Article 109 do not apply.

(Minutes of Meeting)

Article 120 A convener must prepare the minutes of the proceedings of a beneficiaries meeting as specified by Order of the Ministry of Justice.

(Effect of Resolutions at Beneficiaries Meetings)

Article 121 A resolution made at a beneficiaries meeting takes effect for all beneficiaries of the trust.

(Bearing of Expenses for Beneficiaries Meetings)

Article 122 (1) A person who has paid the expenses necessary for a beneficiaries meeting may demand the reimbursement of the expenses from a trustee.

(2) The trustee is liable to only use property that comes under trust property to perform the obligation regarding the demand under the provisions of the preceding paragraph.

Section 4 Trust Administrator and Other Persons

Subsection 1 Trust Administrator

(Appointment of Trust Administrators)

Article 123 (1) A clause may be established in the terms of trust to designate a person who is to be the trust administrator if there is no beneficiary at the time in question.

(2) If the terms of trust contain a clause that designate a particular person to be the trust administrator, an interested party may specify a reasonable period of time and make a demand to the person designated as the person who is to be the trust administrator to give a definite answer on whether the person will assume office within that period of time; provided, however, that if the clause is subject to a condition precedent or a designated time of commencement, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.

(3) If the demand under the provisions of the preceding paragraph has been made and the person designated as the person who is to be the trust administrator fails to give a definite answer to a settlor (if there is no settlor at the time in question, to a trustee) within the period referred to in that paragraph, it is deemed that the person has not accepted the assumption of office.

(4) If there is no beneficiary at the time in question, and the terms of trust contain no clause concerning a trust administrator or if the person designated by the clause of the terms of trust as the person who is to be the trust administrator does not accept or is unable to accept the assumption of office, the court may appoint a trust administrator upon petition of an interested party.

(5) If a judicial decision on the appointment of a trust administrator has been made pursuant to the provisions of the preceding paragraph, it is deemed that the provisions referred to in paragraph (1) were established in the terms of trust with regard to the trust administrator.

- (6) The judicial decision on the petition referred to in paragraph (4) must include the reasons for that decision.
- (7) Only the settlor or the trustee, or the trust administrator already existing at the time in question, may file an immediate appeal against the judicial decision on the appointment of a trust administrator pursuant to the provisions of paragraph (4).
- (8) The immediate appeal referred to in the preceding paragraph has the effect of a stay of enforcement.

(Qualification of Trust Administrators)

Article 124 The following persons may not serve as a trust administrator:

- (i) a minor; and
- (ii) a person who is the trustee of the trust in question.

(Authority of Trust Administrators)

- Article 125 (1) A trust administrator has the authority to conduct any and all acts in or out of court in their own name on behalf of a beneficiary in connection with the beneficiary's rights; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (2) If there are two or more trust administrators, they must jointly perform acts within their authority; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
 - (3) If there is a trust administrator, any notice required to be given to a beneficiary pursuant to the provisions of this Act must be given to the trust administrator.

(Obligations of Trust Administrators)

- Article 126 (1) A trust administrator must exercise the authority referred to in paragraph (1) of the preceding Article with the due care of a prudent manager.
- (2) A trust administrator must exercise the authority referred to in paragraph (1) of the preceding Article sincerely and impartially on behalf of the beneficiary.

(Expenses and Remuneration of Trust Administrators)

- Article 127 (1) A trust administrator may demand from a trustee the expenses that are found to be necessary for the administration of the trust affairs and their interest that has accrued from the date of payment.
- (2) In the following cases, a trust administrator may demand compensation from the trustee for the amount of damages specified in the respective items:
 - (i) if a trust administrator has suffered any damages in administering the trust affairs without their negligence: the amount of those damages; or
 - (ii) if a trust administrator has suffered any damages in administering the

trust affairs through an intentional or a negligent act of a third party (excluding the case set forth in the preceding item): the amount of compensation that may be demanded from the third party.

- (3) In addition to the case to which the provisions of Article 512 of the Commercial Code apply, a trust administrator may demand remuneration from the trustee only if it is provided for by the terms of trust that the trust administrator is entitled to receive remuneration.
- (4) The trustee is liable to only use property that comes under trust property to perform an obligation regarding the demands under the provisions of the preceding three paragraphs.
- (5) In the case referred to in paragraph (3), if the terms of trust contain a clause on the amount of remuneration or its calculation means, the amount of remuneration is to be determined pursuant to the clause, and if there is no such clause, the amount is to be a reasonable amount.
- (6) If the court has appointed a trust administrator pursuant to the provisions of Article 123, paragraph (4), it may determine the remuneration for the trust administrator.
- (7) If a judicial decision on the remuneration for the trust administrator pursuant to the provisions of the preceding paragraph is made, it is deemed that the provisions of paragraph (3) and the clause on the amount of remuneration referred to in paragraph (5) was contained in the terms of trust with regard to that trust administrator.
- (8) Before the court makes the judicial decision on the remuneration for the trust administrator pursuant to the provisions of paragraph (6), it must hear the statements of the trustee and the trust administrator.
- (9) Only the trustee or the trust administrator may file an immediate appeal against the judicial decision on the remuneration for the trust administrator pursuant to the provisions of paragraph (6).

(Termination of Trust Administrator's Duties)

- Article 128 (1) The provisions of Article 56 apply mutatis mutandis to the termination of a trust administrator's duties. In such a case, the term "the following Article" in paragraph (1), item (v) of that Article is deemed to be replaced with "the following Article as applied mutatis mutandis pursuant Article 128, paragraph (2)" and the term "Article 58" in item (vi) of that paragraph is deemed to be replaced with "Article 58 as applied mutatis mutandis pursuant to Article 128, paragraph (2)".
- (2) The provisions of Article 57 apply mutatis mutandis to the resignation of a trust administrator, and the provisions of Article 58 apply mutatis mutandis to the dismissal of a trust administrator.

(Appointment of New Trust Administrators)

Article 129 (1) The provisions of Article 62 apply mutatis mutandis to the appointment of a new trust administrator (referred to as the "new trust administrator" in the following paragraph) in cases in which a trust administrator's duties have terminated pursuant to the provisions of the items of Article 56, paragraph (1) as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article.

(2) If a new trust administrator assumes office, the person who has been the trust administrator must transfer the affairs necessary for the new trust administrator to administer the affairs to the new trust administrator.

(3) If the person who has been the trust administrator referred to in the preceding paragraph learns of the person who has become the beneficiary after the beneficiary has come into existence, the person who has been the trust administrator must make a report to the person who has become the beneficiary on the process and results of the trust affairs without delay.

(Termination of Administration of Affairs by Trust Administrators)

Article 130 (1) Administration of affairs by a trust administrator terminates on the following grounds; provided, however, that in the case of termination on the grounds set forth in item (ii), if it is otherwise provided for by the terms of trust, the clause prevails:

(i) a beneficiary has come into existence;

(ii) a settlor has manifested the intention to terminate the administration of affairs to the trust administrator; or

(iii) any grounds provided for by the terms of trust.

(2) If the administration of affairs by the trust administrator has terminated pursuant to the provisions of the preceding paragraph, the person who has been the trust administrator must make a report to the beneficiary on the process and results of the affairs without delay; provided, however, that this applies only if the person who has been the trust administrator learns of the person who has become the beneficiary after the beneficiary came into existence.

Subsection 2 Trust Supervisors

(Appointment of Trust Supervisors)

Article 131 (1) A clause may be established in the terms of trust to designate a person who is to be a trust supervisor when there is a beneficiary at the time in question.

(2) If the terms of trust contain a clause to designate a person to be a trust supervisor, an interested party may specify a reasonable period of time and

make a demand to the person designated as the person who is to be the trust supervisor to give a definite answer on whether the person will assume office within that period of time; provided, however, that if the clause is subject to a condition precedent or a designated time of commencement, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.

- (3) If the demand under the provisions of the preceding paragraph has been made, and the person designated as the person who is to be the trust supervisor fails to give a definite answer to a settlor (if there is no settler at the time in question, to a trustee) within the period set forth in that paragraph, it is deemed that the person has not accepted the assumption of office.
- (4) If there are special circumstances in which a beneficiary is unable to supervise a trustee appropriately, if the terms of trust contain no clause concerning a trust supervisor, or if the person designated by the clause of the terms of trust as the person who is to be the trust supervisor does not accept or is unable to accept the assumption of office, the court may appoint a trust supervisor upon petition of an interested party.
- (5) If a judicial decision on the appointment of a trust supervisor under the provisions of the preceding paragraph has been made, it is deemed that the provisions referred to in paragraph (1) were established in the terms of trust with regard to the trust supervisor.
- (6) The judicial decision on the petition referred to in paragraph (4) must include the reasons for that decision.
- (7) Only the settlor, the trustee or the beneficiary, or the trust supervisor at the time in question may file an immediate appeal against the judicial decision on the appointment of the trust supervisor pursuant to the provisions of paragraph (4).
- (8) The immediate appeal set forth in the preceding paragraph has the effect of a stay of enforcement.

(Authority of Trust Supervisors)

Article 132 (1) A trust supervisor has the authority to perform any and all acts in or out of court in their own name on behalf of a beneficiary in connection with the rights set forth in the items of Article 92 (excluding item (xvii), item (xviii), item (xxi) and item (xxiii)); provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (2) If there are two or more trust supervisors, they must perform acts within their authority jointly; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(Obligations of Trust Supervisors)

- Article 133 (1) A trust supervisor must exercise the authority referred to in paragraph (1) of the preceding Article with the due care of a prudent manager.
- (2) A trust supervisor must exercise the authority referred to in paragraph (1) of the preceding Article sincerely and impartially on behalf of the beneficiary.

(Termination of Trust Supervisor's Duties)

- Article 134 (1) The provisions of Article 56 apply mutatis mutandis to the termination of a trust supervisor's duties. In such a case, the term "the following Article" in paragraph (1), item (v) of that Article is deemed to be replaced with "the following Article as applied mutatis mutandis pursuant Article 134, paragraph (2)" and the term "Article 58" in item (vi) of that paragraph is deemed to be replaced with "Article 58 as applied mutatis mutandis pursuant to Article 134, paragraph (2)".
- (2) The provisions of Article 57 apply mutatis mutandis to the resignation of a trust supervisor, and the provisions of Article 58 apply mutatis mutandis to the dismissal of a trust supervisor.

(Appointment of New Trust Supervisors)

- Article 135 (1) The provisions of Article 62 apply mutatis mutandis to the appointment of a new trust supervisor (hereinafter referred to as the "new trust supervisor" in the following paragraph) in cases in which a trust supervisor's duties have terminated pursuant to the provisions of the items of Article 56, paragraph (1) as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article.
- (2) If the new trust supervisor assumes office, the person who has been the trust supervisor must make a report to the beneficiary on the process and results of the trust affairs, and transfer the affairs necessary for the new trust supervisor to administer the affairs to the new trust supervisor without delay.

(Termination of Administration of Affairs by Trust Supervisors)

- Article 136 (1) Administration of affairs by a trust supervisor terminates on the following grounds, in addition to the completion of the liquidation of the trust; provided, however, that in the case of the termination on the grounds set forth in item (i), if it is otherwise provided for by the terms of trust, the clause prevails:
- (i) a settlor and a beneficiary have agreed to terminate the administration of affairs by the trust supervisor; or
 - (ii) any grounds provided for by the terms of trust.
- (2) If the administration of affairs by the trust supervisor has terminated pursuant to the provisions of the preceding paragraph, the person who has been the trust supervisor must make a report to the beneficiary on the process

and results of the trust affairs without delay.

- (3) The provisions of paragraph (1), item (i) do not apply if there is no settlor at the time in question.

(Application, Mutatis Mutandis of Provisions on Trust Administrators)

Article 137 The provisions of Article 124 and Article 127 apply mutatis mutandis to a trust supervisor. In such a case, the term "Article 123, paragraph (4)" in Article 127, paragraph (6) is deemed to be replaced with "Article 131, paragraph (4)".

Subsection 3 Beneficiary's Agent

(Appointment of Beneficiary's Agent)

Article 138 (1) A clause may be established in the terms of trust to designate a person who is to be a beneficiary's agent, by specifying the beneficiary or beneficiaries for whom the person is to act as an agent.

- (2) If the terms of trust contain a clause designating a person to be a beneficiary's agent, an interested party may specify a reasonable period of time and make a demand to the person designated as the person who is to be the beneficiary's agent to give a definite answer on whether the person will assume office within that period of time; provided, however, that if the clause subject to a condition precedent or a designated time of commencement, this may only be done after the condition precedent is fulfilled or after the time of commencement arrives.

- (3) If the demand under the provisions of the preceding paragraph has been made, and the person designated as the person who is to be the beneficiary's agent fails to give a definite answer to a settlor (if there is no settlor at the time in question, to a trustee) within the period set forth in that paragraph, it is deemed that the person has not accepted the assumption of office.

(Authority of the Beneficiary's Agent)

Article 139 (1) A beneficiary's agent has the authority to perform any and all acts in or out of court on behalf of a beneficiary or beneficiaries for whom they act as an agent in connection with their rights (excluding the rights regarding an exemption from liability under the provisions of Article 42); provided, however, that if it is otherwise provided for by the terms of act, the clause prevails.

- (2) If the beneficiary's agent performs an act in or out of court on behalf of the beneficiary or beneficiaries for whom they act as an agent, it is sufficient for the agent to indicate the scope of the beneficiaries whom the agent represents.
- (3) If there are two or more beneficiary's agents for a single beneficiary, they

must perform the acts within their authority jointly; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (4) If there is a beneficiary's agent, the beneficiary or beneficiaries represented by the beneficiary's agent may not exercise their rights, except for the rights set forth in the items of Article 92 and the rights provided for by the terms of trust .

(Obligations of Beneficiary's Agent)

Article 140 (1) A beneficiary's agent must exercise the authority referred to in paragraph (1) of the preceding Article with the due care of a prudent manager.

- (2) A beneficiary's agent must exercise the authority referred to in paragraph (1) of the preceding Article sincerely and impartially on behalf of the beneficiary or beneficiaries for whom they act as an agent.

(Termination of Beneficiary's Agent's Duties)

Article 141 (1) The provisions of Article 56 apply mutatis mutandis to the termination of a beneficiary's agent's duties. In such a case, the term the "the following Article" in paragraph (1), item (v) of that Article is deemed to be replaced with "the following Article as applied mutatis mutandis pursuant Article 141, paragraph (2) " and the term "Article 58" in item (vi) of that paragraph is deemed to be replaced with "Article 58 as applied mutatis mutandis pursuant to Article 141, paragraph (2)".

- (2) The provisions of Article 57 apply mutatis mutandis to the resignation of a beneficiary's agent, and the provisions of Article 58 apply mutatis mutandis to the dismissal of a beneficiary's agent.

(Appointment of a New Beneficiary's Agent)

Article 142 (1) The provisions of Article 62 apply mutatis mutandis to the appointment of a new beneficiary's agent (hereinafter referred to as the "new beneficiary's agent" in the following paragraph) in cases in which a beneficiary's agent's duties have terminated pursuant to the provisions of the items of Article 56, paragraph (1) as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article. In such a case, the term "an interested party" in Article 62, paragraphs (2) and (4) is deemed to be replaced with "the settlor or a beneficiary represented by the beneficiary's agent".

- (2) If a new beneficiary's agent assumes office, the person who has been the beneficiary's agent must make a report to the beneficiary or beneficiaries whom the person who has been the agent represented on the process and results of the trust affairs, and transfer the affairs necessary for the new beneficiary's agent to administer the affairs to the new beneficiary's agent without delay.

(Termination of Administration of Affairs by a Beneficiary's Agent)

Article 143 (1) Administration of affairs by a beneficiary's agent terminates on the following grounds, in addition to the completion of the liquidation of the trust; provided, however, that in the case of termination on the grounds set forth in item (i), if it is otherwise provided for by the terms of trust, the clause prevails:

(i) a settlor and a beneficiary or beneficiaries represented by the beneficiary's agent have agreed to terminate the administration of affairs by a beneficiary's agent; or

(ii) any grounds provided for by the terms of trust .

(2) If the administration of affairs by the beneficiary's agent has terminated pursuant to the provisions of the preceding paragraph, the person who has been the beneficiary's agent must make a report to the beneficiary or beneficiaries whom the agent has represented on the process and results of the affairs without delay.

(3) The provisions of paragraph (1), item (i) do not apply when there is no settlor at the time in question.

(Application, Mutatis Mutandis of Provisions on Trust Administrators)

Article 144 The provisions of Article 124 and Article 127, paragraphs (1) through (5) apply mutatis mutandis to a beneficiary's agent.

Chapter V Settlor

(Settlor's Rights)

Article 145 (1) The clause of terms of trust may establish that a settlor does not have all or part of the rights under the provisions of this Act.

