

Content

Title :	Mandatory and Prohibitory Provisions of Trust Agreement for the Entrustment of Stored Fund in Electronic Stored Value Cards Ch
Date :	2009.04.22
Legislative :	1.enacted per order No. Gin-Guan-Yin (4)-Zi-No. 09840002940 dated April 22, 2009
Content :	<p>A. Mandatory provisions to be included in a trust agreement for the entrustment of stored fund in electronic stored value cards</p> <p>1.(Name, designation and address of trustor, trustee and beneficiary) The agreement shall establish the legal relationship between the parties by identifying issuing institution as the trustor and beneficiary, and trust enterprise as the trustee, and stating the name and address of the parties.</p> <p>2. (Review of agreement) The agreement should allow a reasonable period of time for its review by the trustor.</p> <p>3. (Purpose of trust) The agreement shall describe that the purpose of the trust is to uphold the rights and interests of holders of electronic stored value cardholders, and indicate that the stored fund collected by the trustor from the electronic stored value cards issued shall be entrusted after deducting the required reserves, and that the trustee will manage, make use of and dispose the funds pursuant to the trust agreement.</p> <p>4. (Types, names, quantities and value of trust property) The agreement should indicate the types, names, quantities and value of trust property.</p> <p>5. (Term of trust) The agreement shall describe the term of the trust agreement. The trustor shall renew the agreement or enter a new agreement with another trust enterprise one month before the expiration of the term mentioned in the preceding paragraph, and report the information to the Competent Authority for reference.</p> <p>6. (Method for management and utilization of trust property) The agreement shall describe the method for management and utilization of trust property and indicate whether the trust property is put under individual or collective management, and whether the trustee has the power to decide how to utilize the trust property or not. The method for management and utilization mentioned in the preceding paragraph should include the following particulars: (1) The trustor shall deposit the fund stored by holders of the electronic stored value cards each day into a trust account on the next business day. (2) The amount declared trust may not be drawn unless for the following purposes a. To pay for products or services provided by contracted merchants, government fees and other items approved by the Competent Authority.</p>

- b. To reimburse the cardholders upon request
 - c. To make use of the trust property.
 - d. To dispense interest or other income earned from the trust property to the beneficiary.
- (3) When a contracted merchant makes payment request, the trustor shall, based on the settlement results, instruct the trustee to pay the contracted merchant without the act of stalling or deception.
- (4) The trustee may make use of the trust property only in any of the following manners:
- a. Deposit it in banks.
 - b. Purchase government bonds or bank debentures.
 - c. Purchase treasury bills or negotiable certificates of deposit.
 - d. Purchase other financial products approved by the Competent Authority.
7. (Settlement and make-up of shortfall of trust property)
The agreement shall describe the operations for settlement and make-up of shortfall of trust property.
The trustee shall settle the entrusted amount delivered by the issuing institution at the end of each month and compute the unrealized loss of the trust property at the time of settlement. Where the settlement result falls short of the level required of an issuing institution to declare trust, the issuing institution shall deposit the shortfall amount in cash into the trust account as notified by the trust enterprise.
The trustee shall submit the settlement results of the previous quarter to the Competent Authority at the end of January, April, July and October every year.
8. (Time and methods for the calculation and distribution of trust income)
The agreement should describe the time and methods for the calculation and distribution of trust income.
The trustee shall dispense the interest or other income earned from the trust property, less costs, necessary expenses and loss, to the beneficiary in the year of income generation according to the agreement mentioned in the preceding paragraph.
9. (Method for amending the agreement)
The agreement shall describe the method for amending the trust agreement.
10. (Causes for annulment or termination of agreement)
The agreement shall describe the causes for the annulment or termination of trust agreement.
11. (Disposition of trust property when the trust relationship ends)
The agreement shall describe the ownership of trust property and manner of delivery when the trust relationship ends.
12. (The responsibilities of trustee)
The agreement shall describe the responsibilities of the trustee.
13. (Standards, types and calculation of remuneration to the trustee, and the time and manner of payment)
The agreement shall describe the standards, types, calculation method, payment period and method of remuneration to the trustee.
14. (Assumption of expenses and method of payment)
The agreement shall describe the assumption of expenses and method of payment and indicate clearly the fees and expenses paid to the trustee and method of collection.

15. (Confidentiality agreement)

The agreement shall indicate that unless it is otherwise provided by law or the Competent Authority, the trustee has the obligation to keep the information on the trading and dealings of the trustor with its customers obtained through the signing of the trust agreement confidential, and shall not use such information for purposes other than contract performance.

16. (Restriction on the transfer of beneficiary rights)

The agreement shall indicate the restriction on the transfer of trust beneficiary rights.

17. (Avoiding misunderstanding by cardholders)

The agreement shall specify that when the trustor undertakes marketing or advertising activities, solicits business or signs contract with cardholders, the trustor shall inform the targets of marketing, advertisement or business solicitation, or the cardholders explicitly that the beneficiary of the trust is the trustor, not the cardholders, and the trustor shall not mislead the cardholders into thinking that the trust enterprise is managing the trust property on their behalf. Where the trustor enters a contract with a cardholder, the same shall be stated in the contract. The trustor or the trust enterprise shall provide a copy of the agreement clauses specified in the preceding paragraph upon the request of the cardholder, or disclose the information by other means (e.g. the trustor or the trustee discloses the information on their websites).

18. (Counterparts)

The agreement shall indicate the number of counterparts of the agreement and the copies held by the trustor and the trustee respectively.

19. (Agreement execution date)

The agreement shall indicate the date the agreement is executed.

21. (Risk disclosure and others)

The agreement shall inform possible associated risks and contain other items as required by law or the Competent Authority.

B. Prohibitory provisions to be included in a trust agreement for the entrustment of stored fund in electronic stored value cards

1. The parties shall not agree that the trustee will guarantee the principal of or the minimum return on the trust.

2. The agreement shall not contain any clause that may mislead the cardholders to believe that the trustee manages the trust property on their behalf.

3. The agreement shall not contain any clause that entitles the trustee to the trust benefits, except for being a co-beneficiary.

4. The agreement shall not contain any other clause that violates the mandatory or prohibitory provisions as provided by law.