

Content

Title :	Securities Investment Trust and Consulting Act <b>Ch</b>
Date :	2018.01.31
Legislative :	<p>1. Full text of 124 articles enacted and promulgated per 30 June 2004 Presidential Order No. ROC-President-I-Yi-09300122711; enforcement date to be set by an order of the Executive Yuan For enforcement from 1 November 2004 per 18 August 2004 Executive Yuan Order No. Yuan-Taiwan-Finance No. 0930037804</p> <p>2. Articles 68 and 124 amended and promulgated per 13 January 2010 Presidential Order No. ROC-President-I-Yi-09900005601; for enforcement from the date of announcement</p> <p>3. Article 2 amended and promulgated per 9 June 2010 Presidential Order No. ROC-President-I-Yi-09900140721</p> <p>4. Article 2 amended and promulgated per 4 February 2015 Presidential Order No. ROC-President-I-Yi-10400012481</p> <p>5. Articles 11, 17, 30, 62, 105, 108, and 111 amended and promulgated, and Articles 6-1, 16-1, and 105-1 added per 31 January 2018 Presidential Order No. ROC-President-I-Yi-10700012041</p>
Content :	<p>Chapter I General Provisions</p> <p>Article 1 (Legislative Intent) This Act is specially enacted to foster the sound operations and development of securities investment trust and consulting business, promote the integrated administration of the asset management services market, and protect investment; matters not provided for in this Act shall be governed by the Securities and Exchange Act.</p> <p>Article 2 (Competent Authority) The term "Competent Authority" as used in this Act means the Financial Supervisory Commission.</p> <p>Article 3 (Securities Investment Trust Enterprises and Types of Business) The term "securities investment trust" as used in this Act means offering securities investment trust funds and issuing beneficial interest certificates to unspecified persons, or privately placing securities investment trust funds and delivering beneficial interest certificates to specified persons, and investing in or trading securities, securities-related products, or other items approved by the Competent Authority. The term "securities investment trust enterprise" as used in this Act means an institution that operates securities investment trust business with the permission of the Competent Authority. The types of business operated by securities investment trust enterprises are as follows: 1. securities investment trust business. 2. full fiduciary discretionary investment business. 3. other relevant business permitted by the Competent Authority. A securities investment trust enterprise shall report the types of business it will operate to the Competent Authority and apply for its approval.</p> <p>Article 4 (Securities Investment Consulting Enterprises and Types of Business) The term "securities investment consulting" as used in this Act means providing analysis, opinions, or recommendations on matters relating to investment in or trading of securities, securities-related products, or</p>

other items approved by the Competent Authority, in return for compensation obtained directly or indirectly from a principal or third party.

The term "securities investment consulting enterprise" as used in this Act means an institution that operates securities investment consulting business with the permission of the Competent Authority.

The types of business operated by securities investment consulting enterprises are as follows:

1. securities investment consulting business.
2. full fiduciary discretionary investment business.
3. other relevant business permitted by the Competent Authority.

A securities investment consulting enterprise shall report the types of business it will operate to the Competent Authority and apply for its approval.

## Article 5

### (Definitions)

Following are definitions of other terms as used in this Act:

1. "Securities investment trust contract" means a trust contract signed between a securities investment trust enterprise as the settlor and a fund custodian institution as the trustee, for purposes of regulating the mutual rights and obligations between the securities investment trust enterprise, the fund custodian institution, and the beneficiary(ies).

2. "Fund custodian institution" means a trust company or a bank concurrently operating trust business that serves, on the basis of a trust relationship, as the trustee under a securities investment trust contract, and handles the custody, disposition, and collections and payments of a securities investment trust fund according to the instructions of the securities investment trust enterprise, and conducts business related to fund custody under this Act and the securities investment trust contract.

3. "Beneficiary" means a person designated in the securities investment trust contract as entitled to benefit from the securities investment trust fund.

4. "Securities investment trust fund" means the trust property under the securities investment trust contract, including the purchase price obtained from the public offering or private placement of beneficial interest certificates, and any proceeds accruing thereupon and assets purchased therewith.

5. "Beneficial interest certificates" means securities issued or delivered for purposes of public offering or private placement of a securities investment trust fund, and serving to represent the rights enjoyed by the beneficiaries in the fund.

6. "Offshore fund" means a fund established outside of the territory of the Republic of China and having the nature of a securities investment trust fund.

7. "Securities investment consulting contract" means an investment consulting mandate contract signed with respect to a mandate given to a securities investment consulting enterprise by a customer to provide analysis, opinions, or recommendations regarding matters relating to investment or trading in securities, securities-related products, or other items approved by the Competent Authority.

8. "Securities" means securities under Article 6 of the Securities and Exchange Act.

9. "Securities-related products" means securities-related futures, options, or other financial products that have been approved by the Competent Authority for trading.