(2) The clause of terms of trust may also establish that a settlor has all or part of the following rights:

(i) the right to assert an objection pursuant to the provisions of Article 23, paragraph (5) or (6);

(ii) the right to rescind pursuant to the provisions of Article 27, paragraph (1) or (2) (including as applied mutatis mutandis pursuant to Article 75, paragraph (4));

(iii) the right to rescind pursuant to the provisions of Article 31, paragraph (6) or (7);

(iv) the right pursuant to the provisions of Article 32, paragraph (4);

(v) the right to request to inspect or copy materials pursuant to the provisions of Article 38, paragraph (1);

(vi) the right to request disclosure pursuant to the provisions of Article 39,

- paragraph (1);
 - (vii) the right to demand compensation for a loss or restoration of the trust property pursuant to the provisions of Article 40;
 - (viii) the right to demand compensation for a loss or restoration of the trust property pursuant to the provisions of Article 41;
 - (ix) the right to demand a cessation pursuant to the provisions of Article 44;
 - (x) the right to file a petition for the appointment of an inspector pursuant to the provisions of Article 46, paragraph (1);
 - (xi) the right to demand a cessation pursuant to the provisions of Article 59, paragraph (5);
 - (xii) the right to demand a cessation pursuant to the provisions of Article 60, paragraph (3) or (5);
 - (xiii) the right to demand compensation or payment of money pursuant to the provisions of Article 226, paragraph (1);
 - (xiv) the right to demand compensation or payment of money pursuant to the provisions of Article 228, paragraph (1); and
 - (xv) the right to demand compensation for a loss pursuant to the provisions of Article 254, paragraph (1).
- (3) For the purpose of the application of the provisions of Article 24, Article 45 (including as applied *mutatis mutandis* pursuant to Article 226, paragraph (6), Article 228, paragraph (6), and Article 254, paragraph (3)), or Article 61 to cases for which the clauses of the terms of trust referred to in the preceding paragraph are established for the rights set forth in item (i), items (vii) through (ix), or items (xi) through (xv) of that paragraph, the term "beneficiary" in those provisions is deemed to be replaced with "settlor or beneficiary".
- (4) The provisions of terms of trust may establish that a trustee is to assume the following obligations:
- (i) the obligation to notify the settlor of the particulars which the trustee is required to notify the beneficiary (if there is a trust administrator at the time in question, the trust administrator; the same applies in the following item) pursuant to the provisions of this Act;
 - (ii) the obligation to make a report to the settlor of the particulars which the trustee is required report to the beneficiary pursuant to the provisions of this Act; and
 - (iii) the obligation to request that the settlor give an approval for the settlement of accounts for which the trustee is required to request the beneficiary to give an approval pursuant to the provisions of Article 77, paragraph (1) or Article 184, paragraph (1).
- (5) For the purpose of the application of the provisions of paragraph (1), paragraph (2), and the preceding paragraph to a trust with two or more

settlor, the term "settlor" in those provisions is deemed to be replaced with "all or some of the settlors".

(Transfer of Status as Settlor)

Article 146 (1) The status of settlor may be transferred to a third party with the consent of a trustee and a beneficiary or by the means provided for by the terms of trust.

(2) For the purpose of the application of the provisions of the preceding paragraph to a trust with two or more settlors, the phrase "a trustee and a beneficiary" in that paragraph is deemed to be replaced with "other settlors, a trustee, and a beneficiary".

(Settlor's Heir in Testamentary Trust)

Article 147 If a trust is created by the means set forth in Article 3, item (ii), the settlor's heir does not succeed to the status of settlor by inheritance; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(Special Provisions on Trusts with Provisions on Acquisition of Beneficial Interest upon the Death of a Settlor)

Article 148 In the case of a trust set forth in each of the items of Article 90, paragraph (1), when there is no beneficiary for the trust at the time in question or no beneficiary has the rights as beneficiary pursuant to the provisions of Article 90, paragraph (2), the settlor has the rights set forth in each of the items of Article 145, paragraph (2), and the trustee assumes the obligations set forth in each of the items of paragraph (4) of that Article; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

Chapter VI Modification, Consolidation, and Split of Trusts

Section 1 Modification of Trust

(Agreement among Relevant Parties)

Article 149 (1) A trust may be modified by the agreement among a settlor, a trustee, and a beneficiary. In such a case, the content of the terms of trust after the modification must be disclosed in making the modification.

(2) Notwithstanding the provisions of the preceding paragraph, in the cases set forth in the following items, a trust may be modified by the means specified in the respective items. In such a case, the trustee must give a notice of the content of the terms of trust after the modification to the settlor in the case set forth in item (i), and to the settlor and the beneficiary in the case set forth in item (ii), without delay:

- (i) if it is obvious that the modification is not contrary to the purpose of the trust: an agreement between the trustee and the beneficiary; or
 - (ii) if it is obvious that the modification is not contrary to the purpose of the trust and conforms to the interests of the beneficiary: the trustee's manifestation of intention by a document or electronic or magnetic record.
- (3) Notwithstanding the provisions of the preceding two paragraphs, in the cases set forth in the following items, a trust may be modified by the persons specified in the respective items manifesting their intention to do so to the trustee. In such a case, in the case set forth in item (ii), the trustee must notify the settlor of the content of the terms of trust after the modification without delay:
- (i) if it is obvious that the modification will not harm the interests of the trustee: the settlor and the beneficiary; or
 - (ii) if it is obvious that the modification is not contrary to the purpose of the trust and will not harm the interests of the trustee: the beneficiary.
- (4) Notwithstanding the provisions of the preceding three paragraphs, if it is otherwise provided for by the terms of trust, the clause prevails.
- (5) If there is no settlor at the time in question, the provisions of paragraph (1) and paragraph (3), item (i) do not apply, and the phrase "to the settlor in the case set forth in item (i), and to the settlor and the beneficiary in the case set forth in item (ii)" in paragraph (2) is deemed to be replaced with "to the beneficiary in the case set forth in item (ii)".

(Judicial Decision Ordering Modification of Trust Due to Special Circumstances)

- Article 150 (1) If, due to special circumstances that were unforeseeable at the time of the terms of trust, the clause of the terms of trust concerning the means of administration of trust affairs no longer conforms to the interests of a beneficiary in light of the purpose of a trust, the status of trust property, and other circumstances, the court may order a modification of the trust upon petition of a settlor, a trustee or a beneficiary.
- (2) The petition referred to in the preceding paragraph must be filed by disclosing the clause of the terms of trust after the modification related to that petition.
 - (3) Before the court makes the judicial decision on the petition referred to in paragraph (1), it must hear the statements of the trustee; provided, however, that this does not apply when the court makes the judicial decision to dismiss the petition as unlawful or clearly groundless.
 - (4) The judicial decision on the petition referred to in paragraph (1) must include a summary of the reasons for that decision.
 - (5) Only the settlor, the trustee, or the beneficiary may file an immediate appeal

- against the judicial decision on the petition referred to in paragraph (1).
- (6) The immediate appeal referred to in the preceding paragraph has the effect of a stay of enforcement.

Section 2 Consolidation of Trusts

(Agreement among Relevant Parties)

Article 151 (1) A consolidation of trusts may be implemented by the agreement among settlors, trustees, and beneficiaries of each of the previous trusts. In such a case, the consolidation must be implemented by clarifying the following particulars:

- (i) the content of the terms of trust after the consolidation of trusts;
 - (ii) if there is any change in the content of the beneficial interest provided for by the terms of trust, the content and the reasons for the change;
 - (iii) if money or other property is delivered to a beneficiary in the consolidation of trusts, the content and value of that property;
 - (iv) the day on which the consolidation of trusts comes into effect; and
 - (v) other particulars specified by Order of the Ministry of Justice.
- (2) Notwithstanding the provisions of the preceding paragraph, in the cases set forth in the following items, trusts may be consolidated by the means specified in the respective items. In such a case, the trustee must give a notice of the particulars set forth in the items of the preceding paragraph to the settlor in the case set forth in item (i) and to the settlor and the beneficiary in the case set forth in item (ii), without delay:
- (i) if it is obvious that the consolidation is not contrary to the purpose of the trust: an agreement between the trustee and the beneficiary; and
 - (ii) if it is obvious that the consolidation is not contrary to the purpose of the trust and conforms to the interests of the beneficiary: the trustee's manifestation of intention in a document or electronic or magnetic record.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if it is otherwise provided for in each of the terms of trust, the clause prevails.
- (4) If there is no settlor at the time in question, the provisions of paragraph (1) do not apply, and the phrase "to the settlor in the case set forth in item (i), and to the settlor and the beneficiary in the case set forth in item (ii)" in paragraph (2) is deemed to be replaced with "to the beneficiary in the case set forth in item (ii)".

(Objections by Creditors)

Article 152 (1) If a consolidation of trusts is to be implemented, creditors who hold claims regarding obligations covered by the trust property of the previous trusts may state their objections to the trustees with regard to the

consolidation of trusts; provided, however, that this does not apply if there is no risk of those creditors being harmed by the consolidation of trusts.

- (2) If all or some of the creditors referred to in the preceding paragraph may state their objections pursuant to the provisions of that paragraph, the trustee must give public notice of the following particulars in the Official Gazette, and must separately demand this to the known creditors set forth in that paragraph; provided, however, that the period set forth in item (ii) may not be shorter than one month:
- (i) a statement to the effect that the consolidation of trusts is to be implemented;
 - (ii) a statement to the effect that the creditors referred to in the preceding paragraph may state their objections within a certain period of time; and
 - (iii) other particulars specified by Order of the Ministry of Justice.
- (3) Notwithstanding the provisions of the preceding paragraph, a trustee that is a corporation may substitute public notice (limited to public notice given by the following means) for the separate demand to the creditors pursuant to the provisions of that paragraph:
- (i) publication in a daily newspaper that publishes particulars on current events; or
 - (ii) electronic public notice (meaning, among the means of public notice, a means of taking measures to make the information that must be given in a public notice available to many and unspecified persons by electronic or magnetic means (meaning an electronic or magnetic means as defined in Article 2, item (xxxiv) of the Companies Act (Act No. 86 of 2005), which is prescribed in that item; the same applies in the following Section)).
- (4) If a creditor referred to in paragraph (1) do not state an objection within the period referred to in paragraph (2), item (ii), the creditor is deemed to have accepted the consolidation of trusts.
- (5) If a creditor referred to in paragraph (1) states their objections within the period referred to in paragraph (2), item (ii), the trustee must make payment or provide reasonable security to the creditor, or must entrust reasonable property to a trust company or financial institution (meaning a trust company and a financial institution engaging in trust business (meaning a financial institution authorized under Article 1, paragraph (1) of the Act on Engagement in Trust Business Activities by Financial Institutions (Act No. 43 of 1943)); the same applies in the following Section) for the purpose of having those creditors receive payment; provided, however, that this does not apply if there is no risk of the creditor being harmed by the consolidation of trusts.

(Scope of Obligations Covered by the Trust Property after Consolidation of Trusts)

Article 153 If trusts are consolidated, the obligations covered by the trust property of the previous trusts becomes obligations covered by trust property after the consolidation of trusts.

Article 154 If trusts are consolidated, the obligations covered only by the trust property (meaning obligations covered by the trust property which a trustee is liable only by using property that comes under trust property; hereinafter the same applies in this Chapter) among obligations covered by the trust property with regard to the previous trusts prescribed in the preceding Article, becomes obligations covered only by the trust property after the consolidation of trusts.

Section 3 Split of a Trust

Subsection 1 Absorption-Type Trust Splits

(Agreement among Relevant Parties)

Article 155 (1) An absorption-type trust split may be implemented by an agreement among a settlor, a trustee, and a beneficiary. In such a case, the following particulars must be disclosed:

- (i) the content of the terms of trust after the absorption-type trust split;
- (ii) if there is any change in the content of the beneficial interest provided for by the terms of trust, the content and the reasons for the change;
- (iii) if money or other property is delivered to a beneficiary in the absorption-type trust split, the content and value of that property;
- (iv) the day on which the absorption-type trust split comes into effect;
- (v) the content of the property to be transferred;
- (vi) if there is an obligation that ceases to be an obligation covered by the trust property of the trust that transfers a part of its trust property to another trust (hereinafter referred to as the "split trust" in this Subsection) and becomes an obligation covered by the trust property of the other trust to which the part of the trust property is transferred (hereinafter referred to as the "succeeding trust") as a result of the absorption-type trust split, the particulars concerning that obligation; and
- (vii) other particulars specified by Order of the Ministry of Justice.

(2) Notwithstanding the provisions of the preceding paragraph, in the cases set forth in the following items, an absorption-type trust split may be implemented by the means specified in the respective items. In such a case, the trustee must give notice of the particulars set forth in the items of the preceding paragraph to the settlor in the case set forth in item (i) and to the settlor and the beneficiary in the case set forth in item (ii), without delay:

- (i) if it is obvious that the split is not contrary to the purpose of the trust: an agreement between the trustee and the beneficiary; or

- (ii) if it is obvious that the split is not contrary to the purpose of the trust and conforms to the interests of the beneficiary: the trustee's manifestation of intention in a document or electronic or magnetic record.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if it is otherwise provided for in each of the terms of trust, the clause prevails.
- (4) If there is no settlor at the time in question, the provisions of paragraph (1) do not apply, and the phrase "to the settlor in the case set forth in item (i) and to the settlor and the beneficiary in the case set forth in item (ii)" in paragraph (2) is deemed to be replaced with "to the beneficiary in the case set forth in item (ii)".

(Objections by Creditors)

- Article 156 (1) If an absorption-type trust split is to be implemented, creditors who hold claims regarding obligations covered by the trust property of the split trust or the succeeding trust may state their objections to the trustee with regard to the absorption-type trust split; provided, however, that this does not apply if there is no risk of those creditors being harmed by the absorption-type trust split.
- (2) If all or some of the creditors referred to in the preceding paragraph may state their objections pursuant to the provisions of that paragraph, the trustee must give public notice of the following particulars in the Official Gazette, and must separately demand this to the known creditors set forth in that paragraph; provided, however, that the period referred to in item (ii) may not be shorter than one month:
 - (i) a statement to the effect that the absorption-type trust split is to be implemented;
 - (ii) a statement to the effect that the creditors referred to in the preceding paragraph may state their objections within a certain period of time; and
 - (iii) other particulars specified by Order of the Ministry of Justice.
 - (3) Notwithstanding the provisions of the preceding paragraph, the trustee that is a corporation may substitute public notice (limited to public notice given by the following means) for the separate demand to the creditors pursuant to the provisions of that paragraph:
 - (i) publication in a daily newspaper that publishes particulars on current events; or
 - (ii) electronic public notice.
 - (4) If any of the creditors referred to in paragraph (1) do not state an objection within the period referred to in paragraph (2), item (ii), the creditor is deemed to have accepted the absorption-type trust split.
 - (5) If any of the creditors set forth in paragraph (1) states their objections within the period referred to in paragraph (2), item (ii), the trustee must make

payments or provide reasonable security to the creditor, or must entrust reasonable property to a trust company or financial institution for the purpose of having the creditor receive payment; provided, however, that this does not apply if there is no risk of the creditor being harmed by the absorption-type trust split.

(Scope of Obligations Covered by the Trust Property of Split Trust and Succeeding Trust after Absorption-type Trust Splits)

Article 157 If an absorption-type trust split is implemented, the obligation referred to in Article 155, paragraph (1), item (vi) ceases to be an obligation covered by the trust property of the split trust after the absorption-type trust split, and becomes an obligation covered by the trust property of the succeeding trust after the absorption-type trust split. In such a case, an obligation that was an obligation covered only by the trust property of the split trust becomes an obligation covered only by the trust property of the succeeding trust.

Article 158 If a creditor who may state an objection pursuant to the provisions of Article 156, paragraph (1) (limited to creditors to whom separate demand must be made pursuant to the provisions of paragraph (2) of that Article) has not received a demand referred to in paragraph (2) of that Article, based on the claim which the creditor has held since before the absorption-type trust split and which falls under any of the following items, the creditor may also demand that the trustee perform the obligation regarding that claim by using the property specified in the respective items; provided, however, that for the property specified in item (i), limited to the value of the property to be transferred to the succeeding trust on of the day on which the absorption-type trust split comes into effect, and for the property specified in item (ii), limited to the value of the trust property of the split trust on that day.

(i) a claim regarding an obligation covered by the trust property of the split trust (excluding claims regarding the obligation referred to in Article 155, paragraph (1), item (vi)): property that comes under trust property of the succeeding trust after the absorption-type trust split; or

(ii) a claim regarding an obligation covered by the trust property of the succeeding trust (limited to claims regarding the obligation referred to in Article 155, paragraph (1), item (vi)): property that comes under trust property of the split trust after the absorption-type trust split.

Subsection 2 Creation-Type Trust Splits

(Agreement Among the Relevant Parties)

Article 159 (1) A creation-type trust split may be implemented by an agreement

among a settlor, a trustee and a beneficiary. In such a case, the following particulars must be disclosed:

- (i) the content of the terms of trust after the creation-type trust split;
 - (ii) if there is a change in the content of the beneficial interest provided for by the terms of trust, the content and the reasons for the change;
 - (iii) if money or other property is delivered to a beneficiary in the creation-type trust split, the content and value of that property;
 - (iv) the day on which the creation-type trust split comes into effect;
 - (v) the content of the property to be transferred;
 - (vi) if there is an obligation that ceases to be an obligation covered by the trust property of the previous trust and becomes an obligation covered by the trust property of the new trust as a result of the creation-type trust split, the particulars concerning that obligation; and
 - (vii) other particulars specified by Order of the Ministry of Justice.
- (2) Notwithstanding the provisions of the preceding paragraph, in the cases set forth in the following items, a creation-type trust split may be implemented by the means specified in the respective items. In such a case, the trustee must give notice of the particulars set forth in the items of that paragraph to the settlor in the case set forth in item (i) and to the settlor and the beneficiary in the case set forth in item (ii), without delay:
- (i) if it is obvious that the split is not contrary to the purpose of the trust: an agreement between the trustee and the beneficiary; or
 - (ii) if it is obvious that the split is not contrary to the purpose of the trust and conforms to the interests of the beneficiary: the trustee's manifestation of intention in a document or electronic or magnetic record.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if it is otherwise provided for in each terms of trust, the clause prevails.
- (4) If there is no settlor at the time in question, the provisions of paragraph (1) do not apply, and the phrase "to the settlor in the case set forth in item (i) and to the settlor and the beneficiary in the case set forth in item (ii)" in paragraph (2) is deemed to be replaced with "to the beneficiary in the case set forth in item (ii)".

