

## Content

Title : Regulations Governing Required Qualifications for Responsible Persons and Required Trust Expertise or Experience for Operations and Managerial Personnel of Trust Enterprises **Ch**

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4.Amended on March 25, 2005  
5.Amended on June 29, 2006  
6.Amended on December 18, 2009  
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Content : Article 1

These Regulations are adopted pursuant to Article 6 and Article 24, paragraph 4 of the Trust Enterprise Act, and Article 4, paragraph 3 of the Real Estate Securitization Act.

### Article 2

Under any of the following circumstances, a person may not act as the responsible person of a trust company, and shall be ipso facto discharged if the circumstance occurs after the position has been assumed:

1. Having limited legal capacity, being legally incompetent, or having received a declaration of placement under assistance.
2. Having been convicted of a crime under the Organized Crime Act.
3. Having been sentenced to imprisonment for counterfeiting currency or valuable securities or for misappropriation, fraud, or breach of trust, and the sentence has not been completed or 10 years have not elapsed since the completion of the sentence, expiration of the probation period, or receipt of a pardon.
4. Having been sentenced to imprisonment for forging instruments or seals, offenses relating to protection of secrets, usury, impairing the rights of creditors, or violating the Tax Collection Act, Trademark Act, Patent Act, or other laws governing industrial or commercial activity, and the sentence has not been completed or 5 years have not elapsed since the completion of the sentence, expiration of the probation period, or receipt of a pardon.
5. Having been sentenced to imprisonment for embezzlement, and the sentence has not been completed or 5 years have not elapsed since the completion of the sentence, expiration of the probation period, or receipt of a pardon.
6. Having been sentenced to imprisonment for violating the Trust Enterprise Act, Real Estate Securitization Act, Banking Act, Financial Holding Company Act, Act Governing Bills Finance Business, Financial Assets Securitization Act, Insurance Act, Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Foreign Exchange Control Act, Credit Cooperatives Act, Agricultural Finance Act, Farmers' Association Act, Fishermen's Association Act, Money Laundering Control Act, Building Act, Architects Act, Real Estate Broking Management Act, or

other laws governing financial, industrial, or commercial activity, and the sentence has not been completed or 5 years have not elapsed since the completion of the sentence, expiration of the probation period, or receipt of a pardon.

7. Having been adjudicated bankrupt, and rights and privileges have not been reinstated.
8. Having been the responsible person of a juristic person when it was adjudicated bankrupt, and 5 years have not elapsed since the closure of the bankruptcy or the terms of bankruptcy settlement have not yet been fulfilled.
9. Having had a negotiable instrument dishonored and normal transaction status has not yet been restored, or, within 3 years after resumption of normal transactions, there is another refusal to honor the person's negotiable instrument due to insufficient funds.
10. Having undergone a material loss of creditworthiness that has yet to be settled, or 3 years have not yet passed since settlement.
11. Five years have not elapsed since being ipso facto discharged, or replaced or discharged from duties by order of the competent authority, due to a violation of the Trust Enterprise Act, Real Estate Securitization Act, Banking Act, Financial Holding Company Act, Act Governing Bills Finance Business, Financial Assets Securitization Act, Insurance Act, Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Credit Cooperatives Act, Agricultural Finance Act, Farmers' Association Act, Fishermen's Association Act, Construction Industry Act, or other laws governing financial, industrial, or commercial activity.
12. Having received a final and unappealable court order to undergo correction and training, or having been ordered to perform forced labor for larceny or the handling of stolen goods, and execution of the punishment has not yet been completed or 5 years have not yet passed since completion.
13. The person is acting as the responsible person of a bank, financial holding company, trust company, credit cooperative, credit department of a farmers' or fishermen's association, bills finance company, securities firm, securities finance company, securities investment trust enterprise, securities investment consulting enterprise, futures commission merchant, or insurance company (including insurance agencies, insurance brokers, or insurance surveyors), provided that this restriction does not apply under the following circumstances:
  - (1) When there is an investment relationship between the trust company and one of the above types of entities, provided that the competent authority has granted approval, and provided also that neither the position of chairman nor managerial officer at the trust company may be held concurrently with either of those same positions in the other entity, the responsible person of the trust company may act as a responsible person of one of the other entities.
  - (2) When concurrently holding of the position of responsible person in another entity is allowed under a regulation adopted pursuant to the authorization of Article 17, paragraph 1 of the Financial Holding Company Act.
14. Factual evidence shows that the person has been engaged in or involved

in other dishonest or improper activities, indicating his or her unfitness to serve as the responsible person of a trust company.