10. "Full fiduciary discretionary investment business" [abbreviated below as "discretionary investment business"] means the business, with respect to fiduciary investment assets that a customer delivers by a mandate or transfers under a trust, of conducting value analysis and making investment judgments regarding securities, securities-related products, or other items approved by the Competent Authority, and executing investments or trades for the customer based on such investment judgments.

11. "Full fiduciary custodian institution" means a trust company or a bank concurrently operating trust business that, in accordance with this Act and the contract(s) applying to the full fiduciary mandate, maintains custody of the fiduciary investment assets and handles related full fiduciary

custody business.

12. "Fiduciary investment assets" means assets that a customer delivers by a mandate or transfers under a trust for purposes of full fiduciary discretionary investment [hereinafter abbreviated as "discretionary investment"], and any proceeds accruing thereupon and assets purchased therewith.

#### Article 6

(Restrictions on Concurrent Operations)

Securities investment trust, securities investment consulting, and discretionary investment business may not be operated except in accordance with this Act.

A trust enterprise that offers and issues a mutual trust fund for the purpose of investing in securities, and meets certain conditions, shall apply to concurrently operate securities investment trust business as provided in this Act.

The "certain conditions" referred to in the preceding paragraph shall be prescribed by the Competent Authority in consultation with the competent authority for the Trust Enterprise Act.

#### Article 6-1

(Exemption from the Act Within Periods and Scopes as Approved to Facilitate Innovation in Financial Technologies and Promote the Financial Regulatory Sandbox)

To facilitate the development of financial inclusion and financial technologies, applicants, not limited to securities investment trust enterprises and securities investment consulting enterprises, may apply to conduct innovative experimentation in securities investment trust, securities investment consulting, and discretionary investment business pursuant to the Financial Technology Development and Innovative Experimentation Act.

An innovative experiment under the preceding paragraph may be exempted from application of the provisions of this Act within the period and scope approved by the Competent Authority.

The Competent Authority shall take into reference the results of implementation of the innovative experimentation under paragraph 1, and review the appropriateness of this Act and relevant financial laws and regulations in light thereof.

#### Article 7

(Duty of Care)

Securities investment trust enterprises, securities investment consulting enterprises, fund custodian institutions, full fiduciary custodian institutions, and their directors, supervisors, managers, and employees, shall conduct business in good faith and with the duties of due care, diligence, and fidelity as good administrators, in accordance with this Act and with regulations and contracts authorized and issued or entered into under this Act.

Enterprises, institutions, and personnel referred to in the preceding paragraph shall keep confidential the personal data, transaction data, and other related information of beneficiaries and customers, except where otherwise provided by another act or regulation or the Competent Authority. Anyone who violates a provision of the preceding two paragraphs shall be liable for compensation for resultant damage incurred by a beneficiary or contractual counterparty of the securities investment trust fund.

#### Article 8

(Duty of Good Faith and Liability for Damages)

The following are prohibited in the operation of securities investment trust business, securities investment consulting business, discretionary investment business, fund custody business, full fiduciary custody business, and other business under this Act:

1. misrepresentation.
2. fraud.
3. any other act sufficient to mislead other persons.

A financial report or any other related business document reported or

publicly announced by a securities investment trust enterprise, securities investment consulting enterprise, fund custodian institution, or full fiduciary custodian institution may not contain any misrepresentation or concealment.

Anyone who violates a provision of the preceding two paragraphs shall be liable for injury consequently sustained by a beneficiary or contractual counterparty of the securities investment trust fund.

#### Article 9

(Limit on and Right of Claim for Damages)

For injury caused intentionally by a person who is liable for damages for a violation of this Act, a court may, at the request of the victim, according to the circumstances of the case, impose at its discretion punitive damages of not more than three times the amount of the injury; for injury caused by gross negligence, it may impose at its discretion punitive damages of not more than twice the amount of the injury.

Rights to claim damages as prescribed in this Act shall be extinguished if not exercised within two years from the time the claimant learns of the cause entitling the claimant to claim damages, or within five years from the date of occurrence of such cause for damages.

### Chapter II Securities Investment Trust Funds

#### Section I Public Offering, Private Placement, Issuance, and Marketing of Funds

#### Article 10

(Approval for Public Offering of a Fund)

A securities investment trust enterprise may not publicly offer a securities investment trust fund without first obtaining approval from the Competent Authority or effective registration by filing with the Competent Authority. The Competent Authority shall prescribe regulations governing the documents required to be submitted and the examination procedures for approval of applications or effective registration filings, conditions for approval or effective registration, and other compliance requirements. Operational procedures for the public offering, issuance, and sale of funds, and the subscription and redemption thereof, shall be drafted by the Securities Investment Trust and Consulting Association and submitted to the Competent Authority for ratification.