(Objections by Creditors)

- Article 160 (1) If a creation-type trust split is to be implemented, creditors who hold claims regarding obligations covered by the trust property of the previous trust may state their objections to the trustee with regard to the creation-type trust split; provided, however, that this does not apply if there is no risk of those creditors being harmed by the creation-type trust split.
- (2) If all or some of the creditors set forth in the preceding paragraph may state their objections pursuant to the provisions of that paragraph, the trustee must

give public notice of the following particulars in the Official Gazette, and must separately demand this to the known creditors set forth in that paragraph; provided, however, that the period referred to in item (ii) may not be shorter than one month:

- (i) a statement to the effect that the creation-type trust split is to be implemented;
 - (ii) a statement to the effect that the creditors referred to in the preceding paragraph may state their objections within a certain period of time; and
 - (iii) other particulars specified by Order of the Ministry of Justice.
- (3) Notwithstanding the provisions of the preceding paragraph, the trustee that is a corporation may substitute public notice (limited to public notice given by the following means) for the separate demand to the creditors pursuant to the provisions of that paragraph:
- (i) publication in a daily newspaper that publishes particulars on current events; or
 - (ii) electronic public notice.
- (4) If any of the creditors referred to in paragraph (1) do not state an objection within the period referred to in paragraph (2), item (ii), the creditor is deemed to have accepted the creation-type trust split.
- (5) If any of the creditors referred to in paragraph (1) states an objection within the period referred to in paragraph (2), item (ii), the trustee must make payments or provide reasonable security to the creditor, or must entrust reasonable property to a trust company or financial institution for the purpose of having the creditor receive payment; provided, however, that this does not apply if there is no risk of the creditors being harmed by the creation-type trust split.

(Scope of Obligations Covered by the Trust Property of a Previous Trust and of a New Trust after a Creation-Type Trust Split)

Article 161 If a creation-type trust split is implemented, the obligation referred to in Article 159, paragraph (1), item (vi) ceases to be an obligation covered by the trust property of the previous trust after the creation-type trust split, and becomes an obligation covered by the trust property of the new trust after the creation-type trust split. In such a case, an obligation that was an obligation covered only by the trust property of the previous trust becomes an obligation covered only by the trust property of the new trust.

Article 162 If a creditor who may state an objection pursuant to the provisions of Article 160, paragraph (1) (limited to creditors to whom separate demand must be made pursuant to the provisions of paragraph (2) of that Article) has not received the demand referred to in paragraph (2) of that Article, based on a

claim which the creditor has held since before the creation-type trust split and which falls under any of the following items, the creditor may also demand that the trustee perform the obligation regarding the claim by using the property specified in the respective items; provided, however, that for the property specified in item (i), limited to the value of the trust property of the new trust on the day on which the creation-type trust split comes into effect, and for the property specified in item (ii), limited to the value of the trust property of the previous trust on that day:

- (i) a claim regarding an obligation covered by the trust property of the previous trust (excluding a claim regarding the obligation referred to in Article 159, paragraph (1), item (vi)): property that comes under trust property of the new trust after the creation-type trust split; or
- (ii) a claim that has become a claim regarding an obligation covered by the trust property of the new trust (limited to a claim regarding the obligation referred to in Article 159, paragraph (1), item (vi)): property that comes under trust property of the previous trust after the creation-type trust split.

Chapter VII Termination and Liquidation of Trusts

Section 1 Termination of Trusts

(Grounds for Termination of Trusts)

Article 163 Beyond what is provided for in the provisions of the following Article, a trust terminates in the following cases:

- (i) if the purpose of the trust has been achieved or it is no longer possible to achieve the purpose of the trust;
- (ii) if the trustee has continued to hold all beneficial interests as the trustee's own property for one year;
- (iii) if the trust lacks a trustee and the position has not been filled with a new trustee for one year;
- (iv) if the trustee has terminated the trust pursuant to the provisions of Article 52 (including as applied mutatis mutandis pursuant to Article 53, paragraph (2) and Article 54, paragraph (4));
- (v) if a consolidation of trusts has been implemented;
- (vi) if a judicial decision ordering the termination of the trust has been rendered pursuant to the provisions of Article 165 or Article 166;
- (vii) if an order of commencement of bankruptcy proceedings against the trust property has been given;
- (viii) if the settlor is given an order of commencement of bankruptcy proceedings, an order of commencement of rehabilitation proceedings, or an order of the commencement of reorganization proceedings, and the trust agreement is cancelled pursuant to the provisions of Article 53, paragraph

(1) of the Bankruptcy Act, Article 49, paragraph (1) of the Civil Rehabilitation Act, or Article 61, paragraph (1) of the Corporate Reorganization Act (including as applied mutatis mutandis pursuant to Article 41, paragraph (1) and Article 206, paragraph (1) of the Act on Special Measures for the Reorganization Proceedings of Financial Institutions); or (ix) if grounds specified by the terms of trust arise.

(Termination of Trust by Agreement between Settlor and Beneficiary)

Article 164 (1) A settlor and a beneficiary may terminate a trust at any time by an agreement between them.

(2) If a settlor and a beneficiary have terminated the trust at a time that is detrimental to the trustee, the settlor and the beneficiary must compensate the trustee for any damages; provided, however, that this does not apply if there was a compelling reason for the trust to be terminated at that time.

(3) Notwithstanding the provisions of the preceding two paragraphs, if it is otherwise provided for by the terms of trust, the clause prevails.

(4) The provisions of paragraph (1) and paragraph (2) do not apply if there is no settlor at the time in question.

(Judicial Decision Ordering Termination of Trust Due to Special Circumstances)

Article 165 (1) If, due to the special circumstances that were unforeseeable at the time of the terms of trust, it is obvious that the termination of a trust has come to conform to the interests of the beneficiary in light of the purpose of the trust, the status of the trust property, and other circumstances, the court may order the termination of the trust upon petition of the settlor, the trustee, or the beneficiary,.

(2) Before the court makes the judicial decision on the petition referred to in the preceding paragraph, it must hear the statements of the trustee; provided, however, that this does not apply when the court makes the judicial decision to dismiss the petition as unlawful or clearly groundless.

(3) The judicial decision on the petition referred to in paragraph (1) must include the reasons for that decision.

(4) Only the settlor, the trustee, or the beneficiary may file an immediate appeal against the judicial decision on the petition referred to in paragraph (1).

(5) The immediate appeal referred to in the preceding paragraph has the effect of a stay of enforcement.

(Judicial Decision Ordering Termination of Trust for Securing Public Interest)

Article 166 (1) In the following cases, if the court finds the existence of a trust to be impermissible from the perspective of securing public interest, it may order

the termination of the trust, upon petition of the Minister of Justice, a settlor, a beneficiary, a trust creditor, or any other interested party:

- (i) if the trust was created for an unlawful purpose; or
 - (ii) if the trustee has committed an act that goes beyond or abuses their authority provided for by laws and regulations or the terms of trust, or has committed an act violating criminal laws and regulations, and the trustee continuously or repeatedly commits that act despite having received a written warning from the Minister of Justice.
- (2) Before the court makes the judicial decision on the petition referred to in the preceding paragraph, it must hear the statements of the trustee; provided, however, that this does not apply when the court makes the judicial decision to dismiss the petition as unlawful or clearly groundless.
 - (3) The judicial decision on the petition referred to in paragraph (1) must include the reasons for that decision.
 - (4) Only the person who has filed the petition referred to in paragraph (1), or the settlor, the trustee or the beneficiary may file an immediate appeal against the judicial decision on the petition referred to in that paragraph.
 - (5) The immediate appeal set forth in the preceding paragraph has the effect of a stay of enforcement.
 - (6) If the settlor, the beneficiary, the trust creditor, or other interested party has filed the petition referred to in paragraph (1), upon petition of the trustee, the court may order the person who has filed the petition referred to in that paragraph to provide reasonable security.
 - (7) When filing the petition pursuant to the provisions of the preceding paragraph, the trustee must make a prima facie showing of the fact that the petition set forth in paragraph (1) was filed in bad faith.
 - (8) The provisions of Article 75, paragraph (5), paragraph (7), and Articles 76 through 80 of the Code of Civil Procedure (Act No. 109 of 1996) apply mutatis mutandis to the security required to be provided upon the filing the petition referred to in paragraph (1) pursuant to the provisions of paragraph (6).

(Obligation of Government Agencies to Give Notice to the Minister of Justice)

Article 167 If a court or other government agencies, a public prosecutor, or an official comes to know in the course of duties that there are grounds for filing the petition referred to in paragraph (1) of the preceding Article or for giving the warning referred to in item (ii) of that paragraph, the court, agency, prosecutor, or official must notify the Minister of Justice to that effect.

(Involvement of the Minister of Justice)

Article 168 (1) Before the court makes a judicial decision on the petition referred to in Article 166, paragraph (1), it must seek the opinion of the Minister of

Justice.

- (2) If the court conducts a hearing on a case based on the petition referred to in the preceding paragraph, the Minister of Justice may attend that hearing.
- (3) The court must notify the Minister of Justice of the fact that a case based on the petition referred to in paragraph (1) is pending at the court and of the date of the hearing referred to in the preceding paragraph.
- (4) In addition to the persons specified in Article 166, paragraph (4), the Minister of Justice may file an immediate appeal against the judicial decision to dismiss the petition referred to in paragraph (1).

(Freezing Order on Trust Property)

Article 169 (1) If a petition referred to in Article 166, paragraph (1) has been filed, upon petition of the Minister of Justice, a settlor, a beneficiary, a trust creditor, or other interested party, or by the court's own authority, the court may render a disposition ordering administration by an administrator (referred to as an "administration order" in the following Article) or may give other freezing order that is necessary for the trust property, until a court decision is given to the petition referred to in that paragraph..

- (2) The court may change or revoke the freezing order given pursuant to the provisions of the preceding paragraph.
- (3) Only an interested party may file an immediate appeal against the freezing order pursuant to the provisions of paragraph (1) and against an order pursuant to the provisions of the preceding paragraph.

Article 170 (1) When the court issues an administration order, it must appoint an administrator in the order.

- (2) The court supervises the administrator referred to in the preceding paragraph.
- (3) The court may order the administrator referred to in paragraph (1) to make a report on the status of property that comes under trust property and of the obligations covered by the trust property, and to settle the accounts for their administration.
- (4) The provisions of Articles 64 through 72 apply mutatis mutandis to the administrator referred to in paragraph (1). In such a case, the term "former trustee" in Article 65 is deemed to be replaced with "trustee".
- (5) If the freezing order pursuant to the provisions of paragraph (1) of the preceding Article (excluding an administration order) is issued against a right that belongs to the trust property that has been registered, the court clerk must commission a registration of that freezing order on the clerk's own authority, without delay.
- (6) The provisions of the preceding paragraph apply mutatis mutandis to the cases in which the freezing order prescribed in that paragraph is changed or

revoked, or the cases in which the freezing order has ceased to be effective.

(Bearing of Expenses for Freezing Orders)

Article 171 (1) If the court has issued a freezing order pursuant to the provisions of Article 169, paragraph (1), the expenses for procedures of a non-contentious case are borne by a trustee. The same applies to any expenses necessary for the freezing order.

(2) If an immediate appeal is filed against the freezing order referred to in the preceding paragraph or a judicial decision to dismiss the petition referred to in Article 169, paragraph (1), if the court in charge of the appeal finds grounds for the immediate appeal and revokes the judicial decision of prior instance, the court expenses required for the proceedings in the instance of that appeal, as well as the court expenses required for the proceedings in the prior instance that had been borne by the appellant, are borne by the trustee.

(Inspection of Materials Related to Freezing Orders)

Article 172 (1) An interested party may make a request to the court clerk to inspect materials relating to the report or settlement of accounts referred to in Article 170, paragraph (3).

(2) An interested party may make a request to the court clerk for the copying of the materials referred to in the preceding paragraph or delivery of their authenticated copy, transcript, or extract.

(3) The provisions of the preceding paragraph do not apply to materials referred to in paragraph (1) which have been prepared in the form of audiotapes or videotapes (including objects on which certain particulars are recorded by any means equivalent to them). In such a case, the court clerk must permit the reproduction of those objects when requested by the interested party.

(4) The Minister of Justice may make a request to the court clerk to inspect the materials referred to in paragraph (1).

(5) The provisions of Article 91, paragraph (5) of the Code of Civil Procedure apply *mutatis mutandis* to the materials referred to in paragraph (1).

(Appointment of New Trustees)

Article 173 (1) If the court has ordered the termination of a trust pursuant to the provisions of Article 166, paragraph (1), upon petition of the Minister of Justice, a settlor, a beneficiary, a trust creditor, or any other interested party, or by the court's own authority, the court must appoint a new trustee for liquidation of the trust.

(2) No appeal may be entered against the judicial decision on the appointment of a new trustee pursuant to the provisions of the preceding paragraph.

(3) If a new trustee is appointed pursuant to the provisions of paragraph (1), the

former trustee's duties are terminated.

- (4) The new trustee referred to in paragraph (1) may receive advance payment of expenses and remuneration from the trust property in an amount determined by the court.
- (5) Before the court makes the judicial decision to determine the amount of advance payment of expenses or remuneration under the provisions of the preceding paragraph, it must hear the statements of the new trustee referred to in paragraph (1).
- (6) Only the new trustee referred to in paragraph (1) may file an immediate appeal against the judicial decision that determined the amount of advance payment of expenses or remuneration under the provisions of paragraph (4).

(Restriction on Absorption-Type Trust Split of Terminated Trusts)

Article 174 If a trust is terminated, an absorption-type trust split in which the trust is to be a succeeding trust may not be implemented.

Section 2 Liquidation of Trust

(Grounds for Commencement of Liquidation)

Article 175 A trust must go into liquidation as provided for in this Section when the trust is terminated (excluding cases in which the trust is terminated on the grounds set forth in Article 163, item (v) and in which the trust is terminated due to an order of commencement of bankruptcy proceedings against the trust property and the bankruptcy proceedings have not been completed).

(Constructive Existence of Trust)

Article 176 Even if a trust is terminated, the trust is deemed to continue to exist until the liquidation is completed.

(Duties of Liquidation Trustees)

Article 177 A trustee after the termination of a trust (hereinafter referred to as the "liquidation trustee") performs the following duties:

- (i) conclusion of pending duties;
- (ii) collection of claims which belongs to the trust property and performance of obligations regarding trust claims;
- (iii) performance of obligations regarding beneficial claims (excluding those for the distribution of residual assets); and
- (iv) distribution of residual assets.

(Authority of Liquidation Trustees)

Article 178 (1) A liquidation trustee has the authority to perform any and all

acts necessary for the liquidation of a trust; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (2) In the following cases, a liquidation trustee may put property that comes under trust property up for auction:
 - (i) if the beneficiary or the holder of vested right prescribed in Article 182, paragraph (1), item (ii) (hereinafter collectively referred to as a "beneficiary, etc." in this Article) refuses or is unable to receive property that comes under trust property, and the liquidation trustee makes a demand that the person receive the property by specifying a reasonable period; or
 - (ii) if the whereabouts of a beneficiary, etc. are unknown.
- (3) If the liquidation trustee has put property that comes under trust property up for auction pursuant to the provisions of item (i) of the preceding paragraph, the liquidation trustee must give a notice to that effect to the beneficiary, etc.
- (4) If the price of a property is likely to decline due to damage or any other reasons, the liquidation trustee may put that property up for auction without making the demand referred to in paragraph (2), item (i).

(Commencement of Bankruptcy Proceedings against Trust Property in Liquidation)

- Article 179 (1) If it becomes obvious that the property that comes under trust property is insufficient to pay off its obligations for a trust in liquidation, a liquidation trustee must immediately file a petition for commencement of bankruptcy proceedings against the trust property.
- (2) If an order of commencement of bankruptcy proceedings has been entered against the trust property, and the liquidation trustee has already made any payments to a creditor who holds a claim regarding an obligation covered by the trust property, the bankruptcy trustee may retrieve that payment.

(Performance of Obligations Regarding Conditional Claims)

- Article 180 (1) A liquidation trustee may perform obligations regarding a conditional claim, a claim with an indefinite duration, or any other claim of an indeterminate amount. In such a case, the liquidation trustee must file a petition with the court for the appointment of an appraiser in order to have those claims appraised.
- (2) In the case referred to in the preceding paragraph, the liquidation trustee must perform obligations regarding the claims referred to in that paragraph in accordance with the appraisal by the appraiser set forth in that paragraph.
 - (3) Expenses for the procedures for the appointment of the appraiser referred to in paragraph (1) are borne by the liquidation trustee. The same applies to expenses for summoning the appraiser and for the appraiser to ask questions for the appraisal.