A person who holds the position of chairman, president, or other comparable position at a trust company may not also hold the position of chairman, president, or other comparable position at a non-finance related enterprise, provided that this restriction does not apply to holding a position at a foundation or a non-profit social organization.

When the government or a juristic person is a shareholder, the provisions of the preceding two paragraphs apply *mutatis mutandis* to its authorized representative, or to a natural person it designates to carry out duties on its behalf, who serves as a director or supervisor.

### Article 3

The president or person holding the equivalent position at a trust company shall meet the requirements for trust-related expertise or experience under Article 14, and in addition, shall be a person of upstanding character with the ability to lead and effectively manage a trust company, while also possessing one of the following qualifications:

1. Having graduated from a domestic or foreign school at the level of junior college or higher, or equivalent academic qualifications, with 9 years or more of work experience at a bank or trust company, and 3 years or more as manager or in a higher level position at the head office of a bank or trust company, or an equivalent position, with a good performance record.
2. Having 5 years or more of work experience at a bank or trust company, and 3 years or more as assistant general manager at the head office of a bank or trust company, or an equivalent position, with a good performance record.
3. Having other experience sufficient to prove that he or she has leadership ability, professional trust expertise or the ability to manage a trust company, and is capable of sound and effective operation of trust business.

Work experience and positional duties in a real estate management institution or in real estate administrative management may serve as alternate qualifications for the general manager of an enterprise that, in accordance with the Real Estate Securitization Act, engages only in real estate investment trust ("REIT") or real estate asset trust ("REAT") business.

A person under the preceding paragraph may not serve concurrently as a responsible person in any other real estate management institution except with the approval of the competent authority.

Prior to appointing a person to the position of general manager or a position with comparable duties, a trust company shall first submit relevant documentation to the competent authority for approval.

### Article 4

The assistant general manager, general auditor, deputy assistant general manager, head-office manager, or person in an equivalent position at a trust company shall meet the requirements for trust-related expertise or experience under Article 14 or 15, and in addition, shall be a person of upstanding character with the ability to lead and effectively manage a trust company, while also possessing one of the following qualifications:

1. Having graduated from a domestic or foreign school at the level of junior college or higher, or equivalent academic qualifications, with 5 years or more of work experience in a bank or trust company, and a period of service as assistant general manager or in a higher-level position at the head office of a bank or trust company, or an equivalent position, with a good performance record.
2. Having 3 years or more of work experience at a bank or trust company, and a period of service as manager at the head office of a bank or trust company, or in an equivalent position, with a good performance record.
3. Having other experience sufficient to prove that he or she has professional trust expertise or the ability to manage a trust company and is capable of sound and effective operation of trust business, provided the qualifications have been reported to and approved by the competent authority in advance.

Work experience and positional duties in a real estate management institution or in real estate administrative management may serve as alternate qualifications for an assistant general manager, general auditor, deputy assistant general manager, or head-office manager of an enterprise that, in accordance with the Real Estate Securitization Act, engages only in REIT or REAT business.

A person under the preceding paragraph may not serve concurrently as a responsible person in any other real estate management institution except with the approval of the competent authority.

#### Article 5

A manager or person in an equivalent position at a trust company branch office shall meet the requirements for trust-related expertise or experience under Article 15, and in addition, shall be a person of upstanding character with the ability to lead and effectively manage the trust company, while also possessing one of the following qualifications:

1. Having graduated from a domestic or foreign school at the level of junior college or higher, or equivalent academic qualifications, with 3 years or more of work experience in a bank or trust company, and a period of service as junior manager or in a higher-level position at the head office of the bank or trust company, or an equivalent position, with a good performance record.
2. Having 2 years or more of work experience in a bank or trust company, and a period of service as assistant manager at the head office of the bank or trust company, or an equivalent position, with a good performance record.
3. Having other experience sufficient to prove that he or she has professional trust expertise or the ability to manage a trust company and is capable of sound and effective operation of trust business, provided that the qualifications have been reported to and approved by the competent authority in advance.

