

Content

Title : Enforcement Rules of The Real Estate Securitization Act [Ch](#)

Date : 2009.06.19

Legislative : 1.The whole text of 14 articles enacted and promulgated by Letter Tai-Tsai-Rong (4) Tzu No. 0924001186 by the Ministry of Finance on December 2, 2003
2.amended per Order Gin-Guan-Yin-Piao-Zi-No. 09800256640 dated 2009/06/19

Content : Article 1

These Rules are enacted in accordance with Article 67 of the Real Estate Securitization Act (hereinafter referred to as the “Act”).

Article 2

The alterations of the real estate investment trust plan and the real estate asset trust plan, which has no significant influence on the rights and interests of the beneficiaries, as described under the provisos of Article 9, Paragraph 2 and Article 32, Paragraph 2 of the Act refers to the following situations:

1. the shortening of the duration of the real estate investment trust funds or the real estate asset trust contract after the real estate investment trust contract or the real estate asset trust contract is terminated and the cash from the disposition of the trust property is allocated;
2. alterations are made by a written consent of the entire beneficiaries in accordance with the entry in the real estate investment trust plan or a real estate asset trust plan;
3. amendments or supplements as agreed by the contracting parties of the real estate investment trust contract or the real estate asset trust contract, where they involve alterations to the requisite items to be included in the real estate investment trust plan or the real estate asset trust 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
4. other events as determined by the competent authority.

When an alteration of a real estate investment trust plan or a real estate asset trust plan has no significant influence on the rights and interests of the beneficiaries, the Trustee shall inform the beneficiaries or make an announcement of such plan pursuant to Article 41 of the Trust Enterprise Law.

Article 3

A trustee shall submit the settlement statement and report regarding the real estate investment trust plan or the real estate asset trust plan to the competent authority within thirty (30) days after the implementation of said plan is complete.

The format of the settlement statement and report referred to in the preceding paragraph shall be drafted by the Trust Association and submitted to the competent authority for approval.

Article 4

Pursuant to Article 10, Subparagraph 17 and Article 33, Subparagraph 14 of the Act, real estate investment trust contracts and real estate asset trust contracts shall contain the name or title of the beneficiary as specified in Article 19, Paragraph 1 of the Trust Enterprise Law. If a beneficiary is still not confirmed at the time of signing said contracts, but may be confirmed thereafter, the identification of the beneficiary may be specially processed in accordance with the specifications by the trustor.

Article 5

(deleted)

Article 6

The term “principal office” as mentioned in Article 19, Paragraph 3, Article 22, Paragraph 4, Article 26, Paragraphs 1 and 6, Article 55, Paragraph 2, and Article 56, Paragraph 4 of the Act refers to the location of the company or the registered location of the business license where a bank concurrently engages in trust business.

Article 7

When processing a trust registration, a real estate investment trust shall make the registration in the name of the Trustee and state real estate investment trust funds and property in the column of other registration matters of the registration book.

Article 8

(deleted)

Article 9

The documents and information of trust property provided by a trustor pursuant to Article 29, Paragraph 3 of the Act shall contain the indication regarding trust property, nature of rights, legal appropriation, permit or control, the specification of debt related to trust property, and the encumbrance of trust property.

Article 10

The written documents regarding the specification of debt provided by the Trustor pursuant to Article 30, Paragraph 3 of the Act shall contain the following items:

1. the debt secured by trust property;
2. the balance of debt; and
3. the specification of debt regarding a direct or indirect relationship of the creditor’s rights and debt concerning other commitments, guarantees, or loans made between the trustor and a third party, which may have influence on the implementation effects of trust matters if not performed.

Article 11

The term “encumbrance of trust property” as mentioned in Item 2, Subparagraph 4, Paragraph 1 of Article 31 of the Act means the rights of a third party to make direct claim on trust property, such as superficies, easements, mortgage, dien, or leasehold.

Article 12

When beneficiaries exercise their voting rights, redeem their principals and receive profits, interests, or other proceeds accrued therefrom pursuant to the Act, whether they are required to present Beneficial Securities shall be processed in accordance with the agreements in the real estate investment trust contract or the real estate asset trust contract.

Article 13

The trustee, Trust Supervisor, or the Trustor of a real estate investment trust plan or a real estate asset trust shall not function as a certification agency for the Beneficial Securities issued in accordance with the real estate investment trust plan or the real estate asset trust plan.

The lead underwriter shall not function as the certification agency for the same series of Beneficial Securities issued in accordance with the real estate investment trust plan or real estate asset trust plan. Securities concurrently issued in the same series in accordance with the real estate investment trust plan or real estate asset trust plan shall be certified by the same agency.

Article 14

These 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.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System