- (4) A judicial decision dismissing the petition referred to in paragraph (1) must include the reasons for the dismissal.
- (5) No appeal may be entered against the judicial decision on the appointment of an appraiser pursuant to the provisions of paragraph (1).
- (6) The provisions of the preceding paragraphs do not apply to cases in which otherwise agreed by the liquidation trustee, the beneficiary, the trust creditors, and the holders of vested rights prescribed in Article 182, paragraph (1), item (ii).

(Restriction on Distribution of Residual Assets Prior to Performance of Obligations)

Article 181 A liquidation trustee may not distribute property that comes under trust property to a beneficiary for residual assets, etc. prescribed in paragraph (2) of the following Article until after the liquidation trustee has performed the obligations referred to in Article 177, items (ii) and (iii); provided, however, that this does not apply if the liquidation trustee has reserved property that are found to be necessary for performing those obligations.

(Vesting of Residual Assets)

Article 182 (1) Residual assets belong to the following persons:

- (i) a person designated by the terms of trust as a person who is to be the beneficiary in relation to beneficial claims that involve distribution of residual assets (referred to as the "beneficiary for residual assets" in the following paragraph); and
 - (ii) a person designated by the terms of trust as a person to whom residual assets are to belong (hereinafter referred to as the "holder of a vested right" in this Section).
- (2) If the terms of trust contain no clause concerning the designation of a beneficiary for residual assets or a holder of a vested right (hereinafter collectively referred to as a "beneficiary for residual assets, etc." in this paragraph) or if all the persons designated by the provisions of the terms of trust as beneficiary for residual assets, etc. have waived their rights, it is deemed that the terms of trust had the clause designating the settlor or settlor's heir or other general successor as the holder of a vested right.
- (3) If ownership of residual assets cannot be determined pursuant to the provisions of the preceding two paragraphs, the residual assets belong to the liquidation trustee.

(Holder of a Vested Right)

Article 183 (1) A person designated by the clause of the terms of trust as the person who is to be a holder of a vested right automatically acquires a claim

regarding an obligation to distribute residual assets; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (2) The provisions of Article 88, paragraph (2) apply mutatis mutandis to a person designated as the person who is to be a holder of a vested right prescribed in the preceding paragraph.
- (3) A person who has become a holder of a vested right pursuant to the provisions of the terms of trust may manifest the intention to waive the right to the trustee; provided, however, that this does not apply if the person who has become the holder of a vested right pursuant to the provisions of the terms of trust is the party to the terms of trust .
- (4) If a person who has become the holder of a vested right prescribed in the main clause of the preceding paragraph has manifested the intention under the provisions of that paragraph, the person is deemed to have never held rights as the holder of a vested right; provided, however, that this may not harm the rights of a third party.
- (5) The provisions of Article 100 and Article 102 apply mutatis mutandis to the claim held by the holder of a vested right regarding an obligation to distribute residual assets.
- (6) The holder of a vested right is deemed to be a beneficiary during the liquidation of the trust.

(Completion of Duties of Liquidation Trustees)

Article 184 (1) If a liquidation trustee has completed their duties, the liquidation trustee must settle the final accounts related to trust affairs without delay and request approval for the settlement of accounts from all of the beneficiaries (if there is a trust administrator at the time in question, from the trust administrator) and the holders of vested rights at the time of the termination of the trust (hereinafter collectively referred to as the "beneficiaries, etc." in this Article).

- (2) If the beneficiaries, etc. have approved the settlement of accounts referred to in the preceding paragraph, the liquidation trustee is deemed to have been exempted from the liability to the beneficiaries, etc.; provided, however, that this does not apply if there has been any misconduct in the liquidation trustee's execution of duties.
- (3) If any of the beneficiaries, etc. has not stated an objection within one month from the time when they were requested to give approval for the settlement of accounts referred to in paragraph (1) from the liquidation trustee, that beneficiary or holder of a vested right is deemed to have approved of the settlement of accounts referred to in that paragraph.

Chapter VIII Special Provisions on Trust with Certificates of Beneficial

Interest

Section 1 General Provisions

(Provisions of the Terms of Trust on Issuance of Beneficiary Certificates)

Article 185 (1) The term of trust may provide that a certificate indicating a single beneficial interest or two or more beneficial interests (hereinafter referred to as the "beneficiary certificate") is to be issued pursuant to the provisions in this Chapter.

(2) The provisions of the preceding paragraph do not preclude the terms of trust from providing that a beneficiary certificate will not be issued for a beneficial interest with a specific content.

(3) In the case of a trust subject to the provisions of paragraph (1) (hereinafter referred to as the "trust with certificates of beneficial interest"), the provisions of the preceding two paragraphs may not be changed by making a modification to the trust.

(4) In the case of a trust not subject to the provisions of paragraph (1), the provisions of that paragraph or paragraph (2) may not be established by making a modification to the trust.

(Beneficial Interest Register)

Article 186 A trustee of a trust with certificates of beneficial interest must prepare a beneficial interest register and enter or record the following particulars (hereinafter referred to as the "particulars to be stated in the beneficial interest register" in this Chapter) in the beneficial interest register, without delay:

(i) the content of the beneficial claims regarding each beneficial interest and other particulars prescribed by Order of the Ministry of Justice as particulars that specify the content of the beneficial interest;

(ii) the serial number and the date of issue of the beneficiary certificate related to each beneficial interest, whether each beneficiary certificate is a registered certificate or a bearer certificate, and the number of bearer certificates of beneficial interest;

(iii) the name and address of the beneficiary regarding each beneficial interest (excluding beneficiaries of bearer beneficial interest);

(iv) the day on which the beneficiary referred to in the preceding item acquired each beneficial interest; and

(v) beyond what is set forth in the preceding items, the particulars prescribed by Order of the Ministry of Justice.

(Delivery of Documents Stating the Particulars to Be Stated in the Beneficial Interest Register)

Article 187 (1) A beneficiary of a beneficial interest subject to the provisions of Article 185, paragraph (2) may request that a trustee of a trust with certificates of beneficial interest deliver a document stating the particulars to be stated in the beneficial interest register, which are stated or recorded in the beneficial interest register for the beneficiary to them, or provide them with an electronic or magnetic record in which the particulars to be stated in the beneficial interest register are recorded.

(2) The trustee of a trust with certificates of beneficial interest (for a trustee that is a corporation, its representative; the same applies in the following paragraph) must sign or affix the trustee's name and seal to the document referred to in the preceding paragraph.

(3) With respect to the electronic or magnetic record referred to in paragraph (1), the trustee of a trust with certificates of beneficial interest must take the measures specified by Order of the Ministry of Justice as an alternative to signing or affixing their name and seal.

(4) For the purpose of applying the provisions of the preceding two paragraphs to cases in which there are two or more trustees for a trust with certificates of beneficial interest, the phrase "trustee of the trust with certificates of beneficial interest" in these provisions is deemed to be replaced with "all trustees of the trust with certificates of beneficial interest".

(Beneficial Interest Register Administrator)

Article 188 A trustee of a trust with certificates of beneficial interest may appoint a beneficial interest register administrator (meaning a person who prepares and keeps a beneficial interest register and conducts other affairs concerning the beneficial interest register in lieu of the trustee of a trust with certificates of beneficial interest; the same applies hereinafter), and may entrust the administration of those affairs to the administrator.

(Record Date)

Article 189 (1) A trustee of a trust with certificates of beneficial interest may specify a fixed date (hereinafter referred to as the "record date" in this Article), and specify that the beneficiaries who have been stated or recorded in the beneficial interest register on the record date (hereinafter referred to as the "beneficiaries on the record date" in this Article) as the persons who are entitled to exercise their rights.

(2) The provisions of the preceding paragraph do not apply to the beneficiaries of bearer beneficial interest.

(3) If specifying the record date, the trustee of a trust with certificates of beneficial interest must specify the content of the rights that the beneficiaries on the record date are entitled to exercise (limited to the rights that are to be

exercised within three months from the record date).

- (4) If the trustee of a trust with certificates of beneficial interest has specified the record date, the trustee must give public notice in the Official Gazette by no later than two weeks prior to that record date, of the record date and the particulars specified pursuant to the provisions of the preceding paragraph; provided, however, that this does not apply if the terms of trust contain clauses on the record date and the content of the rights that the beneficiaries on the record date are entitled to exercise.
- (5) Notwithstanding the provisions of paragraph (1), paragraph (3), and the main clause of the preceding paragraph, if it is otherwise provided for by the terms of trust, the clause prevails.

(Keeping and Inspection of Beneficial Interest Register)

Article 190 (1) A trustee of a trust with certificates of beneficial interest must keep a beneficial interest register at their domicile (if the trustee is a corporation (excluding cases in which there is a beneficial interest register administrator at the time in question), its principal office; if there is a beneficial interest register administrator at the time in question, the administrator's business office).

- (2) A settlor, a beneficiary, and any other interested party may make the following requests to the trustee of a trust with certificates of beneficial interest. In such a case, the reasons for the request must be clarified:
- (i) if the beneficial interest register has been prepared in writing, a request to inspect or copy the document; and
 - (ii) if the beneficial interest register has been prepared as an electronic or magnetic record, a request to inspect or copy any object that displays the information recorded in the electronic or magnetic record by the means specified by Order of the Ministry of Justice.
- (3) When the request referred to in the preceding paragraph has been made, the trustee of a trust with certificates of beneficial interest may not refuse the request, unless it is found that any of the following cases applies:
- (i) if the person making the request (hereinafter referred to as the "requester" in this paragraph) has made the request for purposes other than an investigation for securing or exercising their rights;
 - (ii) if the requester has made the request at an inappropriate time;
 - (iii) if the requester has made the request for the purpose of disturbing the administration of trust affairs or harming the common interests of the beneficiaries;
 - (iv) if the requester has made the request in order to notify a third party of the facts that the requester has learned by inspecting or copying documents or any other object pursuant to the provisions of the preceding paragraph for

profit; or

- (v) if the requester has notified a third party of the facts that the requester has learned by inspecting or copying documents or any other object pursuant to the provisions of the preceding paragraph for profit within the past two years.
- (4) If any of the requests referred to in paragraph (2) is made for the particulars set forth in Article 186, item (iii) or (iv) (limited to the particulars concerning a beneficial interest not subject to the provisions of Article 185, paragraph (2)), and it is otherwise provided for by the terms of trust, the clause prevails.

(Notices Given to Beneficiaries)

Article 191 (1) It is sufficient for a notice or a demand letter from the trustee of a trust with certificates of beneficial interest to a beneficiary to be sent to the beneficiary's domicile stated or recorded in the beneficial interest register (if a beneficiary has notified the trustee of a place or a contact address for receiving notices or demand letters, to that place or contact address).

- (2) The notice or demand letter referred to in the preceding paragraph is deemed to have reached the addressee at the time when the notice or demand letter should have normally arrived.
- (3) If the beneficial interest in the trust with certificates of beneficial interest is co-owned by two or more persons, the co-owners must designate one person who is to receive the notice or demand letter sent by the trustee of a trust with certificates of beneficial interest to the beneficiaries, and must notify the trustee of that person's name. In such a case, that person is deemed to be a beneficiary and the provisions of the preceding two paragraphs apply to the person.
- (4) If a notice by the co-owners under the provisions of the preceding paragraph has not been given, it is sufficient for a notice or a demand letter from the trustee of a trust with certificates of beneficial interest to the co-owners of the beneficial interest to be sent to one of the co-owners.
- (5) If the trustee of a trust with certificates of beneficial interest is required to give notice to the beneficiaries of bearer beneficial interest pursuant to the provisions of this Act, it is sufficient for the trustee to send a notice to the beneficiary whose name and address is known to the trustee. In such a case, the trustee must give public notice in the Official Gazette of the particulars that are required to be given notice.

(Exercise of Rights by Beneficiaries of Bearer Beneficial Interest)

Article 192 (1) If a beneficiary of bearer beneficial interest seeks to exercise their right against a trustee of a trust with certificates of beneficial interest or any other person, the beneficiary must present the certificate of beneficial interest to the trustee or that other person.

(2) If a beneficiary with bearer beneficial interest seeks to exercise the voting right at a beneficiaries meeting, the beneficiary must present the beneficiary certificate to the convener prescribed in Article 108 by no later than one week prior to the date of the beneficiaries meeting.

(Exercise of Rights by Co-owners)

Article 193 If a beneficial interest in a trust with certificates of beneficial interest is co-owned by two or more persons, the co-owners may not exercise the rights of the beneficial interest unless they designate one person who is to exercise the rights of the beneficial interest and notify the trustee of a trust with certificates of beneficial interest of that person's name; provided, however, that this does not apply if the trustee has consented to the exercise of those rights.

Section 2 Special Provisions on Transfer of Beneficial Interest

(Transfer of Beneficial Interest for Which Beneficiary Certificate Has Been Issued)

Article 194 Transfer of a beneficial interest in a trust with certificates of beneficial interest (excluding a beneficial interest subject to the provisions of Article 185, paragraph (2)) does not become effective unless the beneficiary certificate related to the beneficial interest is delivered.

(Requirements for Perfection of Transfer of Beneficial Interest in Trust with Certificates of Beneficial Interest)

- Article 195 (1) Transfer of a beneficial interest in a trust with certificates of beneficial interest may not be asserted against the trustee of a trust with certificates of beneficial interest unless the name and address of the person who has acquired the beneficial interest has been entered or recorded in the beneficial interest register.
- (2) For the purpose of applying the provisions of the preceding paragraph to the beneficial interest subject to the provisions of Article 185, paragraph (2), the term "trustee" in that paragraph is deemed to be replaced with "trustee and other third parties".
- (3) The provisions of paragraph (1) do not apply to bearer beneficial interest.

(Presumption of Rights)

- Article 196 (1) A possessor of a beneficiary certificate is presumed to be the lawful owner of the beneficial interest related to the certificate.
- (2) A person who has received the delivery of a beneficiary certificate acquires the rights of the beneficial interest related to the beneficiary certificate;

provided, however, that this does not apply if the person acted in bad faith or with gross negligence.

(Entry or Record of Particulars to Be Stated in the Beneficial Interest Register Not by the Request of Beneficiaries)

Article 197 (1) In the cases set forth in the following items, the trustee of a trust with certificates of beneficial interest must enter or record in the beneficial interest register the particulars to be stated in the beneficial interest register regarding the beneficiary of the beneficial interest specified in the respective items, as provided for by Order of the Ministry of Justice:

- (i) if the trustee has acquired the beneficial interest in the trust with certificates of beneficial interest and the beneficial interest has not been extinguished; and
 - (ii) if the trustee has disposed of the beneficial interest in the trust with certificates of beneficial interest referred to in the preceding item.
- (2) If the consolidation of beneficial interests is implemented by making a modification to the trust, the trustee of a trust with certificates of beneficial interest must enter or record in the beneficial interest register the particulars to be stated in the beneficial interest register regarding the beneficiary of that beneficial interest.
- (3) If the split of a beneficial interest is implemented by making a modification to the trust, the trustee of a trust with certificates of beneficial interest must enter or record in the beneficial interest register the particulars to be stated in the beneficial interest register regarding the beneficiary of that beneficial interest.
- (4) The provisions of the preceding three paragraphs do not apply to bearer beneficial interest.

(Entry or Record of Particulars to Be Stated in the Beneficial Interest Register Upon the Request of a Beneficiary)

Article 198 (1) A person who has acquired a beneficial interest in a trust with certificates of beneficial interest from a person other than the trustee of the trust with certificates of beneficial interest (excluding the trustee) may request the trustee of a trust with certificates of beneficial interest to enter or record in the beneficial interest register the particulars to be stated in the beneficial interest register regarding that beneficial interest.

- (2) The request pursuant to the provisions of the preceding paragraph must be made jointly with the person who is stated or recorded in the beneficial interest register as the beneficiary of the beneficial interest acquired, or the person's heir or other general successors, except in cases specified by Order of the Ministry of Justice that there is no risk of harming the interest of an

interested party.

- (3) The provisions of the preceding two paragraphs do not apply to bearer beneficial interest.

(Pledge of Beneficial Interest for Which a Beneficiary Certificate Has Been Issued)

Article 199 A pledge of a beneficial interest for a trust with certificates of beneficial interest (excluding a beneficial interest subject to the provisions of Article 185, paragraph (2)) does not become effective unless the beneficiary certificate related to the beneficial interest is delivered.

(Requirements for Perfection of Pledge of Beneficial Interest in Trust with Certificates of Beneficial Interest)

Article 200 (1) A pledgee of a beneficial interest in a trust with certificates of beneficial interest (excluding a beneficial interest subject to the provisions of Article 185, paragraph (2)) may not assert the right of pledge against the trustee of a trust with certificates of beneficial interest or other third party unless the pledgee continues to possess the beneficiary certificate related to the beneficial interest.

- (2) The pledge of a beneficial interest subject to the provisions of Article 185, paragraph (2) may not be asserted against the trustee of a trust with certificates of beneficial interest or other third party unless the name and address of the pledgee has been entered or recorded in the beneficial interest register.

(Entry of Particulars in the Beneficial Interest Register Related to Pledge)

Article 201 (1) A person who has created a pledge on a beneficial interest for a trust with certificates of beneficial interest may request a trustee of a trust with certificates of beneficial interest to enter or record the following particulars in the beneficial interest register:

- (i) the name and address of the pledgee; and
- (ii) the beneficial interest that is subject to the pledge.