If a fund mentioned in the preceding two paragraphs is a foreign-raised fund investing domestically, or is a domestically raised fund investing overseas, approval from the Central Bank is required.

#### Article 11

(Private Placement of Beneficial Certificates: Counterparts, Obligations, Filing, and Transfer)

A securities investment trust enterprise may carry out a private placement of beneficial interest certificates with the following counterparts:

1. Banks, bills finance enterprises, trust enterprises, insurance enterprises, securities enterprises, or other juristic persons or institutions approved by the Competent Authority.
2. Natural persons, juristic persons, or funds meeting conditions set by the Competent Authority.

The total number of offerees under subparagraph 2 of the preceding paragraph may not exceed 99 persons.

Upon the reasonable request by a counterpart(s) under subparagraph 2 of paragraph 1 prior to consummation of the private placement, a securities investment trust enterprise shall be obligated to provide financial, business, or other information relevant to the current private placement of securities investment trust beneficial interest certificates.

Within five days from the date that the price of the privately placed beneficial interest certificates has been paid in full, the securities investment trust enterprise shall report the same to the Competent Authority; the particulars required to be reported shall be specified by the Competent Authority. A person intending to raise funds through private placement overseas for investment domestically or to raise funds through

private placement domestically for investment overseas shall, when filing the report, submit therewith a photocopy of the Central Bank approval letter.

The restrictions on transfers of privately placed beneficial interest certificates shall be conspicuously noted on the beneficial interest certificates, and shall be stated in the relevant written documentation delivered to the offeree or purchaser.

The provisions of Article 43-7 and Article 43-8, paragraph 1, of the Securities and Exchange Act shall apply mutatis mutandis to privately placed beneficial interest certificates.

#### Article 12

(Required Contents of the Securities Investment Trust Contract)

Unless the Competent Authority provides otherwise, a securities investment trust contract shall specify the following particulars:

1. name and address of the securities investment trust enterprise and the fund custodian institution.
2. name and duration of the securities investment trust fund.
3. rights, obligations, and legal responsibilities of the securities investment trust enterprise.
4. rights, obligations, and legal responsibilities of the fund custodian institution.
5. rights, obligations, and legal responsibilities of the beneficiaries.
6. basic policies and scope for managing the securities investment trust fund to invest in securities and trade securities-related products.
7. matters relating to the distribution of proceeds of the securities investment trust.
8. matters relating to the redemption of beneficial interest certificates.
9. fees to be borne by the securities investment trust fund.
10. management and custodial fees of the securities investment trust enterprise and the fund custodian institution.
11. calculation of the net asset value of the securities investment trust fund and the beneficiary units.
12. matters relating to termination of the securities investment trust contract.

13. matters relating to convening of beneficiaries meetings, quorum requirements, voting requirements, and the method for resolutions.

A securities investment trust contract template shall be drafted by the Securities Investment Trust and Consulting Association in consultation with the Trust Association, and submitted to the Competent Authority for ratification.

#### Article 13

(Limits on Beneficial Certificate Redemption Fees and Management and Custodial Fees)

Depending on market conditions, the Competent Authority may impose ceilings on the fees charged for purchase or redemption of beneficial interest certificates by beneficiaries, and the management or custodial fees charged by securities investment trust enterprises or fund custodian institutions, and impose restrictions on the types of fees to be borne by securities investment trust funds.

#### Article 14

(Types of Funds and Investment or Trading Scope and Restrictions)

The Competent Authority will specify the types of securities investment trust funds that securities investment trust enterprises may publicly offer or privately place, the scope of investments or trading thereby, and restrictions thereupon.

Where investments or trading by funds under the preceding paragraph involves any item other than securities-related products, the Competent Authority shall first consult with the competent authority for the relevant industry and obtain its consent; if it involves the money market, it shall also consult with and obtain the consent of the Central Bank.

#### Article 15

(Prospectus and Private Placement Memorandum)

A securities investment trust enterprise publicly offering a securities investment trust fund shall deliver a prospectus to prospective subscribers in the manner prescribed by the Competent Authority.

A securities investment trust enterprise privately placing a securities investment trust fund with specific persons shall be obligated to deliver a private placement memorandum to offerees at their request.

A securities investment trust enterprise that fails to deliver a prospectus or private placement memorandum in accordance with the preceding two paragraphs shall be held liable for injury consequently sustained by bona fide trading counterparties.

The provisions of Article 32 of the Securities and Exchange Act shall apply mutatis mutandis to liability for damages for any injury sustained by a bona fide counterparty because of any misrepresentation or concealment in the main required content of a prospectus or private placement memorandum.

The Competent Authority shall prescribe the matters required to be specified in a prospectus under paragraph 1 and a private placement memorandum under paragraph 2.

