

## Content

Title :	Trust Enterprise Act <b>Ch</b>
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Content :	<p>Chapter I General Provision</p> <p>Article 1</p> <p>This Act is enacted to improve management and development of trust enterprises and to protect rights and benefits of trustors and beneficiaries.</p> <p>Banks which conduct trust business with the approval of the Competent Authority shall be governed by this Act.</p> <p>Article 2</p> <p>The term "Trust Enterprise" as used in this Act shall mean an institution approved by the Competent Authority pursuant to the provisions of this Act to conduct a trust business.</p> <p>Article 3</p> <p>Securities investment trust enterprises and securities investment consulting enterprises which respectively, conduct specific items of a trust business concurrently to their other businesses pursuant to the Securities Investment Trust and Consulting Act and meet certain requirements, or securities firms which concurrently conduct specific items of trust businesses shall apply to the Competent Authority for approval before they are subject to provisions of the Act other than Articles 10 through 15, Articles 38 through 40 and Article 43 of the said Act.</p> <p>The Competent Authority shall determine the scope of specific items of a trust business mentioned in the preceding Paragraph, qualification requirements for obtaining an approval of the application mentioned in the said Paragraph from the Competent Authority, circumstances that prevent the application from being approved by the Competent Authority and circumstances that make the said authority annul the permit, financial affairs, business management and other regulations which shall be complied with.</p> <p>Article 4</p> <p>The term "Competent Authority" as used in this Act, shall mean the Financial Supervisory Commission, Executive Yuan.</p> <p>Article 5</p> <p>The term, "Responsible Officer of a Trust Enterprise", as used in this Act, shall mean the person designated to be responsible in accordance with the provisions of the Company Act, other acts or the Articles of Incorporation of the relevant Trust Enterprise.</p> <p>Article 6</p>

The qualifications for a trust enterprise responsible officer shall be as prescribed by the Competent Authority.

#### Article 7

The term, "related party" of a trust enterprise, as used in this Act shall mean any of the following circumstances:

- 1.A person holding more than five percent (5%) of the total number of shares issued by a trust enterprise or the total amount of the capital of a trust enterprise.
- 2.A person serves as a responsible officer of a trust enterprise.
- 3.A person who has power to decide how to allocate trust property.
- 4.A sole proprietor business operated by a person mentioned in Subparagraph 1 or Subparagraph 2, a partnership enterprise operated by persons mentioned in any of the said provisions, serving as a responsible person of an enterprise, or acting as a representative of an organization by a person mentioned in any of the said provision.
- 5.A person mentioned in Subparagraph 1 or Subparagraph 2 solely or collectively holds more than 10% of the total number of shares issued a company or the total amount of the capital of an enterprise.
- 6.A half (1/2) or above of the total number of directors of the board of directors in a company engage in businesses that are identical to a trust enterprise.
- 7.An enterprise of which more than five percent (5%) of the total number of shares is held by a trust enterprise.

#### Article 8

The term, "collective trust funds", as used in this Act shall mean the trust funds which are raised by a trust enterprise from an unspecific majority of people for specific investment purposes by means of issuance of beneficiary certificates or book entry and which are operated by the trust enterprise for the benefit of these unspecific majority of people.

As regards collective trust funds which are set up for purposes of investment in securities as defined by Article 6 of the Securities, if the establishment of collective trust funds meets certain requirements, it shall be processed pursuant to relevant provisions of the Securities Investment Trust and Consulting Act.

#### Article 9

A trust enterprise's name shall indicate the word, 'trust.' This rule does not apply to an entity which conducts a trust business concurrently with the approval of the Competent Authority.

Unless otherwise provided by other laws, a non-trust enterprise shall not use a name which indicates or may mislead the public into believe that it is a trust enterprise.

Political parties or other political organizations shall not invest in or manage a trust enterprise.

### Chapter II Formation and Amendment

#### Article 10

Except for banks approved by the Competent Authority to conduct a trust business concurrently, a trust enterprise can only be a company limited by shares.

Articles 53 through 56 of the Banking Act of the Republic of China shall apply mutatis mutandis to the establishment of a trust enterprise.