- (2) The provisions of the preceding paragraph do not apply to bearer beneficial interest.

(Delivery of Document Stating Particulars to be Stated in the Beneficial Interest Register Related to Pledge)

Article 202 (1) A pledgee for whom the particulars set forth in the items of paragraph (1) of the preceding Article have been entered or recorded in the beneficial interest register (hereinafter referred to as the "registered pledgee of a beneficial interest" in this Section) may request that a trustee of a trust with

certificates of beneficial interest deliver a document stating the particulars on the registered pledgee of a beneficial interest set forth in the items of that paragraph, which are stated or recorded in the beneficial interest register of that registered pledgee of a beneficial interest, or request that the trustee provide the registered pledgee of a beneficial interest with an electronic or magnetic record containing those particulars.

- (2) The trustee (for the trustee that is a corporation, its representative; the same applies in the following paragraph) of a trust with certificates of beneficial interest must sign or affix their name and seal to the document referred to in the preceding paragraph.
- (3) With respect to the electronic or magnetic record referred to in paragraph (1), the trustee of a trust with certificates of beneficial interest must take the measures specified by Order of the Ministry of Justice as an alternative to signing or affixing their name and seal.
- (4) For the purpose of applying the provisions of the preceding two paragraphs to cases in which there are two or more trustees for the trust with certificates of beneficial interest, the phrase "trustee of a trust with certificates of beneficial interest" in these provisions is deemed to be replaced with "all trustees of the trust with certificates of beneficial interest".

(Notice to Registered Pledgees of a Beneficial Interest)

Article 203 (1) It is sufficient for a notice or a demand letter from a trustee of a trust with certificates of beneficial interest to a registered pledgee of a beneficial interest or demand that the trustee makes to a registered pledgee of a beneficial interest to be sent to the domicile of the registered pledgee of a beneficial interest that is entered or recorded in the beneficial interest register (if the registered pledgee of a beneficial interest has notified the trustee of a different place or contact address for receiving notices or demand letters, to that place or contact address).

- (2) The notice or demand letter referred to in the preceding paragraph is deemed to have reached the addressee at the time when the notice or demand letter should have normally arrived.

(Entry of Particulars in the Beneficial Interest Register Concerning Consolidation or Split of Beneficial Interest)

Article 204 (1) If the consolidation of beneficial interests is implemented by making a modification to the trust and the pledgee of the pledge created on the beneficial interests is the registered pledgee of a beneficial interest, the trustee of a trust with certificates of beneficial interest must enter or record in the beneficial interest register the name and address of that pledgee with regard to the consolidated beneficial interest.

(2) If the split of a beneficial interest is implemented by making a modification to the trust and the pledgee of the pledge created on the beneficial interest is the registered pledgee of a beneficial interest, the trustee of a trust with certificates of beneficial interest must enter or record in the beneficial interest register the name and address of that pledgee with regard to the split beneficial interest.

Article 205 (1) In the case prescribed in paragraph (1) of the preceding Article, the trustee of a trust with certificates of beneficial interest must deliver the beneficiary certificate related to the consolidated beneficial interest to the registered pledgee of a beneficial interest.

(2) In the case prescribed in paragraph (2) of the preceding Article, the trustee of a trust with certificates of beneficial interest must deliver the beneficiary certificate related to the split beneficial interest to the registered pledgee of a beneficial interest.

(Requirements for Perfection Regarding Beneficial Interest for Which No Beneficiary Certificate Has Been Issued)

Article 206 (1) With regard to a beneficial interest that is subject to the provisions of Article 185, paragraph (2) which belongs to the trust property of another trust, the fact that the beneficial interest belongs to the trust property of that other trust may not be asserted against a trustee of a trust with certificates of beneficial interest or against any other third party unless the fact that the beneficial interest belongs to the trust property of the other trust is entered or recorded in the beneficial interest register.

(2) The trustee of the other trust to which the beneficial interest referred to in the preceding paragraph belongs may request that the trustee of a trust with certificates of beneficial interest enter or record in the beneficial interest register the fact that the beneficial interest belongs to the trust property.

(3) For the purpose of applying the provisions of Article 187 to cases in which the facts have been entered or recorded in the beneficial interest register pursuant to the provisions of the preceding paragraph, in paragraph (1) of that Article, the phrase "a beneficiary of a beneficial interest subject to the provisions of Article 185, paragraph (2)" is deemed to be replaced with "the trustee of another trust to which a beneficial interest set forth in Article 206, paragraph (1) belongs", the term "that beneficiary" is deemed to be replaced with "that beneficial interest", and the phrase "the particulars to be stated in the beneficial interest register, which are stated or recorded in the beneficial interest register regarding that beneficiary" is deemed to be replaced with "the particulars to be stated in the beneficial interest register, which are stated or recorded in the beneficial interest register regarding that beneficiary"

(including the fact that that beneficial interest belongs to the trust property)".

Section 3 Beneficiary Certificates

(Issuance of Beneficiary Certificates)

Article 207 A trustee of a trust with certificates of beneficial interest must issue beneficiary certificates related to the beneficial interest without delay, as provided for by the terms of trust,.

(Proposal of Desire Not to Possess Beneficiary Certificates)

Article 208 (1) A beneficiary of a trust with certificates of beneficial interest may propose that that beneficiary does not desire to possess a beneficiary certificate related to the beneficial interest that the beneficiary holds to the trustee of a trust with certificates of beneficial interest; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

- (2) The proposal under the provisions of the preceding paragraph must be made by disclosing the content of the beneficial interest related to the proposal. In such a case, if the beneficiary certificate related to the beneficial interest has already been issued, the beneficiary must submit the beneficiary certificate to the trustee of a trust with certificates of beneficial interest.
- (3) The trustee of a trust with certificates of beneficial interest who has received the proposal pursuant to the provisions of paragraph (1) must enter or record in the beneficial interest register the fact that they will not issue the beneficiary certificate related to the beneficial interest referred to in the first sentence of the preceding paragraph.
- (4) If a trustee of a trust with certificates of beneficial interest has made the entry or record pursuant to the provisions of the preceding paragraph, the trustee may not issue the beneficiary certificate related to the beneficial interest referred to in the first sentence of paragraph (2).
- (5) The beneficiary certificate submitted pursuant to the provisions of the second sentence of paragraph (2) becomes invalid at the time when the entry or record pursuant to the provisions of paragraph (3) is made.
- (6) The beneficiary who has made the proposal under the provisions of paragraph (1) may at any time demand that the trustee of a trust with certificates of beneficial interest issue a beneficiary certificate related to the beneficial interest referred to in the first sentence of paragraph (2). In such a case, if there is a beneficiary certificate that was submitted pursuant to the provisions of the second sentence of that paragraph, the expenses for issuing a beneficiary certificate are to be borne by that beneficiary.
- (7) The provisions of the preceding paragraphs do not apply to bearer beneficial interest.

(Particulars to Be Stated on Beneficiary Certificates)

Article 209 (1) The following particulars and the serial number must be entered in a beneficiary certificate, and a trustee of a trust with certificates of beneficial interest (for a trustee that is a corporation, its representative) must sign or affix their name and seal to the certificate:

- (i) a statement to the effect that the certificate is a beneficiary certificate of a trust with certificates of beneficial interest;
 - (ii) the names and addresses of the initial settlor and the trustee of a trust with certificates of beneficial interest;
 - (iii) if the certificate is a beneficiary certificate in registered form, the name of the beneficiary;
 - (iv) the content of the beneficial claim regarding each beneficial interest, and particulars specified by Order of the Ministry of Justice as other particulars that specify the content of the beneficial interest;
 - (v) the provisions of the terms of trust on reimbursement of expenses and interest and compensation for damages to the trustee of a trust with certificates of beneficial interest;
 - (vi) the means of calculation for trust fees, and the means and time of payment of those fees;
 - (vii) if there are restrictions on the transfer of the beneficial interest indicated by the beneficiary certificate in registered form, that fact and the content of those restrictions;
 - (viii) the provisions of the terms of trust on the exercise of rights by the beneficiary (including particulars concerning a trust supervisor and a beneficiary's agent); and
 - (ix) other particulars specified by Order of the Ministry of Justice.
- (2) For the purpose of applying the provisions of the preceding paragraph to cases in which there are two or more trustees for a trust with certificates of beneficial interest, the phrase "a trustee of a trust with certificates of beneficial interest" in those provisions is deemed to be replaced with "all trustees of a trust with certificates of beneficial interest".

(Conversion of Registered Certificate and Bearer Certificate)

Article 210 A beneficiary of a beneficial interest for which a beneficiary certificate has been issued may at any time demand that their beneficiary certificate in registered form to be converted into a beneficiary certificate in bearer form, or that their beneficiary certificate in bearer form to be converted into a beneficiary certificate in registered form; provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.

(Loss of Beneficiary Certificates)

Article 211 (1) A beneficiary certificate may be invalidated through the public notification procedures prescribed in Article 100 of the Non-Contentious Cases Procedures Act (Act No. 51 of 2011).

(2) A person who has lost the beneficiary certificate may not request its re-issuance until after the person obtains an order of nullification of right prescribed in Article 106, paragraph (1) of the Non-Contentious Cases Procedures Act.

(3) If a person who has lost the beneficiary certificate has filed a petition for public notification prescribed in Article 114 of the Non-Contentious Cases Procedures Act, the person who has lost the beneficiary certificate may provide reasonable security and have the trustee of a trust with certificates of beneficial interest perform the obligations regarding the beneficiary certificate.

Section 4 Special Provisions on Rights and Obligations of Relevant Parties

(Special Provisions on Obligations of Trustee of a Trust with Certificates of Beneficial Interest)

Article 212 (1) In the case of a trust with certificates of beneficial interest, notwithstanding the provisions of the proviso to Article 29, paragraph (2), the obligations referred to in the main clause of that paragraph may not be reduced by what is provided for by the terms of trust.

(2) The provisions of Article 35, paragraph (4) do not apply to a trust with certificates of beneficial interest.

(Special Clauses of the Terms of Trust Regarding Restrictions on the Exercise of Rights by Beneficiaries)

Article 213 (1) In the case of a trust with certificates of beneficial interest, notwithstanding the provisions of Article 92, item (i), item (v), item (vi), and item (viii), a clause may be established in the terms of trust to the effect that, with regard to all or part of the following rights, the rights may be exercised only by a beneficiary who holds a beneficial interest for not less than three-hundredths of the voting rights of all beneficiaries (or a smaller percentage provided for by the terms of trust; hereinafter the same applies in this paragraph) or a beneficiary who holds beneficial interest for not less than three-hundredths of the total number of existing beneficial interests:

(i) the right to rescind pursuant to the provisions of Article 27, paragraph (1) or (2) (including as applied mutatis mutandis pursuant to Article 75, paragraph (4));

(ii) the right to rescind pursuant to the provisions of Article 31, paragraph (6)

- or (7);
- (iii) the right to request to inspect or copy materials pursuant to the provisions of Article 38, paragraph (1); and
 - (iv) the right to file a petition for the appointment of an inspector pursuant to the provisions of Article 46, paragraph (1).
- (2) In the case of a trust with certificates of beneficial interest, notwithstanding the provisions of Article 92, item (i), a clause may be established in the terms of trust to the effect that, with regard to all or part of the following rights, the rights may be exercised only by a beneficiary who holds a beneficial interest for not less than one-tenth of the voting rights of all beneficiaries (or a smaller percentage provided for by the terms of trust; hereinafter the same applies in this paragraph) or a beneficiary who holds a beneficial interest for not less than one-tenth of the total number of existing beneficial interests:
- (i) the right to file a petition for a judicial decision to order the modification of the trust pursuant to the provisions of Article 150, paragraph (1); and
 - (ii) the right to file a petition for a judicial decision to order the termination of the trust pursuant to the provisions of Article 165, paragraph (1).
- (3) The provisions of the preceding two paragraphs do not apply to a trust with certificates of beneficial interest if disclosure pursuant to the provisions of Article 39, paragraph (1) is restricted by the clause of the terms of trust referred to in paragraph (3) of that Article.
- (4) In the case of a trust with certificates of beneficial interest, notwithstanding the provisions of Article 92, item (xi), a clause may be established in the terms of trust to the effect that the right to demand a cessation pursuant to the provisions of Article 44, paragraph (1) may be exercised only by a beneficiary who has continually held a beneficial interest during the preceding six months (or a shorter period provided for by the terms of trust).

(Special Provisions on Decision-Making Means Involving Two or More Beneficiaries)

Article 214 In the case of a trust with certificates of beneficial interest that has two or more beneficiaries, unless otherwise provided for by the terms of trust, it is deemed that the terms of trust has established that a beneficiaries' decision (excluding a decision on the exercise of the rights set forth in the items of Article 92) is to be made by a majority vote at a beneficiaries meeting pursuant to the provisions of Chapter IV, Section 3, Subsection 2.

(Special Provisions on Settlor's Rights)

Article 215 In the case of a trust with certificates of beneficial interest, among the rights of a settlor granted pursuant to the provisions of this Act, the following rights are exercised by a beneficiary:

- (i) the right to request a report pursuant to the provisions of Article 36;
- (ii) the right to file a petition pursuant to the provisions of Article 58, paragraph (4) (including as applied mutatis mutandis pursuant to Article 134, paragraph (2) and Article 141, paragraph (2)), Article 62, paragraph (4) (including as applied mutatis mutandis pursuant to Article 135, paragraph (1) and Article 142, paragraph (1)), Article 63, paragraph (1), Article 74, paragraph (2), Article 131, paragraph (4), Article 150, paragraph (1), Article 165, paragraph (1), Article 166, paragraph (1), Article 169, paragraph (1), or Article 173, paragraph (1);
- (iii) the right to make a demand pursuant to the provisions of Article 62, paragraph (2), Article 131, paragraph (2), or Article 138, paragraph (2);
- (iv) the right to request inspection, copying, or delivery, or making reproductions of materials pursuant to the provisions of Article 172, paragraph (1) or (2), or the second sentence of paragraph (3) of that Article; and
- (v) the right to request inspection or copying of materials pursuant to the provisions of Article 190, paragraph (2).

Chapter IX Special Provisions on Limited Liability Trusts
Section 1 General Provisions

(Requirements for Limited Liability Trusts)

Article 216 (1) A limited liability trust comes into effect as a limited liability trust when it is provided by the terms of trust that the trustee is liable to perform all of the obligations covered by the trust property by using only property that comes under trust property, and when registration is made pursuant to the provisions of Article 232.

- (2) The terms of trust referred to in the preceding paragraph must provide for the following particulars:
- (i) the purpose of the limited liability trust;
 - (ii) the name of the limited liability trust;
 - (iii) the names and addresses of the settlors and the trustees
 - (iv) the place where the main trust affairs for the limited liability trust are required to be administered (referred to as the "place of administration of affairs" in Section 3);
 - (v) the means of administration or disposal of property that comes under trust property; and
 - (vi) other particulars specified by Order of the Ministry of Justice.

(Restrictions on Enforcement against Property That Comes under Trustee's Own Property)

Article 217 (1) In the case of a limited liability trust, enforcement, provisional seizure, provisional disposition, exercise of a security right or auction, or proceedings for collection of national tax delinquency may not be carried out against property that comes under trustee's own property, based on a claim regarding an obligation covered by the trust property (excluding obligations regarding the right set forth in Article 21, paragraph (1), item (viii)).

(2) The trustee may assert an objection to enforcement, provisional seizure, provisional disposition, or exercise of a security right or an auction that was carried out in violation of the provisions of the preceding paragraph. In such a case, the provisions of Article 38 of the Civil Execution Act and the provisions of Article 45 of the Civil Provisional Remedies Act apply *mutatis mutandis*.

(3) The trustee may assert an objection to proceedings for collection of national tax delinquency that were carried out in violation of the provisions of paragraph (1). In such a case, the assertion of the objection is to be made by filing an appeal against the proceedings for collection of national tax delinquency.

(Name of Limited Liability Trusts)

Article 218 (1) The characters for the term "limited liability trust" must be used in the name of a limited liability trust.

(2) It is prohibited for any person to use in the name or trade name of a trust that is not a limited liability trust any characters which is likely to be mistaken for a limited liability trust.

(3) It is prohibited for any person to use for a wrongful purpose, any name or trade name which is likely to be mistaken for another limited liability trust.

(4) A trustee of a limited liability trust whose business interests have been, or are likely to be, infringed by the use of a name or trade name violating the provisions of the preceding paragraph may seek an injunction to suspend or prevent the infringement against the person who has infringed or is likely to infringe those business interests.

(Obligation of Clarification to Counterparties)

Article 219 When conducting a transaction as the trustee of a limited liability trust, the trustee may not assert against the counterparty to the transaction that fact unless the trustee indicates the fact to the counterparty.

(Effect of Registration)

Article 220 (1) The particulars required to be registered pursuant to the provisions of this Chapter may not be asserted against a third party in good faith until after the registration. The same applies even after the registration, if a third party did not know that those particulars were registered based on

legitimate grounds.

- (2) A person who has registered false particulars willfully or negligently with regard to the particulars required to be registered pursuant to the provisions of this Chapter may not assert the falsity of those particulars against a third party who has no knowledge of the falsity.

(Modification of Trust to Repeal Provisions on Limited Liability Trust Status)

Article 221 If a modification is made to a trust to repeal the provisions of Article 216, paragraph (1) and a registration of termination referred to in Article 235 is made, the provisions of this Chapter do not apply to the trust after the modification.