#### Article 16

##### (Offshore Funds)

No person may, itself or as an agent, engage within the Republic of China in the public offer, sale, or investment consultancy of offshore funds without first obtaining approval from the Competent Authority or effective registration upon filing with the Competent Authority.

Private placement of offshore funds shall comply with the provisions of Article 11, paragraphs 1 to 3, and may not involve any act of general advertising or public solicitation. If those provisions are not complied with, it shall be deemed public offering of offshore funds; the same restriction shall apply to any act of general advertising or public solicitation in respect of investment consultancy for offshore funds.

Securities investment trust enterprises, securities investment consulting enterprises, securities firms, issuers of offshore funds and institutions designated thereby, and other institutions designated by the Competent Authority may engage in the business specified in paragraph 1 within the Republic of China; the Competent Authority shall prescribe regulations governing related qualifications and conditions, application or filing procedures, business items that may be engaged in, and other compliance requirements.

The Competent Authority shall prescribe regulations governing the types, investment or trading scopes, and restrictions thereupon, of offshore funds that may be publicly offered, sold, or addressed in investment consulting, within the Republic of China by persons, themselves or as agents, and the relevant application or filing procedures and other compliance requirements.

Where the public offer or sale of offshore funds within the Republic of China by a person, itself or as an agent, as referred to in paragraph 1 involves inward or outward remittance of funds, approval shall be obtained from the Central Bank.

#### Article 16-1

##### (Assets Acquired in the Name of a SITE or SICE on Behalf of Investors Shall Be Kept Separate and Independent of the Enterprise's Own Property)

Assets lawfully acquired in the name of a securities investment trust enterprise or a securities investment consulting enterprise on behalf of its investors shall be kept separate and independent of the enterprise's own property.

Creditors may not make any claim or exercise any other right against the assets under the preceding paragraph to satisfy any debt owed by a securities investment trust enterprise or a securities investment consulting enterprise with respect to its own property.

## Section II Fund Operation

#### Article 17

##### (Analysis, Decision, Execution, and Review Operations by a SITE Utilizing a Securities Investment Trust Fund)

In managing a securities investment trust fund to invest or trade, a securities investment trust enterprise shall base its decisions on its analysis; it shall keep records of its execution thereof, and shall also submit a review on a monthly basis. Its analysis and decisions shall be founded on reasonable grounds and bases.

The securities investment trust enterprise shall include the analysis, decisions, execution, and review referred to in the preceding paragraph in the internal control system and faithfully implement the system. Records shall be kept of the control activities, and shall be preserved for a certain period of time.

The Competent Authority shall prescribe the period of time for which they shall be preserved.

#### Article 18

(Prescription of Regulations Governing the Utilization of Funds)

The Competent Authority shall prescribe regulations governing the methods by which securities investment trust enterprises manage securities investment trust funds in investment and trading, and the giving of instructions for custody, disposition, collection and payment, and other relevant matters.

Assets held by a securities investment trust enterprise in the course of managing a securities investment trust fund shall be registered in the name of the fund account with the fund custodian institution. Provided, foreign securities and foreign securities-related products that are held may be registered in the manner stipulated in the agreement entered into between the fund custodian institution and the appointed foreign custodian institution.

#### Article 19

(Prohibitions on the Utilization of Funds)

A securities investment trust enterprise shall manage securities investment trust funds in accordance with this Act, regulations authorized and adopted under this Act, and the provisions of the securities investment trust contracts, and is prohibited to do any of the following acts, except where otherwise provided by the Competent Authority:

1. instruct the fund custodian institution to make a loan or provide security.
2. engage in securities margin transactions.
3. engage in securities trading with any other securities investment trust fund managed by the same securities investment trust enterprise.
4. invest in securities issued by such securities investment trust enterprise or a company having an interest relationship with such securities investment trust enterprise.
5. manage the securities investment trust fund to purchase beneficial interest certificates of the fund.
6. instruct the fund custodian institution to lend securities held by the fund to another person.

The Competent Authority shall define the scope of the term "company having an interest relationship" as used in subparagraph 4 of the preceding paragraph.

#### Article 20

(Keeping and Making Documents Available for Reading)

The securities investment trust enterprise and fund custodian institution shall place the securities investment trust fund prospectus, sales-related documents, securities investment trust contract, and latest financial statements at their place of business and their agent's place of business to make them available for reading, or shall make them available for reading by another method designated by the Competent Authority.

### Section III Fund Custody

#### Article 21

(Independence of Funds)

A securities investment trust fund publicly offered or privately placed by a securities investment trust enterprise, the private property of the

securities investment trust enterprise, and the private property of the fund custodian institution shall be independently maintained. Creditors may not make any claim or exercise any other rights against the assets of the fund to satisfy liabilities incurred by the securities investment trust enterprise or the fund custodian institution of the fund with respect to their own private properties.