The Competent Authority shall prescribe the minimum amount of paid-in capital by standard for the establishment of a trust enterprise, qualification requirements of a promoter of the said trust enterprise, items which shall be recorded in the constitution of the enterprise, the maximum number of shares held by the same person or same interested party, documents which shall be prepared for an application for establishment permit of a trust enterprise, procedures for the said application, circumstances which prevent the application from being approved and other items which shall be complied with.

#### Article 11

A trust enterprise shall obtain the approval of the Competent Authority for the following actions:

1. Amendment of its Articles of Incorporation or comparable constitutive documents;
2. Any action described in Article 185, Paragraph 1, of the Company Act; or
3. Other acts as specified by the Competent Authority.

#### Article 12

A trust enterprise shall not commence business until it has completed its formation procedures and obtained a business license.

A registration fee will be required when applying for a business license.

The amount thereof shall be as prescribed by the Competent Authority.

#### Article 13

If a trust enterprise wishes to establish a branch office, it shall apply to the Competent Authority for approval and for a business license for each such branch office by submitting a business plan therefor. If a trust enterprise wishes to relocate or close a branch office, it shall apply to the Competent Authority for approval.

If a bank branch wishes to conduct trust business, the bank shall apply to the Competent Authority for approval by submitting a trust business plan for such branch and amending the business license of the branch to include such business.

Regulations with respect to the preceding two Paragraphs shall be as stipulated by the Competent Authority.

#### Article 14

Article 26 of the Banking Act shall apply *mutatis mutandis*, to the establishment of a new Trust Enterprise and its branches.

#### Article 15

If a bank wishes to suspend or terminate its trust business, it shall apply to the Competent Authority for approval.

Articles 58, 59, 61 and 63 through 69 of the Banking Act of the Republic of Chichi shall apply, *mutatis mutandis*, to the merger, amendment, suspension, dissolution, revocation of approvals, clearance and liquidation of a trust enterprise.

### Chapter III. Scope of Business

#### Article 16

A Trust Enterprise may engage in the following activities:

1. trust of money;
2. trust of loans and related security interests;
3. trust of securities;
4. trust of movable property;

5. trust of real estate;
6. trust of leases;
7. trust of superficies;
8. trust of patents;
9. trust of copyrights; and
10. trust of other property rights.

#### Article 17

A trust enterprise may conduct the following supplementary businesses:

1. Acting as an agent for issuance, transfer and registration of securities, and distribution of stock dividends, interest and bonuses;
2. Providing consulting services in connection with the issuance and the collection of securities;
3. Serving as an attestor for the issuance of securities;
4. Serving as an executor of wills and an administrator of estates of a deceased person;
5. Serving as an agent for the bankruptcy of a company or a supervisor for reorganization of a company;
6. Serving as a trust supervisor;
7. Processing custody services;
8. Handling safe deposit box rental services;
9. Handling agency services for the following items if these items are related to trust services:
  - (1) Acquisition, administration, disposition and lease of property;
  - (2) Taking clearance and liquidation of property;
  - (3) Collection of debts; and
  - (4) Performance of debts;
10. Acting as an intermediary for the sale and the lease of real estate related to trust businesses;
11. Providing consultation services in connection with investments, financial management and real estate development; and
12. Processing other businesses which are permitted by the Competent Authority from time to time.

#### Article 18

Types of business to be conducted by a trust enterprise shall be submitted to the Competent Authority for approval; and amendments thereto shall also require such approval. A trust enterprise's business which is related to foreign exchange shall be approved by the Central Bank of the Republic of China (Taiwan). If the business of the trust enterprise that involves discretionary decision-making in the underlyings utilized, where the trust property is utilized in securities as defined in Articles 6 of Securities and Exchange Act or in futures as defined by Article 3 of Futures Act, and where certain conditions are met, shall apply to the Competent Authority to concurrently operate securities investment consulting services.

A trust enterprise shall not conduct any business other than as approved by the Competent Authority.

#### Article 18-1

A trust enterprise that engages in a trust business shall specify the scope of its trust business operations, limits on transfer of beneficial rights, and disclosure of risks in a trust agreement and notify the trustor of these information.