Section 2 Special Provisions on Accounting

(Special Provisions on Obligation to Prepare, Report on, and Preserve Books)

Article 222 (1) Notwithstanding the provisions of Article 37 and Article 38, the preparation of books and other documents or electronic or magnetic records regarding a limited liability trust, reporting on their content, and their preservation, as well as their inspection and copying are governed by the provisions of the following paragraph through paragraph (9).

- (2) The trustee must prepare the accounting books for the limited liability trust as provided for by Order of the Ministry of Justice.
- (3) Promptly after the limited liability trust has come into effect, the trustee must prepare a balance sheet on the day on which it came into effect, as provided for by Order of the Ministry of Justice.
- (4) Each year at a fixed time specified by Order of the Ministry of Justice, the trustee must prepare, in accordance with the provisions of Order of the Ministry of Justice, a balance sheet and profit and loss statement for the limited liability trust as well as their annexed detailed statements and other documents or electronic or magnetic records specified by Order of the Ministry of Justice.
- (5) If the trustee has prepared the documents or electronic or magnetic records referred to in the preceding paragraph, they must make a report on their content to the beneficiary (if there is a trust administrator at the time in question, to the trust administrator); provided, however, that if it is otherwise provided for by the terms of trust, the clause prevails.
- (6) If the trustee has prepared the accounting books referred to in paragraph (2), they must preserve those accounting books (if electronic or magnetic records have been prepared in lieu of documents by the means specified by Order of the Ministry of Justice, those electronic or magnetic records; if documents have been prepared in lieu of electronic or magnetic records, those documents) for

ten years from the date of their preparation (or until the date of the completion of the liquidation of the trust if this occurs within that ten-year period; the same applies in the following paragraph); provided, however, that this does not apply if the trustee has delivered the documents or their copies to the beneficiary (if there are two or more beneficiaries at the time in question, to all beneficiaries; if there is a trust administrator at the time in question, to the trust administrator; the same applies in paragraph (8)), or has provided the beneficiary with information recorded in those electronic or magnetic records by the means specified by Order of the Ministry of Justice.

- (7) If the trustee has prepared or acquired a written contract regarding the disposal of property that comes under trust property or any other documents or electronic or magnetic records concerning the administration of trust affairs, they must preserve those documents or electronic or magnetic records (if electronic or magnetic records have been prepared in lieu of those documents by the means specified by Order of the Ministry of Justice, those electronic or magnetic records; if documents have been prepared in lieu of those electronic or magnetic records, those documents) for ten years from the date of their preparation or acquisition. In such a case, the provisions of the proviso to the preceding paragraph apply *mutatis mutandis*.
- (8) If the trustee has prepared the balance sheet referred to in paragraph (3) and the documents or electronic or magnetic records referred to in paragraph (4) (hereinafter referred to as the "balance sheet and relevant documents or records" in this paragraph and Article 224, paragraph (2), item (i)), they must preserve the balance sheet and relevant documents or records (if electronic or magnetic records have been prepared in lieu of documents by the means specified by Order of the Ministry of Justice, those electronic or magnetic records; if documents have been prepared in lieu of electronic or magnetic records, those documents) until the date of the completion of the liquidation of the trust; provided, however that this does not apply if, after ten years have elapsed from the date of the preparation, the trustee has delivered those documents or their copies to the beneficiary, or has provided the beneficiary with information recorded in those electronic or magnetic records by the means specified by Order of the Ministry of Justice.
- (9) For the purpose of applying the provisions of Article 38 to the limited liability trust, the phrase "paragraph (1) or paragraph (5) of the preceding Article" in the items of paragraph (1) of that Article is deemed to be replaced with "Article 222, paragraph (2) or paragraph (7)," and the phrase "paragraph (2) of the preceding Article" in paragraph (4), item (i) of that Article and the items of paragraph (6) of that Article is deemed to be replaced with "Article 222, paragraph (3) or paragraph (4)."

(Order to Submit Documents by the Court)

Article 223 The court may, upon petition or on its own authority, order the parties to a suit to submit all or some of the documents referred to in paragraph (2) through paragraph (4) of the preceding Article.

(Trustee's Liability to Third Parties)

Article 224 (1) If the trustee acted in bad faith or with gross negligence in administering trust affairs for limited liability trust, the trustee is liable to compensate for any damages suffered by a third party arising from this.

(2) The provisions of the preceding paragraph also apply if the trustee of the limited liability trust has performed the following acts; provided, however, that this does not apply if the trustee proves that they did not fail to exercise due care in performing those acts:

- (i) making false statements or records about a material particular that must be entered or recorded in the balance sheet and relevant documents or records;
- (ii) making a false registration; or
- (iii) giving false public notice.

(3) In the cases referred to in the preceding two paragraphs, if there are other trustees who are also liable to compensate for damages, those trustees are joint and several obligors.

(Restriction on Distribution of Trust Property to Beneficiaries)

Article 225 Distribution of trust property may not be made to the beneficiary in excess of the distributable amount (meaning the amount that may be distributed to the beneficiary, as calculated by the means specified by Order of the Ministry of Justice within the amount of net assets; hereinafter the same applies in this Section) for limited liability trust.

(Obligations Related to Distribution of Trust Property to Beneficiaries)

Article 226 (1) If a trustee has distributed trust property to the beneficiary in violation of the provisions of the preceding Article, the persons set forth in the following items jointly and severally assume obligations specified in the respective items (for the beneficiary set forth in item (ii), joint and several liability is limited to the amount of distribution actually received by each beneficiary); provided, however, that this does not apply if the trustee proves that they did not fail to exercise due care in performing the duties:

- (i) the trustee: the obligation to compensate the trust property with money equivalent to the book value of the distribution (hereinafter referred to as the "distributed amount" in this Section); and
- (ii) the beneficiary who received the distribution: the obligation to pay to the trustee money equivalent to the distributed amount actually received by each

beneficiary.

- (2) If the trustee has performed the obligation specified in item (i) of the preceding paragraph in whole or in part, the beneficiary set forth in item (ii) of that paragraph is exempted from the obligation specified in item (ii) of that paragraph up to the amount obtained by multiplying the amount of obligation performed by the ratio of the distributed amount referred to in item (ii) of that paragraph to the distributed amount referred to in item (i) of that paragraph, and if the beneficiary has performed the obligation specified in item (ii) of that paragraph in whole or in part, the trustee is exempted from the obligation specified in item (i) of that paragraph up to the amount of obligation performed.
- (3) Money paid by the beneficiary to the trustee pursuant to the provisions of paragraph (1) (limited to the part regarding item (ii)) belongs to the trust property.
- (4) The obligation prescribed in paragraph (1) may not be exempted; provided, however, that this does not apply if all beneficiaries consent to the exemption of the obligation up to the distributable amount on the day on which the distribution was made.
- (5) In the case prescribed in the main clause of paragraph (1), if there are other trustees who also assume the obligation referred to in item (i) of that paragraph, those trustee are joint and several obligors.
- (6) The provisions of Article 45 apply mutatis mutandis to an action regarding the claim pursuant to the provisions of paragraph (1).

(Restriction on the Right to Reimbursement from Beneficiaries)

Article 227 (1) In the case prescribed in the main clause of paragraph (1) of the preceding Article, if the beneficiary who received the distribution had no knowledge of the fact that the distributed amount exceeds the maximum distributable amount on the day on which the distribution was made, the beneficiary is not liable to meet the demand by the trustee for reimbursement for the distributed amount.

- (2) In the case prescribed in the main clause of paragraph (1) of the preceding Article, a trust creditor may have the beneficiary who received the distribution pay money equivalent to the distributed amount (or the amount of the claim held by that trust creditor if the distributed amount exceeds the amount of the claim).

(Liability in Cases of Deficit)

Article 228 (1) If a trustee has made distribution of trust property to a beneficiary, and a deficit (meaning the amount obtained by deducting the amount of assets from the amount of liabilities on the balance sheet when the amount of liabilities exceeds the amount of assets; hereinafter the same applies

in this paragraph) occurs at the time referred to in Article 222, paragraph (4) that comes after the day on which the distribution was made, the persons set forth in the following items jointly and severally assume obligations specified in the respective items (for the beneficiary set forth in item (ii), the joint and several liability is limited to the distributed amount actually received by each beneficiary); provided, however, that this does not apply if the trustee has proved that they did not fail to exercise due care in performing their duties:

(i) the trustee: the obligation to compensate the trust property with money equivalent to the amount of deficit (or the distributed amount if the amount of deficit exceeds the distributed amount); and

(ii) the beneficiary who received the distribution: the obligation to pay to the trustee money equivalent to the amount of deficit (or the amount of distribution actually received by each beneficiary if the amount of deficit exceeds the distributed amount).

(2) If the trustee has performed the obligation specified in item (i) of the preceding paragraph in whole or in part, the beneficiary set forth in item (ii) of that paragraph is exempted from the obligation specified in item (ii) of that paragraph up to the amount obtained by multiplying the amount of obligation fulfilled by the ratio of the distributed amount referred to in item (ii) of that paragraph to the amount distributed referred to in item (i) of that paragraph, and if the beneficiary has fulfilled the obligation specified in item (ii) of that paragraph in whole or in part, the trustee is exempted from the obligation specified in item (i) of that paragraph up to the amount of obligation fulfilled.

(3) Money paid by the beneficiary to the trustee pursuant to the provisions of paragraph (1) (limited to the part regarding item (ii)) belongs to the trust property.

(4) The obligations prescribed in paragraph (1) may not be exempted without the consent of all beneficiaries.

(5) In the case prescribed in the main clause of paragraph (1), if there are other trustees who also assume the obligation referred to in item (i) of that paragraph, the trustees are joint and several obligors.

(6) The provisions of Article 45 apply mutatis mutandis to an action regarding the demand pursuant to the provisions of paragraph (1).

(Public Notice to Creditors)

Article 229 (1) A liquidation trustee of a limited liability trust must give public notice in the Official Gazette of the fact that trust creditors are required to file their claims during a fixed period of time to the trust creditors, and must separately give notice of that fact to each known trust creditor, after assuming office without delay; provided, however that the period may not be shorter than two months.

- (2) The public notice pursuant to the provisions of the preceding paragraph must be accompanied by a supplementary note stating the fact that the trust creditors are excluded from the liquidation if they fail to file their claims during that period.

(Restriction on Performance of Obligations)

Article 230 (1) A liquidation trustee of a limited liability trust may not perform any obligations of the limited liability trust in liquidation during the period referred to in paragraph (1) of the preceding Article. In such a case, the liquidation trustee may not be exempted from the liability arising from the failure to perform those obligations.

- (2) Notwithstanding the provisions of the preceding paragraph, even during the period referred to in paragraph (1) of the preceding Article, with the permission of the court, the liquidation trustee may perform obligations regarding claims of small amounts, claims secured by security rights existing on property that comes under trust property of the limited liability trust in liquidation, and other obligations related to claims that are unlikely to harm other creditors even if they are performed. In such a case, if there are two or more liquidation trustees, a petition for the permission must be filed with the consent of all of those trustees.
- (3) If filing a petition for the permission referred to in the preceding paragraph, the liquidation trustee must make a prima facie showing of the facts constituting the grounds for the petition.
- (4) The judicial decision dismissing the petition referred to in paragraph (2) must include the reasons for the dismissal.
- (5) No appeal may be entered against the judicial decision on the permission for performance pursuant to the provisions of paragraph (2).

(Exclusion from Liquidation)

Article 231 (1) Trust creditors of a limited liability trust in liquidation (excluding known trust creditors) who have not filed their claims during the period referred to in Article 229, paragraph (1) are excluded from the liquidation.

- (2) Trust creditors excluded from the liquidation pursuant to the provisions of the preceding paragraph may demand the performance only with respect to undistributed residual assets.
- (3) If there are two or more beneficiaries and residual assets of the limited liability trust in liquidation have been distributed to some of those beneficiaries, the assets necessary for distribution to be made to beneficiaries other than those beneficiaries in the same proportion as that received by those beneficiaries are deducted from the residual assets referred to in the preceding

paragraph.

Section 3 Registration of Limited Liability Trust

(Registration of the Provisions on Limited Liability Trust Status)

Article 232 If the provisions of Article 216, paragraph (1) have been established in the terms of trust, a registration of the provisions on the limited liability trust status must be made within two weeks, by registering the following particulars:

- (i) the purpose of the limited liability trust;
- (ii) the name of the limited liability trust;
- (iii) the name and address of the trustee;
- (iv) the place of administration of affairs of the limited liability trust;
- (v) if a trust property administrator or an incorporated trust property administrator has been appointed pursuant to the provisions of Article 64, paragraph (1) (including as applied mutatis mutandis pursuant to Article 74, paragraph (6)), their name and address;
- (vi) if the terms of trust contain a clause on the termination of the trust pursuant to the provisions of Article 163, item (ix), the clause; and
- (vii) if the trust is a trust with financial auditors (meaning a trust with financial auditors prescribed in Article 248, paragraph (3); the same applies in Article 240, item (iii)), a statement to that effect and the names of the financial auditors.

(Registration of Changes)

Article 233 (1) If there is a change to the place of administration of affairs of a limited liability trust, a registration of that change must be made within two weeks at the former place of administration of affairs, and the particulars set forth in the items of the preceding Article must be registered at the new place of administration of affairs.

(2) If there is a change to the place of administration of affairs of the limited liability trust within the jurisdictional district of the same registry office, it is sufficient to make a registration of the change.

(3) If there is a change to any of the particulars set forth in the items of the preceding Article (excluding item (iv)), a registration of the change must be made within two weeks.

(Registration of Provisional Disposition Order to Suspend Execution of Duties)

Article 234 If a provisional disposition order is given to suspend the execution of duties by a trustee of a limited liability trust or to appoint a person who is a substitute for the trustee, or when the provisional disposition order is changed

or revoked, a registration to that effect must be made at the place of administration of affairs of the trust.

(Registration of Termination)

Article 235 If a limited liability trust has been terminated pursuant to the provisions of Article 163 (excluding the part regarding item (vi) and item (vii)) or Article 164, paragraph (1) or (3), or when a modification has been made to a trust to repeal the provisions of Article 216, paragraph (1), a registration of the termination must be made within two weeks.

(Registration of Liquidation Trustee)

Article 236 (1) If a limited liability trust has been terminated and the trustee at the time of the termination of the limited liability trust assumes office of liquidation trustee, the name and address of the liquidation trustee must be registered within two weeks from the date of the termination.

(2) The provisions of the preceding paragraph also apply if a liquidation trustee is appointed pursuant to the clause of the terms of trust, or the provisions of Article 62, paragraph (1) or (4), or Article 173, paragraph (1).

(3) The provisions of Article 233, paragraph (3) apply mutatis mutandis to the registration pursuant to the provisions of the preceding two paragraphs.

(Registration of Completion of Liquidation)

Article 237 If the liquidation of a limited liability trust has been completed, a registration of the completion of the liquidation must be made within two weeks from the date of approval of the settlement of accounts referred to in Article 184, paragraph (1).

(Competent Registry Office and the Register)

Article 238 (1) Affairs for registration of a limited liability trust are administered by the Legal Affairs Bureau or District Legal Affairs Bureau, the branch bureau or the branch office of those bureaus, which has jurisdiction over the place of administration of affairs of the limited liability trust as the competent registry office.

(2) Registry offices keep a limited liability trust register.

(Application for Registration)

Article 239 (1) Registrations under the provisions of Article 232 and Article 233 are made upon application by the trustee, and registrations under the provisions of Articles 235 through 237 are made upon application by the liquidation trustee.

(2) Notwithstanding the provisions of the preceding paragraph, if a trust

property administrator or an incorporated trust property administrator has been appointed, registrations under the provisions of Article 232 and Article 233 (excluding a registration under the provisions of Article 246) are made upon application by the trust property administrator or the incorporated trust property administrator.

(Documents to be Attached to Registration of the Provisions on Limited Liability Trust Status)

Article 240 The following documents must be attached to a written application for registration of the provisions on limited liability trust status:

- (i) a document certifying the terms of trust of the limited liability trust;
- (ii) if the trustee is a corporation, a certificate of registered information for the corporation; provided, however, that this does not apply if the head office or the principal office of the corporation is located within the jurisdictional district of the registry office;
- (iii) for a trust with financial auditors, the following documents:
 - (a) a document certifying acceptance of office;
 - (b) if the financial auditor is a corporation, a certificate of registered information for the corporation; provided, however, that this does not apply if the head office or the principal office of the corporation is located within the jurisdictional district of the registry office; and
 - (c) if the financial auditor is not a corporation, a document certifying that the financial auditor is a person specified in Article 249, paragraph (1).

(Documents to be Attached to Registration of Change)

Article 241 (1) When filing a written application for the registration of a change in the place of administration of affairs or of a change in any of the particulars set forth in the items of Article 232 (excluding item (iv)), a document certifying the change in the place of administration of affairs or the change in the registered particulars must be attached to the written application.

- (2) When filing a written application for a registration of a change due to the assumption of office by a new trustee that is a corporation, the document set forth in item (ii) of the preceding Article must be attached to the written application.
- (3) When filing a written application for a registration of a change due to the assumption of office by a financial auditor, the document set forth in item (iii), sub-item (b) or (c) of the preceding Article must be attached to the written application.