The fund custodian institution shall establish and maintain a separate account for each securities investment trust fund in its custody in accordance with this Act, regulations authorized and adopted under this Act, and the securities investment trust contracts.

#### Article 22

(Circumstances Barring Service as a Fund Custodian)

An institution to which any of the following circumstances applies may not serve as a fund custodian institution:

1. It has been subject to a disposition by the Competent Authority under Article 115, and the disposition period has not yet expired.
2. It has not yet obtained a credit rating of a certain grade or higher from a credit rating institution approved or recognized by the Competent Authority.

An institution to which any of the following circumstances applies may not serve as a fund custodian institution of a securities investment trust enterprise, except with the approval of the Competent Authority:

1. Its investment in the securities investment trust enterprise reaches a certain percentage of the total issued shares of the enterprise.
2. It serves as a director or supervisor of the securities investment trust enterprise; or any of its directors or supervisors serves as a director, supervisor or manager of the securities investment trust enterprise.
3. A certain percentage of its total issued shares is held by the securities investment trust enterprise.
4. The securities investment trust enterprise or its representative serves as a director or supervisor of the institution.
5. It serves as a certifying institution of the securities investment trust fund.
6. The securities investment trust enterprise is a subsidiary of a same financial holding company as the institution, or is an affiliated enterprise with the institution.
7. Other institutions that the Competent Authority specifies as inappropriate to serve as a fund custodian institution.

Where a director or supervisor is a juristic person, the provisions of subparagraph 2 shall apply mutatis mutandis to its representative or person appointed to exercise its duties on its behalf.

The "certain percentage" in subparagraphs 1 and 3 of paragraph 2 shall be prescribed by the Competent Authority.

The term "subsidiary" in subparagraph 6 of paragraph 2 means a subsidiary as defined in Article 4 of the Financial Holding Company Act.

#### Article 23

(Fund Custodian's Obligation to Report and Copy)

If a fund custodian institution learns that a securities investment trust enterprise has violated a securities investment trust contract or an applicable act or regulation, it shall immediately request the securities investment trust enterprise to perform its obligations under the contract or the applicable act or regulations; if there is a likelihood of injury to the rights or interests of beneficiaries, it shall immediately report to the Competent Authority, with a copy to the Securities Investment Trust and Consulting Association.

If a securities investment trust enterprise intentionally or negligently injures assets of the fund, the fund custodian institution shall seek recovery from the enterprise on behalf of the rights and interests of the fund beneficiaries.

#### Article 24

(Fund Custodian's Liability for Damages)

If the fund custodian institution intentionally or negligently violates this Act, a regulation authorized and adopted under this Act, or a



securities investment trust contract, causing injury to assets of the fund, it shall be liable for damages. The securities investment trust enterprise shall furthermore seek recovery from the institution on behalf of the rights and interests of the fund beneficiaries.

A fund custodian institution shall be responsible for any intentional or negligent [act or omission] of its agents, representatives, or employees when performing their obligations under a securities investment trust contract to the same extent that the fund custodian institution is responsible for its own intentional or negligent [acts or omissions].

#### Section IV Fund Redemption

##### Article 25

(Redemption Method and Governing Regulations)

Where the securities investment trust contract stipulates that the beneficiary is entitled to request redemption of the beneficial interest certificate, unless the Competent Authority has provided otherwise, the beneficiary may request in writing or by other stipulated means that the securities investment trust enterprise redeem the beneficial interest certificate, and the securities investment trust enterprise may not refuse to do so; payment of the redemption price may not be delayed.

The Competent Authority shall prescribe regulations governing the calculation of the redemption price, the time limit for payment of the redemption price, issuance of a new beneficial interest certificate upon partial redemption, the temporary suspension of calculation of redemption price, delayed payment of the redemption price, and other compliance requirements with respect to securities investment trust funds.

#### Section V Fund Accounting

##### Article 26

(Accounting Treatment for Funds)

An individual account shall be established for each securities investment trust fund publicly offered or privately placed by a securities investment trust enterprise and accounting books and records shall be established as provided by the Competent Authority; they shall be kept in the manner and for the period set forth in the Business Accounting Act and applicable regulations.

##### Article 27

(Beginning and End of the Accounting Year)

The accounting year of a securities investment trust fund shall be from 1 January to 31 December each year unless otherwise stipulated in the securities investment trust contract or otherwise approved by the Competent Authority.

##### Article 28

(Calculation of the Net Asset Value of Funds)

The securities investment trust enterprise shall calculate the net asset value of the securities investment trust fund each business day.

The Securities Investment Trust and Consulting Association shall draft standards for the calculation of the net asset value of securities investment trust funds and submit them to the Competent Authority for approval.