The Competent Authority shall prescribe the scope of operations, limits on transfer of beneficial rights, and disclosure of risks as mentioned in the preceding Paragraph, as well as marketing, management of contract conclusion and other regulations that shall be complied with.

#### Article 19

Trust agreements shall be in writing and shall contain the following items:

1. Name, title and address of the trustor, trustee and beneficiary;
2. Purpose of the trust;
3. Type, name, amount and value of the trust assets;
4. Term of the trust;
5. The means of managing the trust and employing the trust assets;
6. Time of, and methods for, calculating and allocation of trust gains;
7. Means of liquidation and delivery of the trust assets upon termination of the trust agreement;
8. Responsibilities of the trustee;
9. Standards, types, calculation method, payment period and method of the remuneration of the trustee;
10. Expenses and method of payment thereof;
11. Amendment, suspension and termination of the agreement;
12. Execution date; and
13. Other matters required by other acts or by regulations promulgated by the Competent Authority.

A trust enterprise shall submit to the trustor and beneficiary periodic accounting reports in accordance with the trust agreement and the regulations of the Competent Authority. If it is agreed to have a trust supervisor, a trust enterprise shall also report to the trust supervisor.

#### Article 20

If the trust property of a trust enterprise is the property which is required to be registered, it shall be registered pursuant to applicable regulations.

If the trust property of a trust enterprise is securities, the trust enterprise shall manage its self-own property and the trust property separately, and commend (securities) in the name of trust property. When it uses the trust property to engage in business transactions, it may act against the third party and Paragraph 2, Article 4 of the Trust Law shall not apply.

If the trust property of a trust enterprise is securities or corporate bonds, the trust enterprise shall commend (securities or corporate bonds) in the name of trust property. In the same way, if the trust enterprise proceeds transfer registration for trust, it shall be regarded as a notifying and issuing company.

#### Article 20-1

If the trust property of a trust enterprise is securities, the performance of the voting rights of the trust enterprise shall be calculated separately from the trust enterprise's self-own property and other trust property and the proviso of Article 181 of the Company Act shall not apply.

When a trust enterprise executes the voting rights mentioned in the preceding Paragraph, it shall perform it pursuant to the trust agreement.

#### Article 21

A trust enterprise shall establish a trust asset assessment committee to

assess the value of the trust assets once every three months and report same to the board of directors.

#### Article 22

A trust enterprise shall handle trust activities with the care of a good administrator and in good faith.

The Trust Association of R.O.C. shall draft regulations on obligations and related acts of trust enterprises mentioned in the preceding Paragraph. It shall submit the regulations to the Competent Authority for approval.

A trust enterprise shall periodically publicly announce the property entrusted by political parties and other political organizations and the acquisition and distribution of gains therefrom. Regulations governing such announcements shall be as prescribed by the Competent Authority.

#### Article 23

In conducting trust business, trust enterprises shall not do anything which is fraudulent, misrepresentative or misleading to the trustors or beneficiaries.

#### Article 24

The operations and administration of a trust enterprise shall be handled by personnel with professional knowledge or experience.

The persons who have the power to decide the employment of trust assets shall not currently hold any other positions.

A certain percentage of the directors and supervisors of a trust enterprise shall have professional knowledge or experience in the operation and administration of trust enterprises.

The professional knowledge or experience required under Paragraphs 1 and 3 and the required percentage under Paragraph 3 shall be as prescribed by the Competent Authority.

#### Article 25

A trust enterprise cannot use trust property to conduct the following transactions:

1. Purchase securities or notes issued or underwritten by the trust enterprise or its related party;
2. Purchase properties of the trust enterprise or its related party;
3. Sales of trust property to the trust enterprise or its related party;
4. Other interested transactions regulated by the Competent Authority.

The term that a trust company is not entitled to the right to utilize the trust property and is specified in a trust agreement shall not be restricted by the preceding Paragraph. A trust enterprise shall fully notify the trustor of transaction circumstances as regards the trust property with itself, or transaction circumstances with respect to the trust property between it and an interested party. If a beneficiary is identified, the trust enterprise shall also notify the beneficiary of the said information.

Paragraph 1 does not apply to bonds issued by the government.