(Documents to be Attached to Registration of Termination)

Article 242 When filing a written application for the registration of the

termination of a limited liability trust, a document certifying the grounds for the termination must be attached the written application.

(Documents to be Attached to Registration of Liquidation Trustee)

Article 243 (1) When filing a written application for the registration of a liquidation trustee when any of the persons set forth in the following items has become the liquidation trustee, the documents specified in the respective items must be attached to the written application:

- (i) a person appointed by the provisions of the terms of trust: the following documents:
 - (a) a document certifying that the clause of the terms of trust exists; and
 - (b) a document certifying that the appointed person has accepted office;
 - (ii) a person appointed pursuant to the provisions of Article 62, paragraph (1): the following documents:
 - (a) a document certifying that the agreement referred to in Article 62, paragraph (1) has been reached; and
 - (b) a document set forth in sub-item (b) of the preceding item; or
 - (iii) a person appointed by the court pursuant to the provisions of Article 62, paragraph (4) or Article 173, paragraph (1): a document certifying the appointment.
- (2) The provisions of Article 240 (limited to the part regarding item (ii)) apply mutatis mutandis to the registration of a liquidation trustee that is a corporation.

(Documents to be Attached to Registration of Change Concerning Liquidation Trustees)

Article 244 (1) When filing a written application for the registration of a change due to a liquidation trustee's resignation, a document certifying the resignation must be attached to the written application.

(2) When filing a written application for the registration of a change to any of the particulars specified in Article 236, paragraph (1), a document certifying the change to the registered particulars must be attached to the written application.

(3) The provisions of Article 241, paragraph (2) apply mutatis mutandis to the registration of a change due to assumption of office by a liquidation trustee that is a corporation.

(Documents to be Attached to Registration of Completion of Liquidation)

Article 245 When filing a written application for the registration of the completion of liquidation, a document certifying that the settlement of accounts referred to in Article 184, paragraph (1) has been approved must be attached to

the written application.

(Commission of Registration by Judicial Decision)

Article 246 In the following cases, a court clerk must commission the registry office that has jurisdiction over the place of administration of affairs of a limited liability trust to make a registration of the respective particulars on their own authority and without delay:

- (i) if any of the following judicial decisions has been made:
 - (a) a judicial decision dismissing a trustee, a trust property administrator, or an incorporated trust property administrator pursuant to the provisions of Article 58, paragraph (4) (including as applied mutatis mutandis pursuant to Article 70 (including as applied mutatis mutandis pursuant to Article 74, paragraph (6))); or
 - (b) a judicial decision appointing a trust property administrator or an incorporated trust property administrator pursuant to the provisions of Article 64, paragraph (1) (including as applied mutatis mutandis pursuant to Article 74, paragraph (6)); or
- (ii) if any of the following judicial decisions has become final and binding:
 - (a) a judicial decision revoking the judicial decision set forth in sub-item (a) of the preceding item; or
 - (b) a judicial decision ordering the termination of a trust pursuant to the provisions of Article 165 or Article 166.

(Application, Mutatis Mutandis of the Commercial Registration Act and the Civil Provisional Remedies Act)

Article 247 With regard to the registration of a limited liability trust, the provisions of Articles 2 through 5, Articles 7 through 15, Article 17 (excluding paragraph (3)), Articles 18 through 19-3, Article 20, paragraphs (1) and (2), Articles 21 through 24, Article 26, Article 27, Articles 51 through 53, Article 71, paragraph (1), Articles 132 through 137, and Articles 139 through 148 of the Commercial Registration Act (Act No. 125 of 1963), and the provisions of Article 56 of the Civil Provisional Remedies Act apply mutatis mutandis. In such a case, in Article 51, paragraph (1) of the Commercial Registration Act, the term "head office" is deemed to be replaced with "place of administration of affairs (meaning the place of administration of affairs prescribed in Article 216, paragraph (2), item (iv) of the Trust Act (Act No. 108 of 2006); the same applies hereinafter)" and the term "relocation" is deemed to be replaced with "change"; in Article 51, paragraph (1) and Article 52, paragraphs (2), (3), and (5) of that Act, the term "new location" is deemed to be replaced with "new place of administration of affairs"; in Article 51, paragraphs (1) and (2) and Article 52 of that Act, the term "former location" is deemed to be replaced with "former

place of administration of affairs"; in Article 71, paragraph (1), the term "dissolution" is deemed to be replaced with "termination of a limited liability trust"; and in Article 56 of the Civil Provisional Remedies Act, the phrase "representative or any other officer of a corporation" is deemed to be replaced with "trustee or liquidation trustee of a limited liability trust" and the phrase "location of the head office or principal office of the corporation (in the case of a foreign corporation, the location of its office)" is deemed to be replaced with "place of administration of affairs (meaning the place of administration of affairs prescribed in Article 216, paragraph (2), item (iv) of the Trust Act (Act No. 108 of 2006) of the limited liability trust)".

Chapter X Special Provisions on Limited Liability Trust with Certificates of Beneficial Interest

(Appointment of Financial Auditors)

- Article 248 (1) A limited liability trust that is a trust with certificates of beneficial interest (hereinafter referred to as the "limited liability trust with certificates of beneficial interest") may appoint a financial auditor by the provisions of the terms of trust.
- (2) A limited liability trust with certificates of beneficial interest that has recorded a total of 20 billion yen or more in the liabilities section of its latest balance sheet (meaning a balance sheet prepared at the latest time referred to in Article 222, paragraph (4)) must appoint a financial auditor.
- (3) In the case of a trust with the provisions of terms of trust referred to in paragraph (1) and a trust prescribed in the preceding paragraph (hereinafter collectively referred to as a "trust with financial auditors"), a clause designating a financial auditor must be established in the terms of trust.

(Qualifications of Financial Auditors)

- Article 249 (1) A financial auditor must be a certified public accountant (including a foreign certified public accountant (meaning a foreign certified public accountant prescribed in Article 16-2, paragraph (5) of the Certified Public Accountants Act (Act No. 103 of 1948); the same applies in paragraph (3), item (ii)) or an audit corporation.
- (2) An audit corporation that has been appointed as a financial auditor must select a person who is to perform the duties of a financial auditor from among its members, and notify the trustee of that fact. In such a case, the person set forth in item (ii) of the following paragraph may not be selected.
- (3) The following persons may not serve as a financial auditor:
- (i) a person who may not audit the documents or electronic or magnetic records prescribed in Article 222, paragraph (4) pursuant to the provisions of the

Certified Public Accountants Act;

- (ii) a person who continuously receives remuneration from the trustee or their interested party for business other than that of a certified public accountant or audit corporation, or the spouse of that person; and
- (iii) an audit corporation in which half or more of the members are persons set forth in the preceding item.

(Measures to Be Taken in the Case of Vacancy of a Financial Auditor)

- Article 250 (1) In the case of a trust with financial auditors, when there is vacancy of a financial auditor, a settlor and a beneficiary must appoint a new financial auditor (hereinafter referred to as the "new financial auditor" in this Article) within two months from the time when that vacancy of financial auditor occurred, based on their agreement.
- (2) In the case prescribed in the preceding paragraph, if there is no settlor at the time in question or an agreement referred to in that paragraph has not been reached after the two months have passed from the time when a vacancy of financial auditor occurred, a new financial auditor may be appointed only by the beneficiary.
- (3) In the cases prescribed in the preceding two paragraphs, when there are two or more beneficiaries, the trustee (if there is a trust supervisor at the time in question, either of the trustee or the trust supervisor) must convene a beneficiaries meeting without delay in order to appoint a new financial auditor pursuant to the provisions of the preceding two paragraphs.
- (4) If a new financial auditor has been appointed pursuant to the provisions of paragraph (1) or paragraph (2), it is deemed that the provisions of Article 248, paragraph (3) has been established in the terms of trust concerning the new financial auditor.
- (5) If there is vacancy of a financial auditor, the financial auditor who has left office due to resignation has the rights and obligations of a financial auditor until a new financial auditor is appointed.

(Resignation and Dismissal of Financial Auditors)

Article 251 The provisions of the main clause of Article 57, paragraph (1) apply mutatis mutandis to the resignation of a financial auditor, and the provisions of Article 58, paragraphs (1) and (2) apply mutatis mutandis to the dismissal of a financial auditor.

(Authority of Financial Auditors)

Article 252 (1) A financial auditor audits the documents or electronic or magnetic records referred to in Article 222, paragraph (4). In such a case, a financial auditor must prepare a financial audit report as provided for by

Order of the Ministry of Justice.

- (2) A financial auditor may inspect and copy the following objects or request a trustee to make a report on accounting, at any time:
 - (i) if the accounting books or their materials are prepared in writing, those documents; and
 - (ii) if accounting books or their materials are prepared as an electronic or magnetic record, an object that displays the information recorded in the electronic or magnetic record by the means specified by Order of the Ministry of Justice.
- (3) A financial auditor is prohibited from using a person who falls under any of the following items in performing their duties:
 - (i) a person set forth in Article 249, paragraph (3), item (i) or (ii);
 - (ii) the trustee or their interested party; or
 - (iii) a person who continuously receives remuneration from the trustee or their interested party for business other than that of a certified public accountant or audit corporation.
- (4) For the purpose of applying the provisions of Article 222, paragraphs (4), (5), and (8) to a trust with financial auditors, the term "must prepare" in paragraph (4) of that Article is deemed to be replaced with "must prepare and receive an accounting audit referred to in Article 252, paragraph (1) of"; the term "their content" in paragraph (5) of that Article is deemed to be replaced with "their content and a financial audit report"; the term "prepared" in paragraph (8) of that Article is deemed to be replaced with "prepared and received an accounting audit referred to in Article 252, paragraph (1) of"; and the term "those documents)" in paragraph (8) of that Article is deemed to be replaced with "those documents) and the financial audit report".

(Duty of Care of Financial Auditors)

Article 253 A financial auditor must perform their duties with the due care of a prudent manager.

(Financial Auditor's Liability to Compensate for Losses)

- Article 254 (1) If a loss has occurred to the trust property due to a financial auditor's negligence in the performance of their duties, the beneficiary may demand that the financial auditor compensate for that loss.
- (2) Money or other property delivered by the financial auditor to the trustee as compensation for the loss pursuant to the provisions of the preceding paragraph belongs to the trust property.
 - (3) The provisions of Article 42 (limited to the part regarding item (i)) and Article 105, paragraphs (3) and (4) (excluding item (iii)) apply mutatis mutandis to exemption of liability pursuant to the provisions of paragraph (1), the

provisions of Article 43 apply mutatis mutandis to the claim regarding liability pursuant to the provisions of paragraph (1), and the provisions of Article 45 apply mutatis mutandis to an action regarding the demand pursuant to the provisions of paragraph (1). In such cases, the phrase "the trustee acting in bad faith or with gross negligence in performing their duties" in Article 105, paragraph (4), item (ii) is deemed to be replaced with "the financial auditor acting in bad faith or with gross negligence in performing their duties".

(Financial Auditor's Liability to Third Parties)

Article 255 (1) In the case of a trust with financial auditors, if a financial auditor has acted in bad faith or with gross negligence in performing their duties, the financial auditor is liable to compensate a third party for resulting damages.

(2) The provisions of the preceding paragraph also apply when the financial auditor of a trust with financial auditors has made a false statement or record about a material particular that is required to be entered or recorded in the financial audit report referred to in Article 252, paragraph (1); provided, however, that this does not apply if the financial auditor proves that they did not fail to exercise due care in performing that act.

(3) In the cases referred to in the preceding two paragraphs, if there are other financial auditors who are liable to compensate for the damages, they are joint and several obligors.

(Expenses and Remuneration of Financial Auditors)

Article 256 The provisions of Article 127, paragraphs (1) through (5) apply mutatis mutandis to expenses and their interest that has accrued from the date of payment, compensation for damages, and remuneration payable to a financial auditor.

(Special Provisions on Beneficiaries Meetings)

Article 257 For the purpose of applying the provisions of Article 118 to cases in which the terms of trust for a trust with financial auditors do not have the special provisions referred to in Article 214, the phrase "the same applies in the following paragraph)" in Article 118, paragraph (1) is deemed to be replaced with "the same applies in the following paragraph) and a financial auditor" and the term "the trustee" in Article 118, paragraph (2) is deemed to be replaced with "the trustee or the financial auditor".

Chapter XI Special Provisions on Trusts That Do Not Establish a Beneficiary

(Requirements for Trusts That Do Not Establish a Beneficiary)

- Article 258 (1) A trust that does not establish a beneficiary (including establishing the means for specifying a beneficiary; the same applies hereinafter) may be created by the means set forth in Article 3, item (i) or (ii).
- (2) In the case of a trust that does not establish a beneficiary, a beneficiary may not be established by making a modification to the trust.
- (3) In the case of a trust that establishes a beneficiary, the establishing of a beneficiary may not be repealed by making a modification to the trust.
- (4) If a trust that does not establish a beneficiary is to be created by the means set forth in Article 3, item (ii), provisions to designate a trust administrator must be established. In such a case, provisions that restrict the trust administrator's authority to exercise the rights set forth in the items of Article 145, paragraph (2) (excluding item (vi)) may not be established.
- (5) In the case of a trust that does not establish a beneficiary created by the means set forth in Article 3, item (ii) and for which there are no provisions for designating a trust administrator, if there are provisions establishing an executor, the executor must appoint a trust administrator. In such a case, when the executor has appointed a trust administrator, it is deemed that the clause referred to in the first sentence of the preceding paragraph has been established in the terms of trust for the trust administrator.
- (6) In the case of a trust that does not establish a beneficiary created by the means set forth in Article 3, item (ii) and for which there are no provisions designating a trust administrator, if there are no provisions establishing an executor or if a person designated as the person who is to be the executor does not appoint or is unable to appoint a trust administrator, the court may appoint a trust administrator upon petition of an interested party. In such a case, when the judicial decision on the appointment of a trust administrator has been made, it is deemed that the clause referred to in the first sentence of paragraph (4) has been established in the terms of trust for the trust administrator.
- (7) The provisions of Article 123, paragraphs (6) through (8) apply mutatis mutandis to the judicial decision on the petition referred to in the preceding paragraph.
- (8) In the case of a trust that does not establish a beneficiary created by the means set forth in Article 3, item (ii), the trust is terminated if there is a vacancy in the position of a trust administrator and the position is not filled by a new trust administrator for one year.

(Duration of Trusts That Do Not Establish a Beneficiary)

Article 259 The duration of a trust that does not establish a beneficiary may not exceed 20 years.

(Settlor's Rights in Trusts That Do Not Establish a Beneficiary)

Article 260 (1) In the case of a trust that does not establish a beneficiary created by the means set forth in Article 3, item (i), it is deemed that provisions on the settlor (if there are two or more settlors, all of those settlors) having the rights set forth in the items of Article 145, paragraph (2) (excluding item (vi)) and the trustee assuming the obligations set forth in the items of paragraph (4) of that Article have been established. In such a case, those provisions may not be changed by making a modification to the trust.

(2) In the case of a trust that does not establish a beneficiary created by the means set forth in Article 3, item (ii), if it is deemed that the provisions referred to in the first sentence of paragraph (4) of that Article have been established pursuant to the provisions of the second sentence of Article 258, paragraph (5) or the second sentence of paragraph (6) of that Article, it is not allowed to restrict the trust administrator's authority to exercise the rights set forth in the items of Article 145, paragraph (2) (excluding item (vi)) by making a modification to the trust.