##### Article 29

(Public Announcement of the Net Asset Value of Funds)

The securities investment trust enterprise shall on each business day publicly announce the net asset value per beneficiary unit of the securities investment trust fund for the previous business day. Provided, for securities investment trust funds raised by offering beneficial interest certificates overseas, the laws and regulations of the place where they are offered shall govern.

The provisions of the preceding paragraph do not apply to securities investment trust funds privately placed with specific persons by the securities investment trust enterprise. Provided, the net asset value per

beneficiary unit of the securities investment trust fund shall be reported to the beneficiaries according to the provisions of the securities investment trust contract.

#### Article 30

(Manners for Keeping Fund Assets)

A securities investment trust enterprise shall keep the assets of each securities investment trust fund in the following manners according to the percentages prescribed by the Competent Authority:

1. cash.
2. bank deposits.
3. short-term bills purchased from bills dealers.
4. other manners provided by the Competent Authority.

Banks or short-term bills under subparagraphs 2 or 3 of the preceding paragraph shall have obtained at least a certain rating from a credit rating institution approved by the Competent Authority.

The total amount of assets held in the manners in subparagraphs 2 to 4 of paragraph 1 by a securities investment trust fund that is publicly offered or privately placed domestically may not exceed a certain percentage; the percentage shall be set by the Competent Authority in consultation with the Central Bank.

#### Article 31

(Period for Distribution of Profits)

Any profit from investment income of the securities investment trust fund that shall be distributed according to the stipulations of the securities investment trust contract, shall be distributed within six months from the close of the accounting year unless otherwise approved by the Competent Authority, and the distribution date shall be specified in the securities investment trust contract.

### Section VI Beneficial interest certificates

#### Article 32

(Handling of Beneficial Certificate Matters and Regulations Governing Scripless Beneficial Certificates)

Beneficial interest certificates shall be registered.

Beneficial interest certificates may be issued in scripless form and transferred by the book-entry method.

Regulations governing matters related to beneficial interest certificates shall be drafted by the Securities Investment Trust and Consulting Association and submitted to the Competent Authority for ratification.

#### Article 33

(Person to Exercise Beneficial Rights)

Where several persons own the same beneficial interest certificate(s), the co-owners shall select one of them to exercise their beneficial rights.

Where a government or juristic person is the beneficiary, it shall appoint one natural person to exercise its beneficial rights on its behalf.

#### Article 34

(Transfer of Beneficial Certificates)

Beneficial interest certificates may freely be transferred unless otherwise provided by law.

The transfer of beneficial interest certificates shall be effected by endorsement and delivery by the beneficiary, and the transferee's name shall be recorded on the beneficial interest certificates.

A transfer under the preceding paragraph may not be asserted as a defense against a securities investment trust enterprise unless the transferee's name and domicile or residence have been recorded in the beneficiaries' register of the securities investment trust enterprise.

The preceding paragraph does not apply to transfer of beneficial interest certificates effected by means of book-entry transfer or registration.

Regulations governing book-entry transfer or registration shall be promulgated by the Competent Authority.

### Article 35

#### (Content of Beneficial Certificates)

The beneficial rights of a securities investment trust fund shall be divided equally based on the total number of beneficiary units. The number of beneficiary units of each beneficial interest certificate shall be as recorded on the beneficial interest certificate.

The rights of the beneficiary shall be in accordance with the content recorded on the beneficial interest certificate and are exercisable according to the number of beneficiary units. Identical beneficial rights shall be enjoyed under any additional public offerings or private placements of the fund.

### Article 36

#### (Format, Required Information, and Certification of Beneficial Certificates)

Unless the beneficial interest certificates are scripless, the securities investment trust enterprise shall record the required information on them in the format prescribed by the Competent Authority, and issue them after they have been signed by the fund custodian institution.

The following information is required to be recorded on beneficial interest certificates under the preceding paragraph:

1. name of the securities investment trust fund, total number of beneficiary units, issue date, duration, and whether additional issues are permitted.
  2. name and address of the securities investment trust enterprise and the fund custodian institution.
  3. name (individual or entity) of the beneficiary.
  4. number of beneficiary units represented by the beneficial interest certificate.
  5. method for calculating the purchase price per beneficiary unit and the fee.
  6. method for calculating, and payment method and times, for the management or custodial fees charged by the securities investment trust enterprise and fund custodian institution.
  7. when the beneficiary requests redemption of the beneficial interest certificate, the procedure, time, place, and method for calculating the redemption price and redemption fee, and the time and method of payment of the redemption price by the securities investment trust enterprise.
  8. method for calculating and publicly announcing the net asset value of the beneficiary units.
  9. if there are any restrictions on whom beneficial interest certificates may be transferred to, the content and effect of the restrictions.
  10. other particulars that the Competent Authority requires to be recorded.
- Beneficial interest certificates issued shall be certified, unless the certificates are in scripless form. The certification provisions governing the issuance of stocks and corporate bonds by public companies shall apply mutatis mutandis to the certification of beneficial interest certificates.