Work experience and positional duties in a real estate management institution or in real estate administrative management may serve as alternate qualifications for a head-office assistant manager or branch manager of an enterprise that, in accordance with the Real Estate Securitization Act, engages only in REIT or REAT business.

A person under the preceding paragraph may not serve concurrently in the

position of responsible person in any other real estate management institution, except with the approval of the competent authority.

#### Article 6

A supervisor's spouse, blood relative within the second degree, or relative by marriage within the first degree may not serve as a director or managerial officer at the same trust company.

The provisions of the preceding paragraph also apply to a natural-person representative of the government or a juristic person.

#### Article 7

The board of directors of a trust company is responsible for electing managerial officers, and shall scrupulously review the qualifications required of any managerial officer and be responsible for monitoring whether the managerial officer maintains the required qualifications and otherwise remains suitable for the position.

#### Article 8

Trust company directors and supervisors shall have the professional trust expertise or experience specified in Article 14 and be of upstanding character; one of the following qualifications must be possessed by at least two directors when there are five directors or less, and by another one director for each additional four directors, if there are more than five directors, and by at least two managing directors, if such positions are established:

1. Having 5 years or more of work experience in a bank or trust company, and a period of service as assistant manager at the head office of a bank or trust company, or in an equivalent position, with a good performance record.
2. Having 5 years or more of work of experience in financial administration or management, and a period of service as an intermediate civil service employee at grade 8 or higher, or in an equivalent position, with a good performance record.
3. Having 3 years or more of work experience in a bank or trust company, and a period of service as manager at the head office of the bank or trust company, or in an equivalent position, with a good performance record.
4. Having other factual evidence proving that he or she has professional trust expertise or the ability to manage a trust company and is capable of sound and effective operation of trust business.

The chairperson of a trust company shall have the professional trust expertise or experience specified in Article 14, and one of the qualifications set out in the preceding paragraph. A trust company, within 10 days following the selection of a chairperson, or of a director or supervisor possessing the qualification given in subparagraph 4 of the preceding paragraph, shall report the selection and submit documentation of their qualifications to the competent authority for approval; if the competent authority does not approve the qualifications, it may order the trust company to make an adjustment within a designated time limit.

If a trust company has concerns about applying the paragraph 1, subparagraph 4 provisions to a candidate for director or supervisor, it may report to the competent authority for approval prior to his or her selection.

#### Article 9

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#### Article 10

At least one director and one supervisor of any bank, securities firm, securities investment trust enterprise, or securities investment consulting enterprise that concurrently conducts trust business shall possess the requirements for trust-related professional knowledge or experience set out in Article 14.

#### Article 11

In order to determine whether a responsible person of a trust company possesses the qualifications prescribed in these Regulations, the competent authority may order the trust company to submit the necessary documents or information, or to designate a person to appear and provide any necessary explanation, within a specified deadline.

#### Article 12

A currently incumbent responsible person of a trust company who is promoted, or a person who is appointed to the position of responsible person after the amendment and issuance of these Regulations, shall possess the qualifications prescribed in these Regulations. Anyone who holds a position of responsible person without possessing such qualifications shall ipso facto be dismissed.

When any circumstance under these Regulations that constitutes cause for ipso facto dismissal applies to a responsible person of a trust company, the party involved shall promptly notify the trust company.

Upon learning that any circumstance that constitutes cause for ipso facto dismissal applies to a responsible person, a trust company shall promptly take the initiative to handle the matter, report to the competent authority, and notify the Ministry of Economic Affairs to revoke or void the relevant registration.

#### Article 13

The operations and managerial personnel of a trust enterprise fall into three categories, based on the nature of their duties, as follows:

1. Supervisory personnel: Includes general managers and general auditors, assistant general managers and deputy assistant general managers who supervise trust business, members of the trust property evaluation committee, and directors and supervisors under the provisions of Article 8 and Article 10.

2. Managerial personnel: Includes managers, assistant managers, junior managers, section chiefs, and assistant section chiefs managing trust business.