(Application of This Act)

Article 261 (1) For the purpose of applying the provisions of this Act set forth in the left-hand column of the following table to a trust that does not establish a beneficiary, the terms set forth in the middle column of that table are deemed to be replaced with the terms set forth in the right-hand column of that table:

Article 19, paragraph (1), item (iii) and paragraph (3), item (iii)	will not harm the interests of the beneficiary	will not hinder the achievement of the purpose of the trust
	between the trustees and the beneficiaries	that the trustee has with regard to the purpose of the trust

Article 19, paragraph (3), item (ii)	deliberation between the beneficiaries of each trusts (if there is a trust administrator for each trust at the time in question, the trust administrators)	deliberation between the trust administrator of the trust that do not establish a beneficiary and the beneficiary of another trust (if there is a trust administrator at the time in question, the trust administrator), or by deliberation between the trust administrators of each trustthat does not establish a beneficiary
Article 30	on behalf of a beneficiary	for the achievement of the purpose of the trust
Article 31, paragraph (1), item (iv)	would cause a conflict of interest between the trustee or their interested party and the beneficiary	would be in the interest of the trustee or relevant interested party and hinder the achievement of the purpose of the Trust
Article 31, paragraph (2), item (iv)	will not harm the interests of the beneficiary	will not hinder the achievement of purpose of the trust
	between the trustee and the beneficiary	that the trustee has with regard to the purpose of the trust
Article 32, paragraph (1)	be contrary to the interest of a beneficiary	hinder the achievement of the purpose of the trust
Proviso to Article 37, paragraph (4)	beneficiary	settlor
	trust administrator	trust administrator or settlor
Proviso to Article 37, paragraph (6)	beneficiary	settlor
Article 38, paragraph (2), item (iii)	harming the common interests of the beneficiaries	hindering the achievement of the purpose of the trust
Article 57, paragraph (1)	a settlor and a beneficiary	a settlor (if there is a trust administrator at the time in question, the settlor and the trust administrator)

Article 58, paragraph (1)	A settlor and a beneficiary may dismiss a trustee at any time, based on an agreement between them.	A settlor may, at any time (if there is a trust administrator at the time in question, the settlor and the trust administrator may dismiss a trustee at any time based on an agreement between them) .
Article 58, paragraph (2)	the settlor and the beneficiary have	the settlor has (if there is a trust administrator at the time in question, the settlor and the trust administrator have)
	the settlor and the beneficiary	the settlor
Article 62, paragraph (1)	the settlor and the beneficiary may appoint a new trustee, based on an agreement between them.	the settlor may (if there is a trust administrator at the time in question, the settlor and the trust administrator may appoint a new trustee based on an agreement between them)
Article 62, paragraph (3)	the settlor and the beneficiary (if there are two or more beneficiaries at the time in question, to one of them; if there is a trust administrator at the time in question, to the trust administrator)	the settlor (if there is a trust administrator at the time in question, to the settlor and the trust administrator)
Article 62, paragraph (4)	status of deliberations regarding the agreement referred to in that paragraph	status of the settlor (if there is a trust administrator at the time in question, the status of deliberations related to the agreement referred to in that paragraph)
Article 62, paragraph (8)	"the beneficiary may"	"the trust administrator may"
	"the beneficiary"	"the trust administrator"

	"status of the beneficiary"	"status of the trust administrator"
Article 125, paragraph (1)	on behalf of a beneficiary	for the achievement of the purpose of the trust
Article 126, paragraph (2)	on behalf of the beneficiary	for the achievement of the purpose of the trust
Article 146, paragraph (1)	a trustee and a beneficiary	a trustee
Article 146, paragraph (2)	other settlors, a trustee, and a beneficiary.	other settlors and a Trustee
Article 149, paragraph (1)	a settlor, a trustee, and a beneficiary	a settlor and a trustee (if there is a trust administrator at the time in question, the settlor, the trustee, and the trust administrator)
Article 149, paragraph (2) (excluding item (i))	to the settlor and the beneficiary	to the settlor (if there is a trust administrator at the time in question, to the settlor and the trust administrator)
	is not contrary to the purpose of the trust and conforms to the interests of the beneficiary	is necessary for the achievement of the purpose of the trust
Article 149, paragraph (3), item (i)	the settlor and the beneficiary	the settlor (if there is a trust administrator at the time in question: the settlor and the trust administrator)
Article 149, paragraph (5)	to the beneficiary	to the trust administrator
Article 150, paragraph (1)	no longer conforms to the interest of a beneficiary	comes to hinder the achievement of the purpose of the trust
Article 151, paragraph (1)	settlors, trustees, and beneficiaries of each of the previous trusts	settlors and trustees of each of the previous trusts (if there are trust administrators at the time in question, the settlors, the trustees, and the trust administrators)

Article 151, paragraph (2) (excluding item (i))	to the settlor and the beneficiary	to the settlor (if there is a trust administrator at the time in question, to the settlor and the trust administrator)
	is not contrary to the purpose of the trust and conforms to the interests of the beneficiary	is necessary for the achievement of the purpose of the trust
Article 151, paragraph (4)	to the beneficiary	to the trust administrator
Article 155, paragraph (1)	a settlor, a trustee, and a beneficiary	a settlor and a trustee (if there is a trust administrator at the time in question, the settlor, the trustee, and the trust administrator)
Article 155, paragraph (2) (excluding item (i))	to the settlor and the beneficiary	to the settlor (if there is a trust administrator at the time in question, to the settlor and the trust administrator)
	is not contrary to the purpose of the trust and conforms to the interests of the beneficiary	is necessary for the achievement of the purpose of the trust
Article 155, paragraph (4)	to the beneficiary	to the trust administrator
Article 159, paragraph (1)	a settlor, a trustee, and a beneficiary	a settlor and a trustee (if there is a trust administrator at the time in question, the settlor, the trustee, and the trust administrator)
Article 159, paragraph (2) (excluding item (i))	to the settlor and the beneficiary	to the settlor (if there is a trust administrator at the time in question, to the settlor and the trust administrator)
	is not contrary to the purpose of the trust and conforms to the interests of the beneficiary:	is necessary for the achievement of the purpose of the trust

Article 159, paragraph (4)	to the beneficiary	to the trust administrator
Article 164, paragraph (1)	A settlor and a beneficiary may terminate a trust at any time by an agreement between them.	A settlor may terminate a trust at any time (if there is a trust administrator at the time in question, the settlor and the trust administrator may terminate a trust at any time by an agreement between them)
Article 164, paragraph (2)	a settlor and a beneficiary have	the settlor has (if there is a trust administrator at the time in question, the settlor and the trust administrator have)
	the settlor and the beneficiary	the settlor
Article 165, paragraph (1)	has come to conform to the interests of the beneficiary	has come to be reasonable
Proviso to Article 222, paragraph (6)	beneficiary	settlor
	to the trust administrator	to the trust administrator or the settlor
Proviso to Article 222, paragraph (8)	beneficiary	settlor
Article 243, paragraph (1), item (ii), sub-item (a)	the agreement	the settlor's manifestation of intention (if there is a trust administrator at the time in question, the agreement between the settlor and the trust administrator)

- (2) With regard to expenses and interest, compensation for loss, and trust fees for a trustee of a trust that does not establish a beneficiary, the provisions of Article 48, paragraph (5) (including as applied mutatis mutandis pursuant to Article 53, paragraph (2) and Article 54, paragraph (4)) do not apply.
- (3) With regard to a modification of a trust for a trust that does not establish a beneficiary, the provisions of Article 149, paragraph (2), item (i), and paragraph (3), item (ii) do not apply.

- (4) With regard to a consolidation of trusts for a trust that does not establish a beneficiary, the provisions of Article 151, paragraph (2), item (i) do not apply.
- (5) With regard to a split of a trust for a trust that does not establish a beneficiary, the provisions of Article 155, paragraph (2), item (i) and Article 159, paragraph (2), item (i) do not apply.

Chapter XII Miscellaneous Provisions
Section 1 Non-Contentious Cases

(Jurisdiction over Non-Contentious Cases Relating to Trusts)

Article 262 (1) Unless otherwise provided for in this Article, a non-contentious case under the provisions of this Act is subject to the jurisdiction of the district court that has jurisdiction over the locality of the domicile of a trustee.

(2) For the purpose of applying the provisions of the preceding paragraph to cases in which there are two or more trustees, the term "domicile of a trustee" in that paragraph is deemed to be replaced with "domicile of any of the trustees".

(3) The case regarding a petition to the court filed pursuant to the provisions of this Act after the termination of a trustee's duties and prior to the assumption of office by a new trustee is subject to the jurisdiction of the district court that has jurisdiction over the domicile of the former trustee.

(4) For the purpose of applying the provisions of the preceding paragraph to cases in which there are two or more trustees, the phrase "termination of a trustee's duties " in that paragraph is deemed to be replaced with "termination of duties of all trustees" and for the purpose of applying the provisions of that paragraph to cases in which there are two or more former trustees, the phrase "domicile of the former trustee" in that paragraph is deemed to be replaced with "domicile of any of the former trustees".

(5) The case regarding a petition referred to in Article 6, paragraph (1) or Article 258, paragraph (6) is subject to the jurisdiction of the district court that has jurisdiction over the testator's last domicile.

(Special Provisions on Procedures for Non-Contentious Cases Relating to Trusts)

Article 263 With regard to non-contentious cases under the provisions of this Act, the provisions of Article 40 and Article 57, paragraph (2), item (ii) of the Non-Contentious Cases Procedures Act do not apply.

(Rules of the Supreme Court)

Article 264 Beyond what is provided for in this Act, the necessary particulars on procedures for non-contentious cases under the provisions of this Act are

prescribed by the Rules of the Supreme Court.

Section 2 Public Notice

(Means of Public Notice for Trustee That Is a Corporation)

Article 265 If a trustee (after the termination of a trustee's duties and prior to the assumption of office by a new trustee, the former trustee) is a corporation, public notice under the provisions of this Act (excluding Article 152, paragraph (2), Article 156, paragraph (2), Article 160, paragraph (2), and Article 229, paragraph (1)) must be given by the means of public notice (including the period of public notice) taken by that corporation.

(Special Provisions on Public Notice Procedures for Merger of Trustee That Is a Corporation)

Article 266 (1) If it is provided that when a trustee that is a corporation implements an entity conversion, a merger, or any other act pursuant to the provisions of the Companies Act or other laws, the creditors of that corporation may state their objections through public notice, a demand, or other procedures, when the trustee that is a corporation seeks performs the act, the creditors who hold claims regarding the obligations covered by the trust property that the trustee is liable only by using property that comes under trust property to perform those obligations are not to be included as the creditors who may state their objections by going through those procedures with regard to that act.

(2) For the purpose of applying the provisions on the transfer of a business of a corporation under the provisions of the Companies Act or other laws, a trust created by the means set forth in Article 3, item (iii) are to be included in the act for which these provisions apply; provided, however, that this does not apply if it is otherwise provided for by those laws.

Chapter XIII Penal Provisions

(Crime of Bribery by Trustee of Limited Liability Trust with Certificates of Beneficial Interest)

Article 267 (1) If any of the following persons accepts, solicits, or promises to accept a bribe in connection with their duties, that person is subject to imprisonment for not more than three years or a fine of not more than three million yen. If the person commits a wrongful act or fails to act appropriately for this reason, that person is subject to imprisonment for not more than five years or a fine of not more than five million yen:

(i) a trustee of a limited liability trust with certificates of beneficial interest (including the former trustee or a liquidation trustee; the same applies

- hereinafter);
- (ii) a trust property administrator of a limited liability trust with certificates of beneficial interest;
 - (iii) a person who is to perform the duties of the trustee of a limited liability trust with certificates of beneficial interest, who was appointed by a provisional disposition order prescribed in Article 56 of the Civil Provisional Remedies Act;
 - (iv) an incorporated trust property administrator of a limited liability trust with certificates of beneficial interest;
 - (v) a trust administrator of a limited liability trust with certificates of beneficial interest;
 - (vi) a trust supervisor of a limited liability trust with certificates of beneficial interest;
 - (vii) an agent of a beneficiary of a limited liability trust with certificates of beneficial interest;
 - (viii) an inspector of a limited liability trust with certificates of beneficial interest; or
 - (ix) a financial auditor.
- (2) A person who has given, offered, or promised to offer a bribe prescribed in the preceding paragraph is punished by imprisonment with work for not more than three years or a fine of not more than three million yen.
- (3) In the case referred to in paragraph (1), any bribe accepted by the perpetrator is confiscated. If all or part of the bribe money cannot be confiscated, an equivalent value is collected.

(Crimes Committed Outside Japan)

- Article 268 (1) The crime referred to in paragraph (1) of the preceding Article also applies to a person who has committed the crime outside Japan.
- (2) The crime referred to in paragraph (2) of the preceding Article is governed by the provisions of Article 2 of the Penal Code (Act No. 45 of 1907).

(Application of Penal Provisions to Corporations)

- Article 269 If a person specified in Article 267, paragraph (1) is a corporation, the provisions of that paragraph apply to a company director, an executive officer, or any other officer executing business or manager, who has committed that act.

(Acts Punishable by Civil Fine)

- Article 270 (1) If a trustee, the former trustee's heir, etc. prescribed in Article 60, paragraph (1), a trust property administrator, a person who performs the duties of the trustee on their behalf and was appointed by a provisional

disposition order prescribed in Article 56 of the Civil Provisional Remedies Act, an incorporated trust property administrator, a trust administrator, a trust supervisor, a beneficiary's agent, or an inspector falls under any of the following cases, that person is subject to a civil fine of not more than one million yen; provided, however, that this does not apply if the act in question is subject to criminal punishment:

- (i) if the person has failed to give public notice or a notice pursuant to the provisions of this Act or has given false public notice or a false notice;
 - (ii) if the person has failed to disclose particulars pursuant to the provisions of this Act;
 - (iii) if the person has violated the provisions of this Act and refused inspection or copying of documents or any object that displays the information recorded in electronic or magnetic records by the means specified by Order of the Ministry of Justice, without legitimate grounds;
 - (iv) if the person has failed to make a report under the provisions of this Act or has given a false report;
 - (v) if the person has obstructed an investigation under the provisions of this Act;
 - (vi) if the person has failed to prepare or preserve the documents or electronic or magnetic records referred to in Article 37, paragraph (1), (2), or (5) or the minutes referred to in Article 120 (limited to cases in which the terms of trust provides that decision is to be made by a majority vote at a beneficiaries meeting provided for in Chapter IV, Section 3, Subsection 2), has failed to enter or record particulars that are required to be entered or recorded in those documents, records, or minutes, or has made false entries or records in them;
 - (vii) if the person has implemented a consolidation of trusts or split of a trust in violation of the provisions of Article 152, paragraph (2) or (5), Article 156, paragraph (2) or (5), or Article 160, paragraph (2) or (5);
 - (viii) if the person has failed to file a petition for commencement of bankruptcy proceedings in violation of the provisions of Article 179, paragraph (1); or
 - (ix) if the person has distributed property that comes under trust property in liquidation in violation of the provisions of Article 181.
- (2) If a trustee of a trust with certificates of beneficial interest, a trust property administrator, a person who performs the duties of the trustee on their behalf and was appointed by provisional disposition order prescribed in Article 56 of the Civil Provisional Remedies Act, an incorporated trust property administrator, a trust supervisor, or a beneficial interest register administrator falls under any of the following cases, that person is subject to a civil fine of not more than one million yen; provided, however, that this does not apply if the act in question is subject to criminal punishment:

- (i) if the person has failed to prepare or preserve the minutes referred to in Article 120 (limited to cases in which there are no special provisions referred to in Article 214 in the terms of trust) or the beneficial interest register referred to in Article 186, has failed to enter or record particulars that are required to be entered or recorded in those documents, or has made false entries or records in them;
 - (ii) if the person has refused to deliver documents or provide electronic or magnetic records in violation of the provisions of Article 187, paragraph (1) or Article 202, paragraph (1);
 - (iii) if the person has failed to keep the beneficial interest register referred to in Article 186 in violation of the provisions of Article 190, paragraph (1);
 - (iv) if the person has failed to issue a beneficiary certificate without delay in violation of the provisions of Article 207; or
 - (v) if the person has failed to enter particulars on a beneficiary certificate or has made false entries in the certificate.
- (3) If a trustee of a limited liability trust, a trust property administrator, a person who performs the duties of the trustee on their behalf and was appointed by provisional disposition order prescribed in Article 56 of the Civil Provisional Remedies Act, or an incorporated trust property administrator falls under any of the following cases, that person is subject to a civil fine of not more than one million yen; provided, however, that this does not apply if the act in question is subject to criminal punishment:
- (i) if the person has failed to make a registration pursuant to the provisions of Chapter IX, Section 3;
 - (ii) if the person has failed to prepare or preserve the accounting books set forth in Article 222, paragraph (2), the balance sheet set forth in paragraph (3) of that Article or the documents or electronic or magnetic records set forth in paragraph (4) or paragraph (7) of that Article, has failed to enter or record particulars that are required to be entered or recorded in those documents or records, or has made false entries or records in them;
 - (iii) if the person has inappropriately specified the period referred to in Article 229, paragraph (1) for the purpose of delaying the completion of liquidation,; or
 - (iv) if the person has performed an obligation in violation of the provisions of Article 230, paragraph (1).
- (4) If a trustee of a trust with financial auditors, a trust property administrator, a person who performs the duties of the trustee on their behalf and was appointed by a provisional disposition order prescribed in Article 56 of the Civil Provisional Remedies Act, an incorporated trust property administrator, or a trust supervisor, has failed to carry out the procedures for appointing a financial auditor in violation of the provisions of Article 250, paragraph (3),

that person is subject to a civil fine of not more than one million yen; provided, however, that this does apply if the act in question is subject to criminal punishment.

Article 271 A person who falls under any of the following cases is punished by a civil fine of not more than one million yen:

- (i) a person who has failed to use the characters for "limited liability trust" in the name of a limited liability trust in violation of the provisions of Article 218, paragraph (1);
- (ii) a person who has used in its name or trade name, any characters that are likely to be mistaken for a limited liability trust in violation of the provisions of Article 218, paragraph (2); or
- (iii) a person who has used a name or trade name that is likely to be mistaken for another limited liability trust in violation of the provisions of Article 218, paragraph (3).

Supplementary Provisions

(Effective Date)

- (1) This Act comes into effect as of the day specified by Cabinet Order within a period not exceeding one year and six months from the date of its promulgation.

(Transitional Measures Concerning Self-Declared Trusts)

- (2) The provisions of Article 3, item (iii) do not apply until the final day in the one year-period that starts to run on the date of enforcement of this Act.

(Transitional Measures Concerning Trusts That Do Not Establish a Beneficiary)

- (3) Until the date specified separately by law, a trust that does not establish a beneficiary (excluding trusts that are created for the purpose of academic activities, art, charity, worship, religion, or any other public interest) may not be created by designating a person other than a corporation specified by Cabinet Order as having sufficient financial basis and personnel structure to appropriately administer trust affairs concerning that trust as a trustee.
- (4) The date specified separately by law referred to in the preceding paragraph is to be considered in light of the status of the review of trusts that do not establish a beneficiary which are created for the purpose of academic activities, art, charity, worship, religion, or other public interest, as well as other circumstances, and to be determined based on the results of the consideration.