#### Article 26

A trust enterprise shall not use trust property to process businesses of extending credit provided in Article 5-2 of the Banking Act of the Republic of China.

A trust enterprise shall not use trust property to borrow money. This rule does not apply to a trust of land, when the purpose of the borrowing is to

develop the land, and all the beneficiaries have consented to such borrowing or a beneficiaries' meeting has passed a resolution to borrow money.

The resolution of a beneficiaries' meeting can only be executed if the number of beneficiaries, two third (2/3) or above of the total number of beneficial rights, attends the meeting and one half (1/2) of the voting rights of the beneficiaries attending the meeting consents to such a resolution.

#### Article 27

A trust enterprise shall not conduct the following acts, except those acts which are conducted pursuant to the trust agreement, or an act of which the trust enterprise has notified the beneficiary in advance and to which it has acquired the written consent from the beneficiary:

1. Use trust property to purchase securities or notes brokered by such an enterprise' s banking department.
2. Use trust property as deposits by depositing such trust property with its banking department or that of a related party, or for a transaction related to foreign exchange with the said banking department.
3. Engage in transaction with itself or its related party other than transactions specified in Article 25, paragraph 1.

The preceding Paragraph does not apply to the term of a trust agreement, which states that a trust company is not entitled to the right to utilize the trust property. A trust enterprise shall fully notify the trustor of transaction circumstances as regards the trust property with itself, or transaction circumstances with respect to the trust property between it and an interested party. If a beneficiary is identified, the trust enterprise shall also notify the beneficiary of the said information.

The transactions related to foreign exchange as mentioned in Paragraph 1, Subparagraph 2, shall be subject to laws and regulations related to foreign exchange. A trustor shall be fully informed of risks related to foreign exchange. If a beneficiary is identified, he/she shall also be notified of the said information.

A trust enterprise shall formulate written policies and procedures with respect to control measures of interested transactions.

#### Article 28

A trustor may entrust a trust enterprise to manage and operate trust funds together with other trustor(s)' funds.

Regulations for the aforesaid management and operation shall be as prescribed by the Competent Authority.

#### Article 29

To raise Collective Trust Funds, [a trust enterprise] shall file an offering plan with the Competent Authority for approval. Such an offering plan shall include the scope and ratio of investment of the funds, the offering method, transfer of rights, asset management, calculation of net asset value, the distribution of the gains, the prohibition on activities of, and liabilities of, a trust enterprise and other necessary matters. A trust enterprise may not raise "Collective Trust Funds" unless approved to do so by the Competent Authority.

A Trust Enterprise shall manage "Collective Trust Funds" in accordance with the offering plan approved by the Competent Authority.

"Regulations Governing the Management of Collective Trust Funds" shall be as prescribed by the Competent Authority after consultation with the Central Bank of China.

#### Article 30

The Collective Trust Fund beneficial certificates shall be in registered form.

Collective Trust Fund beneficial certificates may be transferred by endorsement of the beneficiary. Unless the identity of the transferee is notified to the trust enterprise, the transfer shall not be valid as against such trust enterprise.

#### Article 31

A trust enterprise shall not guarantee the principal or minimum return [on trust assets].

#### Article 32

In handling trusts of money on a discretionary basis, a trust enterprise may only invest the funds in:

1. Cash and bank deposits;
2. Government bonds, corporate bonds and financial bonds;
3. Money market instruments; and
4. Other assets as approved by the Competent Authority.

The Competent Authority may, when necessary, regulate the scope or means of the operation and place amount limits on the aforesaid trusts of money.

### Chapter IV: Supervision

#### Article 33

Unless otherwise provided by other acts, non-trust enterprises shall not conduct trust businesses as defined by Article 16 hereof under mandate by non-specified investors.

#### Article 34

A trust enterprise shall post a reserve fund to secure its indemnity obligations, restitution interest or other obligations to trustors and beneficiaries, while indemnity obligations, restitution interest or other obligations are resulted from the trust enterprise' s violation of a trustee' s obligations.

The required amount of such a reserve fund shall be as prescribed and promulgated by the Competent Authority; it shall not exceed the paid-in capital of the trust enterprise or of the institution conducting a trust business concurrently.

