

Content

Title : Enforcement Rules Of The Financial Asset Securitization Act [Ch](#)

Date : 2003.08.28

Legislative : 1. The whole text of 25 articles enacted and promulgated by Letter Tai-Tsai-Rong- (4)-Tzu No. 0920038860 by the Ministry of Finance on August 28, 2003; enforced on the date of promulgation

Content : Article 1

The Enforcement Rules are enacted in accordance with Article 118 of the Financial Asset Securitization Act (hereinafter referred to as the "Act").

Article 2

"Assets" as referred to in Article 4, Paragraph 1, Subparagraph 2 of the Act shall include the future creditor right that may be claimed against the Obligor in monetary payments, set forth in the contract entered into between the Originator and the Obligor and when the conditions specified in the contract have been met.

Article 3

During the duration of the special purpose trust contract or the execution period of the asset securitization plan, if the Originator gradually transfers the assets to a Trustee or a special purpose company in accordance with the asset trust securitization plan and special purpose trust contract, or with the asset securitization plan and asset transfer contract, the transfer shall be processed pursuant to Article 5, Paragraph 1 and Article 6, Paragraph 1 of the Act.

Assets entrusted or transferred after public announcements pursuant to Article 5, Paragraph 1 of the Act, if discrepancies are found against the announcements in terms of type, quantity, or content, a supplementary announcement shall be made and processed in accordance with Article 5, Paragraph 1 and Article 6, Paragraph 1 of the Act.

Article 4

If the Originator as referred to in Article 6, Paragraph 1, Subparagraph 1 of the Act stops serving as a Servicer during the duration of the special purpose trust contract or during the execution period of the asset securitization plan, except for the situations as described in Article 6, Paragraph 1, Subparagraph 2 of the Act, the Originator shall notify the Obligor of the entrustment or transfer of creditor rights, or mail an evidencing document of announcements as prescribed in Article 5, Paragraph 1 of the Act to the Obligor.

Article 5

When the beneficiaries or Asset-Backed Securities holders exercise their voting rights pursuant to the Act, or redeem their principals, receive profits, interests, or other proceeds accrued therefrom, whether they are required to present Beneficial Securities shall be processed in accordance with the agreements in the special purpose contract or the asset securitization plan.

Article 6

The alterations of the asset securitization plan referred to in the proviso of Article 11, Paragraph 1 of the Act and those of the asset securitization plan referred to in Article 101 referring to the *mutatis mutandis* application of the proviso of Article 11, Paragraph 1 of the Act, which are considered to have no major influence on the interests of the beneficiaries or the Asset-Backed Securities holders are as follows:

1. alterations implemented prior to public offering or private placement;
2. the shortening of the duration of the special purpose trust contract or the execution period of the asset securitization plan, after the special purpose trust contract has been terminated and the cash from the disposition of the trust property has been allocated, or after the liabilities set forth in the asset securitization plan are repaid and the residual property distributed;
3. alterations are made by a written consent of the entire beneficiaries or Asset-Backed Securities holders, in accordance with the entry in the asset trust securitization plan or asset securitization plan;
4. amendments or supplements as agreed by the contracting parties of the special purpose trust contract, where they involve alterations to the requisite items to be included in the asset trust securitization plan. However, the amendments or supplements are limited to those for which an attorney-at-law issued legal opinions to determine that they corrected obvious mistakes in the original agreement, clarified ambiguity in the original agreement, or made supplements that did not contradict other agreements, and declared that there were no major influence on the beneficiaries; or
5. other events as determined by the competent authority.

Article 7

The formats of settlement statement and report for asset trust securitization plan or asset securitization plan by the Trustee as prescribed in Article 12 of the Act and by the special purpose companies as prescribed in Article 101 of the Act referring to the *mutatis mutandis* application of Article 12 shall be drafted by the ROC Trust Association and submitted to the competent authority for approval.

Article 8

Pursuant to Article 13, Subparagraph 13 of the Act, special purpose trust contracts shall contain the name or title of the beneficiary set forth in Article 19, Paragraph 1 of the Trust Enterprise Act. If the beneficiary is still not confirmed at the time of signing the special purpose trust contract, but may be confirmed thereafter, the identification of the beneficiary may be specially processed in accordance with the specifications by the trustor.

Article 9

The Trustee, Trust Supervisor, Originator or shareholder of a special purpose company, and the Supervisory Institution shall not function as a certification agency for the Beneficial Securities or Asset-Backed Securities issued in accordance with the asset trust securitization plan or asset securitization plan.

The lead underwriter shall not function as the certification agency for the same series of Beneficial Securities or Asset-Backed Securities issued in accordance with the asset trust securitization plan or asset securitization plan.

Securities issued in the same series in accordance with the asset trust securitization plan or asset securitization plan shall be certified by the same agency.

Article 10

The same beneficiary or holder participating in a beneficiaries' meeting or a meeting of Asset-Backed Security holders shall not divide his/her voting right on the same meeting agenda.

Where the government or a juristic person is a beneficiary or an Asset-Backed Security holder, more than one representative may be appointed. However, the exercise of its voting right shall still be compositely calculated according to its Principal Holdings or units of Asset-Backed Securities.

Article 11

Where a beneficiary requests for a beneficiaries' meeting pursuant to Article 24, Paragraph 2 of the Act, if the person responsible for convening such a meeting rejects the request or fails to hold a meeting due to other reasons, this person must notify said beneficiary in writing within fifteen (15) days after a written request has been filed by the beneficiary.

When a beneficiary applies to the competent authority for approval to convene a beneficiaries' meeting pursuant to Article 24, Paragraph 3 of the Act, the beneficiary shall attach the written notice referred to in the preceding paragraph from the person responsible for convening such a meeting. The requirement does not apply in the situation where the person responsible for convening such a meeting has not issued a written notice.