3. Associated persons: Includes personnel handling trust business other than those of subparagraphs 1 and 2 above.

In the event that other laws or the articles of incorporation of a trust enterprise provide for positions with duties equivalent to those of the personnel of any subparagraph of the preceding paragraph, they shall be considered the same as the personnel of that subparagraph. Any of the following will be considered supervisory personnel:

1. A manager or person with equivalent duties at a Taiwanese branch of any foreign bank or a foreign securities firm that concurrently conducts trust business in Taiwan who has been authorized by the given bank or securities firm's head office to oversee business at all of its branches in

Taiwan.

2. The head of the internal auditing department of any securities firm, securities investment trust enterprise, or securities investment consulting enterprise that concurrently conducts trust business.

#### Article 14

Trust enterprise supervisory personnel shall meet one of the following requirements for trust-related expertise or experience:

1. Having attended, within a year prior to assuming the position, a cumulative total of at least three hours of courses for top-level managers of trust enterprises offered by the Trust Association of the R.O.C. (the "Trust Association") or a financial training institution recognized by it, and holding certificates of course completion.
2. Having taught trust-related courses at a domestic or foreign educational institution at the junior college level or higher for 1 year or more, or at the Trust Association or a financial training institution recognized by it for 30 hours or more.
3. Having taken the professional examination for trust business given by the Trust Association or a financial training institution recognized by it, and holding a certificate of qualification.

The supervisory personnel of the preceding paragraph shall attend a cumulative total of at least 6 hours of trust-related courses given by the Trust Association or a financial training institution recognized by it once every 3 years.

#### Article 15

Trust enterprise managerial personnel shall meet one of the following requirements for trust-related professional knowledge or experience:

1. Having attended, within a year prior to assuming the position, a cumulative total of at least 18 hours of trust business courses given by the Trust Association or a financial training institution recognized by it, and holding certificates of course completion.
2. Having met the requirements of paragraph 1, subparagraph 2 or subparagraph 3 of the preceding article.

The managerial personnel in the preceding paragraph shall attend a cumulative total of at least 12 hours of trust-related courses given by the Trust Association or a financial training institution recognized by it once every 3 years.

A person who has not completed the training described in the preceding paragraph may not act in a managerial capacity, and his or her registration as managerial personnel will be voided by the Trust Association.

#### Article 16

Trust enterprise associated persons shall meet one of the following requirements for trust-related expertise or experience:

1. Having taken the professional examination for trust business given by the Trust Association or a financial training institution recognized by it and obtaining the certificate of qualification.
2. Having passed the examination for associated persons of securities investment trust and consulting enterprises given by an organization commissioned by the Securities Investment Trust and Consulting Association of the R.O.C. (SITCA), and having passed the examination on trust laws and regulations given by the Trust Association or a financial training

institution recognized by it.

The associated persons of the preceding paragraph shall take part in the finance-related professional pre-job training and on-the-job training organized by the Trust Association or a financial training institution recognized by it, or organized by the trust enterprise at which they work. A newly employed associated person, or one who has been re-employed as such after a departure of 2 years or more, shall participate in a cumulative total of at least 12 hours of pre-job training within one-half year of commencing work; those already on the job shall participate in on-the-job training during the term of their employment for a cumulative total of at least 18 hours in every 3 years.

At least one-third of the training hours that an associated person attends pursuant to the preceding paragraph shall be finance-related professional training held by the Trust Association or a financial training institution recognized by it.

A person who has not completed the training described in paragraph 2 may not act in the capacity of associated person, and his or her registration as an associated person will be voided by the Trust Association.

#### Article 16-1

Any of the operations and managerial personnel of a trust enterprise shall meet the requirements specified in Articles 14 to 16, and in addition, shall not have caused material loss to a client due to any instance of the conduct listed below for which there is factual evidence of a probable cause-and-effect relationship between the conduct and the client's loss, and for which the trust enterprise has cancelled his or her registration pursuant to rules prescribed by the Trust Association in accordance with Article 17, paragraph 5, or for which the suspension of his or her occupational duties has not yet ended:

1. Misrepresenting any matter affecting the rights and interests of a client.
2. Inappropriately inducing a client to convert to new investment targets with exceptional frequency in order to earn commission.
3. Misleading a client to believe that the security of investment capital or profitability can be guaranteed.
4. Inappropriately making false and exaggerated statements comparing the content of financial instruments with bank deposits or other financial instruments.
5. Making a transaction for a client without his or her authorization.
6. Violating the purpose of the trust, or improperly disposing of or embezzling trust assets.
7. Agreeing to provide a specified benefit or consideration, or to bear losses, in order to recommend investment by a client in a particular financial instrument.
8. Soliciting, agreeing to accept, or accepting improper benefits in cash, in kind, or otherwise from those with whom they have a business relationship or from a client.
9. Engaging in any other activity that materially affects the rights and interests of a client, or that is prohibited by law or regulation or self-regulatory rules.