The reserve fund described in Paragraph 1 shall be deposited with the Central Bank of the Republic of China (Taiwan) in cash or government bonds within one (1) month after obtaining the business license.

A trustor or beneficiary shall have a priority right against the reserve fund described in Paragraph 1.

#### Article 35

If a trust enterprise violates acts, ordinances or trust agreements, or, if, for other reasons for which the trust enterprise is responsible, trustors or beneficiaries suffer losses, the trust enterprise's responsible director, officer-in-charge and the trust enterprise itself shall be jointly and severally liable to compensate for the damages incurred. The aforesaid liability imposed on the responsible director or officer-in-charge shall terminate if no lawsuit has been brought against such person



within two years after the date he/she resigns from the trust enterprise.

#### Article 36

In handling trusts of money on a collective basis, a trust enterprise shall maintain adequate liquidity. When necessary, the Competent Authority may, after consultation with the Central Bank of China prescribe the scope of liquidity assets and a minimum ratio between the current assets of the trust enterprise and the trust enterprise's various liabilities. If a trust enterprise fails to comply with such minimum ratio, the Competent Authority shall notify the trust enterprise to make due adjustments within a specified period of time.

#### Article 37

The accounting principles of a trust enterprise shall be submitted to the Competent Authority for approval by the Trust Enterprise Association.

#### Article 38

Article 50 of the Banking Act shall apply *mutatis mutandis*, to the reserves of Trust Enterprises.

#### Article 39

Each trust enterprise shall submit its business report and financial statements to the Competent Authority and publish its balance sheet in a newspaper in circulation in its place of business or otherwise in accordance with the instructions of the Competent Authority.

#### Article 40

The scope of use of the own assets of a trust enterprise other than a bank conducting a trust business shall be limited to:

1. Purchase of self-use real estate and facilities and operating expenses;
2. Investment in government bonds, money market instruments, corporate bonds, financial bonds and securities listed on a stock exchange or in the over-the-counter market and beneficial certificates;
3. Bank deposits; and
4. Other uses approved by the Competent Authority.

The aggregate amount of purchases of self-use real estate shall not exceed the net worth of the trust enterprise.

The aggregate amount of investments in corporate bonds, securities listed on a stock exchange or in over-the-counter market and beneficial certificates under Paragraph 1, Subparagraph 2, shall not exceed thirty percent (30%) of the net worth of the trust enterprise; the aggregate amount of investments in corporate bonds and securities issued by a single company or beneficial certificates of a single fund shall not exceed five percent (5%) of the net worth of the trust enterprise or of the paid-in capital of the issuing company or five percent (5%) of the total outstanding amount of beneficial certificates, as applicable.

#### Article 41

If any of the following occurs, a trust enterprise shall, within two business days after the date next following the date of the occurrence, report same to the Competent Authority and make an announcement in a newspaper in circulation in its place of business or otherwise in accordance with the instructions of the Competent Authority:

1. Any dishonor of bills due to insufficient funds, rejection [by others] to enter transactions with or loss of creditworthiness of the Trust Enterprise;

2. Any litigation, suit or proceeding before any court or administrative agency or any order, writ, injunction, judgment or decree of any court or government agency which has a material adverse effect on the financial condition or operation of the Trust Enterprise;
3. Any matter specified in Article 185 of the Company Act;
4. Changes of the chairman, general manager or one third or more of the directors of the Trust Enterprise;
5. Execution of material contracts or documents which change the nature of business of the Trust Enterprise;
6. Inability of the Trust Enterprise to pay expenses resulting from handling trust assets; or
7. Any other material event which would have an adverse effect on the operations of the Trust Enterprise or the rights of the shareholders or beneficiaries.

#### Article 42

Article 45 of the Banking Act shall apply, mutatis mutandis, to the Competent Authority's examination of a trust enterprise or order a trust enterprise to prepare and submit relevant information and reports.

A trust enterprise shall establish an internal control & audit system and set up an audit department.

Administrative regulations governing the internal control & audit system of a trust enterprise shall be as prescribed by the Competent Authority.