### Article 37

#### (Extinctive Prescription Periods for Right to Claim Distribution of Proceeds and Right to Claim Payment of Beneficial Certificate Redemption Price)

A beneficiary's right to claim distribution of proceeds shall be extinguished by prescription if not exercised within five years from the distribution date of the proceeds. Any proceeds that are extinguished by prescription shall be incorporated into the securities investment trust fund.

A beneficiary's right to claim payment of the price for redemption of beneficial interest certificates shall be extinguished by prescription if not exercised within 15 years from the expiration of the time limit for payment of the price.

When a fund is liquidated, a beneficiary's right to claim distribution of residual assets shall be extinguished by prescription if not exercised within 15 years from the distribution date.

When exercising the rights referred to in the preceding three paragraphs before extinction by prescription has occurred under this article, a

beneficiary may not claim default interest.

## Section VII Beneficiaries meeting

### Article 38

#### (Exercise of Beneficiary Rights)

Beneficiary rights shall be exercised subject to a resolution at a beneficiaries meeting. Provided, this restriction shall not apply to acts done solely for the benefit of beneficiaries.

### Article 39

#### (Matters Requiring Resolution of a Beneficiaries Meeting)

The following matters shall be done subject to a resolution of a beneficiaries meeting. Provided, this restriction shall not apply where the Competent Authority has provided otherwise.

1. change of fund custodian institution.
2. change of securities investment trust enterprise.
3. termination of the securities investment trust contract.
4. increase in the management or custodial fees of the securities investment trust enterprise or fund custodian institution.
5. material amendment to the basic policies or scope of securities investment or securities-related product trading by the fund.
6. amendment to the securities investment trust contract that would have a material effect on the rights or interests of beneficiaries.

### Article 40

#### (Convenors, Order of Priority, Conditions, and Procedures for Convening of Beneficiaries Meetings)

When any event occurs that by law, regulation, or the securities investment trust contract requires a resolution of a beneficiaries meeting, the securities investment trust enterprise shall convene a beneficiaries meeting. When the securities investment trust enterprise is unable or fails to convene the meeting, the fund custodian institution shall convene it.

When the fund custodian institution is unable or fails to convene it, it shall be convened as provided in the securities investment trust contract or by the beneficiaries themselves. When all are unable or fail to convene it, a person appointed by the Competent Authority shall convene it.

For beneficiaries themselves to convene a beneficiaries meeting, beneficiaries who have held continuously for at least one year beneficial interest certificates representing beneficiary units accounting for at least three percent of the total beneficiary units issued and outstanding of the fund at the time of the proposal shall file an application to the Competent Authority in writing, describing the matters proposed and the reasons for convening the meeting, and convene the meeting themselves after obtaining approval therefrom.

When a beneficiaries meeting is convened by a party other than the securities investment trust enterprise, the securities investment trust enterprise, at the request of the fund custodian institution, the beneficiaries, or the person appointed by the Competent Authority, shall provide any documents or materials necessary for convening the beneficiaries meeting.

### Article 41

#### (Convening of Beneficiaries Meeting by the Fund Custodian)

If in conducting fund custody business, a fund custodian institution requests a securities investment trust enterprise to perform its obligations as provided in Article 23, paragraph 1, and the enterprise fails to do so, and thereby injures the rights or interests of beneficiaries, and the securities investment trust enterprise fails to make corrections by a deadline after being notified in writing to make corrections by the deadline, the institution may, after applying to the Competent Authority and obtaining approval, convene a beneficiaries meeting to replace the securities investment trust enterprise.

### Article 42

#### (Time Limit for Convening, Procedures, and Resolution Methods for

Beneficiaries Meetings)

The Competent Authority shall prescribe regulations governing the time limits for convening, procedures, resolution methods, meeting protocol, and other compliance requirements with respect to beneficiaries meetings.

The Competent Authority, if it deems necessary to protect the public interest or the rights or interests of beneficiaries, may amend, by an order, the provisions of the securities investment trust contract regarding the quorum requirements, voting requirements, and resolution method for the meeting of beneficiaries as provided in the securities investment trust contract.

#### Article 43

(Procedures for Amending the Securities Investment Trust Contract)

The procedures for amending the securities investment trust contract are as follows:

1. For a publicly offered securities investment trust fund, approval shall be obtained from the Competent Authority; the securities investment trust enterprise shall publicly announce the content within two days after approval has been obtained.
2. For a privately offered securities investment trust fund, a report shall be filed with the Competent Authority within five days after the amendment.