For beneficiaries' meetings held in accordance with Article 24, Paragraph 3 of the Act, both Trustee and the Trust Supervisor must be notified to attend. When a beneficiaries' meeting or a meeting

of Asset-Backed Securities holders is held, both Trustee and the Supervisory Institution shall be present to respond to inquiries.

Article 12

Where a beneficiaries' meeting or a meeting of Asset-Backed Securities holders reaches a resolution to postpone or continue the meeting session within five (5) days, Article 24, Paragraph 4 and Article 79, Paragraph 2 of the Act shall not apply.

Article 13

The rights of the special types of beneficiaries prescribed in Article 26, Paragraph 1 of the Act shall be limited to the rights entitled to the special types of beneficiaries as indicated in the special purpose trust contract, and shall not include other rights or interests not indicated in the special purpose trust contract.

Article 14

With regard to the person appointed by the beneficiaries' meeting pursuant to Article 27, Paragraph 1 of the Act, and the person designated by the meeting of Asset-Backed Securities holders pursuant to the proviso of Article 79, Paragraph 4 of the Act, the beneficiaries' meeting or the meeting of Asset-Backed Securities holders shall also simultaneously determine the appointee's authorities, compensation, as well as the methods of compensation calculation and payment during the same session that the appointment was made.

Article 15

"Principal institution" as referred to in Article 34, Paragraph 1 of the Act refers to the location of the principal company, or the registered location of the business license where a bank concurrently engages in the trust business.

Article 16

The documents specified in Article 36, Paragraph 1 of the Act, and the financial reports specified in Article 92, Paragraphs 1 and 3 of the Act shall be audited and certified by an independent CPA. Where the execution of the asset securitization plan is complete, the Trustee has completed the documents for the plan completion pursuant to Article 36, Paragraph 1 of the Act, and the contents of which were sufficient to cover the reporting requirements of the same fiscal year, then the annual reporting forms for the same fiscal year need not be prepared.

Where the Trustee has completed reporting forms for the plan completion pursuant to Article 36, Paragraph 1 of the Act prior to the end of April of the same year for completion of the asset securitization plan, and the contents of which were sufficient to cover the reporting requirements of the previous fiscal year, then the annual reporting forms for the previous fiscal year need not be prepared.

Article 17

For the collaterals of the Assets entrusted or transferred in accordance with the asset trust securitization plan or asset securitization plan, where the collateral is insured, then the Originator shall also enjoy the benefits of the insurance along with the transfer or entrustment of the collateral to the Trustee or the special purpose company, the consent of the contracting parties for the insurance policy shall not be required.

The Trustee or special purpose company shall notify the transfer referred to in the preceding paragraph to the insurer.

Article 18

Pursuant to the asset trust securitization plan or asset securitization plan, where partial Assets are exchanged and returned to the Originator, or where Assets are transferred as a result of credit enhancement, Article 38 of the Act shall apply.

“Registration Administrative Fees” as referred to in Article 38, Paragraph 1, Subparagraph 2 of the Act means registration fees.

Article 19

Pursuant to the asset trust securitization plan or asset securitization plan, where the Originator entrusts or transfers creditor rights as guaranteed by the maximum mortgage, and attached evidencing documents from the competent authority, certificate confirming creditor right computation, and the related contracting documents, the maximum mortgage right shall then become the general mortgage, and be transferred concurrently to the Trustee or special purpose company, with no requirement for consent or transfer registration from the Obligor or mortgager. The same shall apply to chattel mortgage contracts as referred to in Article 16, Paragraph 2 of the Chattel Secured Transactions Act.

Article 20

The balance sheets, statements of income, and reports on the management and utilization as referred to in Article 48, Paragraph 1 of the Act shall be prepared at the Trustee and made available to the beneficiaries at least ten (10) days before the beneficiaries' meeting.

Where a trust supervisor is appointed, the aforementioned documents shall be submitted for review by the trust supervisor at least thirty (30) days before the resignation or discharge from servicing as the Trustee.

The “approval” as referred to in Article 48, Paragraph 1 of the Act shall be conducted in accordance with the resolution method specified in Article 25, Paragraph 1 of the Act.

Article 21

“Same affiliated enterprise” as referred to in Article 54, Paragraph 2 of the Act shall apply, mutatis mutandis, to the scope

of the same affiliated enterprise as prescribed in Article 9, Paragraph 6 of the Act.

Article 22

The special purpose company shall not entrust the Originator to process management or disposal of the transferred assets.

Article 23

The Supervisory Institution and the Originator or shareholder of the special purpose company shall not belong to the same affiliated enterprise.

The same affiliated enterprise referred to in the preceding paragraph shall apply mutatis mutandis to the scope of the same affiliated enterprise as prescribed in Article 9, Paragraph 6 of the Act.

Article 24

The supervisory contract shall contain the following items:

1. the authority, duty, and responsibilities of the Supervisory Institution;
2. the compensation, method of calculation, time and method of payment to the Supervisory Institution;
3. the methods for making announcements and delivering notifications when the Supervisory Institution makes announcements or delivers notifications to all Asset-Backed Security holders pursuant to Article 78, Paragraph 5 of the Act;
4. the methods for auditing or inspecting the special purpose company and Servicer;
5. the situations and events for the Supervisory Institution to convene meetings for Asset-Backed Security holders;
6. the authority of the meeting of Asset-Backed Security holders to terminate appointment of the Supervisory Institution, or to accept resignation of the Supervisory Institution; and
7. other items to be included as required by the competent authority.

Article 25

The Enforcement Rules shall be enforced as of the date of promulgation.

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