#### Article 43

If a trust enterprise, due to obvious adverse changes in its business or financial status, fails to pay its liabilities when due or it is likely that the trust enterprise damages a trustor's or beneficiary's interests, the Competent Authority may order it to transfer the trust agreement and its trust property to another trust enterprise designated by the Competent Authority.

If a trust enterprise is unable to continue to engage in a trust business due to a dissolution, suspension, shut down, or cancellation or revocation of approvals, it shall consult and let another trust enterprise assume its trust business and such assumption shall be approved by the Competent Authority.

If the trust enterprise does not process pursuant to the preceding Paragraph, the Competent Authority shall designate another trust enterprise to assume the trust business of the original trust enterprise.

If the items which are mentioned in the preceding three paragraphs and are transferred or assumed are collective trust funds or beneficiary securities raising business, a trust enterprise which assumes such items shall announce these items. If the assumed items are other trust businesses, the foresaid trust enterprise shall request an opinion of a beneficiary; in the case that the beneficiary does not consent to such an announcement or does not show any indication whether he/she/it consents to the announcement, then his/her/its trust agreement is deemed to be terminated.

#### Article 44

In addition to punishments provided for by this Act, in the event that a trust enterprise violates this Act or an order promulgated pursuant to the Act, the Competent Authority may order the trust enterprise to take corrective measures and to improve within the specified period of time; and

depending on the seriousness of the violation, it may impose the following punishments:

1. Order the trust enterprise to terminate or suspend the position of its responsible person;
2. Suspend a part or all of the business;
3. Cancel the business license; and/or
4. Other necessary measures.

#### Chapter V. Association

##### Article 45

Before commencing business, a Trust Enterprise shall join the Trust Enterprise Association.

##### Article 46

Regulations Governing the Administration of the Trust Enterprise Association shall be as prescribed by the Competent Authority.

##### Article 47

In the event that directors and supervisors of a Trust Enterprise Association violate acts and regulations by postponing implementation of the articles of association or rules [of the Association], by abusing their authority, or by breaching bona fide principles, the Competent Authority may issue corrective measures orders or order the Trust Enterprise Association to discharge such person.

#### Chapter VI. Penal Provisions

##### Article 48

In the event of violation of Article 33, punishment by imprisonment for not less than three (3) year and not more than ten (10) years plus a fine of not less than Ten Million New Taiwan Dollars (NT\$10,000,000) and not more than two hundred million New Taiwan Dollars (NT\$200,000,000).

Should a juridical person commit the preceding offense, the person responsible for such acts shall be punished.

##### Article 48-1

A Trust Enterprise's responsible person or staff member who violates his/her duty with the intent to gain improper benefit for himself/herself or for a third person and damages the Trust Enterprise's assets or other interests shall be punishable by imprisonment for no less than three (3) years and no more than ten (10) years plus a fine of not less than ten million (NT\$10,000,000) and not more than two hundred million New Taiwan Dollars (NT\$200,000,000).

A person who has obtained benefit over one hundred million New Taiwan Dollars (NT\$100,000,000) from the offense shall be punished with imprisonment for not less than seven (7) years, and, a fine of not less than twenty five million (NT\$25,000,000) and not more than five hundred million New Taiwan Dollars (NT\$500,000,000).

If the responsible person(s) and two or more staff members jointly commit the acts described in the preceding paragraph, the punishment may be increased by up to one-half of the above specified punishment.

Commencement of the acts described in Paragraph 1, above, without completion thereof shall be [equally] punishable.

##### Article 48-2

A person who by fraud causes a Trust Enterprise to deliver to him the property or a thing belonging to the Trust Enterprise or to a third person,

or inputs untrue information or unjust orders into a computer or related facilities of the Trust Enterprise using unjust methods so as to create a record of gain, loss and change of property rights and obtains property of others with intent illegally to appropriate same for himself or for a third person shall be punished with imprisonment for not less than three (3) and not more than ten (10) years and a fine of not less than ten million (NT\$10,000,000) and not more than two hundred million New Taiwan Dollars (NT\$200,000,000).

A person who by the means specified in the preceding paragraphs procures an illegal benefit for himself or for a third person shall be subject to the same punishment.