#### Article 17

The trust-related expertise or experience required of the operations and managerial personnel of a trust enterprise in accordance with Articles 14 to 16 shall be reviewed by and registered with the Trust Association.

Except for newly appointed supervisory or managerial personnel, who are allowed 3 months after assuming their positions to become qualified and register with the Trust Association, none of those personnel may perform their duties unless they have been registered. A trust enterprise shall report any change in personnel to the Trust Association within 5 business days from the day following the change.

Under any of the following circumstances, the Trust Association may not carry out the registration specified in the preceding paragraph for the operations or managerial personnel of a trust enterprise, and if a registration has been made, it shall be voided:

1. The operations or managerial personnel do not have the qualifications or the trust-related expertise or experience specified in these Regulations.
2. The operations or managerial personnel are subject to any of the circumstances of the subparagraphs of Article 2, paragraph 1.
3. The operations or managerial personnel have been subject to suspension of occupational duties for a cumulative total of 2 years due to conduct given in the subparagraphs of the preceding article.

When operations or managerial personnel of a trust enterprise have had their registration voided due to the circumstances of subparagraphs 2 or 3 of the preceding paragraph or any of the subparagraphs of the preceding article, the Trust Association may not accept the registration of such personnel for a period of 3 years from the date on which their registration was voided.

Where operations or managerial personnel of a trust enterprise are subject to suspension of duties, or their registration is voided by the trust enterprise due to any circumstance of the subparagraphs of the preceding article, the Trust Association shall register their suspension or void their registration, and shall report such matters periodically for the competent authority's recordation.

Rules governing suspension of duties and voidance of registration by a trust enterprise under the preceding article, or the Trust Association's registration of a trust enterprise's operations and managerial personnel, registration of the suspension of their duties, or voidance of their registration, and any related appeal procedures and other matters for compliance, shall be prescribed by the Trust Association and submitted to and approved by the competent authority.

#### Article 18

Every REIT fund shall appoint at least one person with decision-making power over utilization of assets to be specifically responsible for handling fund asset utilization and management matters.

Any operations or managerial personnel of a REIT fund or REAT with decision-making power over utilization of assets shall possess one of the relevant qualifications or work records below:

1. Having 3 years or more of experience in real estate related investment or asset management work at a real estate management institution or a financial institution.
2. Having 3 years or more of work experience as an architect, civil

- engineer, structural engineer, or real estate appraiser.
3. Having 3 years or more in a position related to investment or asset management as specified in Article 17 of the Real Estate Securitization Act in a real estate management institution or a financial institution.
  4. Having 3 years or more of experience in utilizing and managing collective investments or discretionary investment; or five or more years of experience in trust business.
  5. Having 3 years or more of work experience as a domestic or foreign fund manager.

#### Article 19

If any of the managerial or operations personnel of an enterprise that engages only in REIT or REAT business in accordance with the provisions of the Real Estate Securitization Act does not meet the requirements for trust-related expertise or experience of Articles 14 to 16 or Article 18, he or she shall make the necessary adjustment to become qualified within 1 year after the date of the competent authority's approval for establishment of the enterprise.

#### Article 20

Incumbent operations and managerial personnel of a trust enterprise who began work prior to 30 June 2006 shall participate in on-the-job training every 3 years from 1 July 2006; operations and management personnel who began work after 1 July 2006 shall participate in on-the-job training every 3 years from the date they assumed the posts.

#### Article 21

Matters for which these Regulations do not provide shall be governed by the Trust Enterprise Act, the Real Estate Securitization Act, the Company Act and other laws and regulations.

#### Article 22

These Regulations shall take force from the date of issuance.

The 20 January 2011 amendments to these Regulations shall take force 6 months after the date of issuance.

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Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System