Commencement of the acts described in the preceding two paragraphs without completion thereof shall be [equally] punishable.

#### Article 48-3

If a person who commits an offence under Article 48, Article 48-1 or Article 48-2 voluntarily submits himself for punishment after the commission of the offence and surrenders any gain from the offence, punishment may be reduced or waived.

Punishment may also be waived if [assistance is provided] in [testifying against] other persons who jointly committed the act.

If a person who commits an offence under Article 48, Article 48-1 and or Article 48-2 confesses during the investigation and surrenders any gain from the offence, punishment may be reduced. Punishment may also be reduced by to up to one-half if [assistance is provided] in [testifying against] other persons who jointly committed the acts.

If a person commits an offence under Article 48, Article 48-1 or Article 48-2, Paragraph 1 or Paragraph 2, and obtains benefit from the offense exceeding the maximum amount of the fine, the fine may be increased up to the aggregate amount of the benefit; if the stability of the financial market is harmed, the punishment may be increased by up to one-half.

#### Article 49

In the event of a violation of Article 23 or Article 29, Paragraph 1, the person(s) responsible for the violation shall be punished by imprisonment for not less one year and not more than seven years and/or a fine of not more than Ten Million New Taiwan Dollars (NT\$10,000,000).

#### Article 50

In the event of a violation of Article 25, Paragraph 1, or Article 26, Paragraph 1, the person(s) responsible for the violation shall be punished by imprisonment for not more than three years, detention, and/or a fine of not more than Ten Million New Taiwan Dollars (NT\$10,000,000).

#### Article 51

In the event that a Trust Enterprise violates Article 24 of the Trust Act by not segregating trust assets from its own property and other trust assets, the person(s) responsible for the violation shall be punished by imprisonment for not less than six months and not more than five years and a fine of not more than Three Million New Taiwan Dollars (NT\$3,000,000).

In the event that a trust enterprise violates Article 35 of the Trust Act by transferring trust assets into its own name or create or acquire any right from trust assets, the person(s) responsible for the violation shall be punished by imprisonment for not less than one year and not more than

seven years, and a fine of not more than Ten New Taiwan Dollars (NT\$10,000,000).

#### Article 52

In the event of violation of Article 9, Paragraph 2, the person(s) responsible for the violation shall be punished by imprisonment for not more than one year, detention, and/or a fine of not more than Three Million New Taiwan Dollars (NT\$3,000,000).

In the event that a political party or other political organization violates Article 9, Paragraph 3, the person(s) responsible for the violation shall be punished by imprisonment for not more than one year, detention, and/or a fine of up to Three Million New Taiwan Dollars (NT\$3,000,000).

#### Article 53

If a trust enterprise violates Article 43, Paragraph 1 concerning the disposition of a trust business by failing to transfer the trust agreement or trust property to another trust enterprise designated by the Competent Authority, its responsible person shall be imposed with a fine of One Hundred and Eighty New Taiwan Dollars (NT\$ 1,800,000) or above but not more than Nine Million New Taiwan Dollars (NT\$ 9,000,000).

#### Article 54

Any of the following violations shall be punishable by a fine of not less than One Million Eight Hundred Thousand New Taiwan Dollars (NT\$1,800,000) but not more than Nine Million New Taiwan Dollars (NT\$9,000,000):

1. Violation of Article 12, Paragraph 1;
2. Violation of Article 13, Paragraph 1 or Paragraph 2;
3. Violation of Article 15, Paragraph 1;
4. Violation of Article 15, Paragraph 2, or Article 64, Paragraph 1, of Banking Act by a Trust Enterprise's director or supervisor.
5. Violation of Article 18;
6. Violation of Article 24, Paragraph 2 or Paragraph 3;
7. Violation of Article 27;
8. Violation of Article 31;
9. Violation of Article 32, Paragraph 1;
10. Violation of Article 34, Paragraph 1 or Paragraph 3;
11. Violation Article 36 by failing to maintain the minimum current assets ratio;
12. Violation of Article 40;
13. Violation of Article 59; or
14. Violation of Article 60.

#### Article 55

In the event of violation of Article 26, Paragraph 2, punishment by a fine of not less than One Million Two Hundred Thousand New Taiwan Dollars (NT\$1,200,000) and not more than Six Million New Taiwan Dollars (NT\$6,000,000) shall be imposed.

#### Article 56

Any of the following violations shall be punishable by a fine of not less than Six Hundred Thousand New Taiwan Dollars (NT\$600,000) but not more than Three Million New Taiwan Dollars (NT\$3,000,000);

1. Violation of Article 11;
2. Violation of Article 18-1, Paragraph 1;

3. Violation of Article 20, Paragraph 1;
  4. Violation of Article 29, Paragraph 2;
  5. Violation of Article 32, Paragraph 2;
  6. Violation of Article 32-2, Paragraph 2;
  7. Violation of Article 38 that applies mutatis mutandis to Article 50 of the Banking Act of the Republic of China;
  8. Violation of Article 39;
  9. Violation of Article 41; or
  10. A trust enterprise violates Article 42, Paragraph 1, that applies mutatis mutandis to Article 45 of the Banking Act of the Republic of China.
- Article 57

Except as otherwise provided by this Act, any violation of this Act or of any order injunction or prohibition provisions prescribed by the Competent Authority in accordance with this Act shall be subject to a fine of not less than Six Hundred Thousand NT Dollars (NT\$600,000) and not more than Three Million New Taiwan Dollars (NT\$3,000,000).

#### Article 58

The amount of the fines prescribed by this Act shall be determined by the Competent Authority. In the event the penalized party disagrees with the decision, such party may appeal such decision in accordance with the procedures for administrative appeal and administrative proceedings. During the period of administrative appeals and administrative proceedings, the execution of the penalty may be stayed by the posting of bonds in the appropriate amounts.

In the event of failure to pay a fine within the prescribed period of time, a surcharge for late payment shall be levied, and calculated at the rate of one percent (1%) of the amount of the fine in arrears for each day of delay, starting from the day following the expiry of the prescribed period of time. If the payment of the fine is still not made within thirty (30) days after expiry of the prescribed period of time, the matter shall be referred to the court for compulsory execution and the Competent Authority may, in addition, suspend the business of the relevant trust enterprise or its branch.

#### Article 58-1

A person who commits an offence specified in this Act shall return the property or benefit obtained from the offense to the victim or the person who may claim damages. Any such property or benefits shall be confiscated; if all or part of the property or benefit cannot be confiscated, the value thereof shall be charged to, or recovered from, the perpetrator's assets.

#### Article 58-2

If a person commits an offense specified in this Act and fails to pay a fine of over fifty million New Taiwan Dollars (NT\$50,000,000), the fine shall be commuted to labor for not more than two (2) years and the rate of commutation will be the ratio that the amount of the fine bears to the number of days in two (2) years; in the event of a failure to pay a fine of over one hundred million New Taiwan Dollars (NT\$100,000,000), the fine shall commute to labor for not more than three (3) years, and the rate of commutation to be used will be the ratio that the amount of the fine bears to the number of days in three (3) years.

### Chapter VII. Supplementary

Article 59

Banks, which have been approved to set up a trust department prior to the enactment of this Act, shall apply for amendment of the business license pursuant to this Act within six months after the effective date of this Act. The businesses engaged in by the trust department of such banks which are not in compliance with this Act shall be adjusted within three years from the effective date of this Act.

Article 60

Investment and Trust Companies established in accordance to the Banking Act prior to the enactment of this Act, shall apply to convert their status to a commercial bank in accordance with the Banking Act and other relevant regulations or apply to convert their status to a trust enterprise in accordance with this Act within five years from July 21, 2000. If necessary, the Competent Authority may suspend part of the business conducted by such companies in accordance with the Banking Act within a specified period.

Article 61

Political parties or other political organizations investing in or managing a Trust Enterprise prior to the effective date of this Act shall assign or entrust their shares or capital within one year after the effective date of this Act.

Article 62

Enforcement Rules governing the application of this Act shall be as stipulated by the Competent Authority.

Article 63

This Act shall be effective from the date of promulgation.

If the translations of the texts differ from the original Chinese texts, the original texts are preferential.