#### Article 44

(Exemption from Application of Relevant Provisions of the Trust Act)

Paragraph 3 of Article 6, Article 16, Article 32, paragraphs 1 to 3 of Article 36, Article 39 to paragraph 1 of Article 42, Article 43, and Articles 52 to 59 of the Trust Act do not apply to securities investment trusts.

### Section VIII Termination, Liquidation, and Merger of Funds

#### Article 45

(Causes for Termination of the Securities Investment Trust Contract After Approval by the Competent Authority)

In any of the following events, a securities investment trust contract shall be terminated after approval has been given by the Competent Authority:

1. The securities investment trust enterprise or fund custodian institution is dissolved, bankrupted, or its approval is voided or revoked, or its management or custodianship of the securities investment trust fund is obviously unsound, and the Competent Authority has ordered that it be replaced, such that it is unable to continue executing its duties, and there is no other suitable securities investment trust enterprise or fund custodian institution to assume the rights and obligations of the original enterprise or institution.
2. A beneficiaries meeting resolves to replace the securities investment trust enterprise or fund custodian institution, and there is no other suitable securities investment trust enterprise or fund custodian institution to assume the rights and obligations of the original enterprise or institution.
3. The net asset value of the fund is lower than the standard set by the Competent Authority.
4. The securities investment trust fund is unable to continue operating because of market conditions, the characteristics or scale of the fund, or other legal or factual reasons.
5. A beneficiaries meeting resolves to terminate the contract.
6. The securities investment trust enterprise or fund custodian institution is unable to accept a resolution of a beneficiaries meeting, and there is no other suitable securities investment trust enterprise or fund custodian institution to assume the rights and obligations of the original enterprise or institution.
7. Another other reason for termination as set forth in the securities investment trust contract.

Where it is desirable to terminate the securities investment trust contract to protect the public interest or the rights and interests of beneficiaries, the Competent Authority may order its termination.

Where a securities investment trust contract is terminated because of expiration of the duration thereof, a report shall be filed with the Competent Authority for recordation within two days from expiration. A securities investment trust enterprise shall publicly announce the termination of a securities investment trust contract within two days from the date of filing for recordation or of approval.

#### Article 46

(Merger of Funds)

Securities investment trust enterprises may conduct mergers of securities investment trust funds; regulations governing the conditions, procedures, or other applicable matters for mergers thereof shall be prescribed by the Competent Authority.

#### Article 47

(Fund Liquidation Procedures and Period)

When a securities investment trust contract is terminated, the liquidator shall complete the liquidation of the securities investment trust fund within three months from the date the Competent Authority approves liquidation, and shall distribute the balance after liquidation to the beneficiaries pro rata to the number of beneficiary units. Provided that where for some legitimate reason the liquidation cannot be completed within three months, the liquidator may apply to the Competent Authority before expiration of the time limit for one extension, which shall be limited to three months.

The liquidator shall report to the Competent Authority and publicly announce, and notify the beneficiaries of, the methods for liquidation and distribution under the preceding paragraph. Within two months from conclusion of the liquidation procedures, he shall report the results thereof to the Competent Authority for recordation and notify the beneficiaries of the same.

#### Article 48

(Order of Priority for Appointment of Liquidator and Rights and Obligations of Liquidator)

The securities investment trust enterprise shall serve as the liquidator of the fund. Where an event specified in subparagraphs 1 or 2 of paragraph 1 of Article 45 exists with respect to the securities investment trust enterprise, the fund custodian institution shall serve as the liquidator. Where an event specified in subparagraphs 1 or 2 of paragraph 1 of Article 45 also exists with respect to the fund custodian institution, a beneficiaries meeting shall select by a resolution a securities investment trust enterprise or fund custodian institution that complies with the provisions of the Competent Authority to be the liquidator.

When the fund contract is terminated because an event specified in subparagraphs 1 or 2 of paragraph 1 of Article 45 exists with respect to the fund custodian institution, the liquidator may select a suitable fund custodian institution to assume, after approval is obtained from the Competent Authority, the fund custody duties during the liquidation period. Unless otherwise provided by law or contract, the rights and obligations of the liquidator and the fund custodian institution during the duration of the fund shall be the same as those of the original securities investment trust enterprise and fund custodian institution.

#### Article 49

(Period for Retention of Liquidation Account Books and Statements)

From the date the conclusion of the liquidation is reported to the Competent Authority, the liquidator shall keep all account books and statements for not less than 10 years.

### Chapter III Discretionary Investment Business

#### Article 50

(Conditions for Operation of Discretionary Investment Business)

A securities investment trust enterprise or securities investment consulting enterprise may not operate discretionary investment business

until it has met the conditions set by the Competent Authority and has obtained approval from the Competent Authority.  
The Competent Authority shall prescribe regulations governing conditions, eligibility, application procedures, personnel administration, contract signing, account processing, and other compliance requirements under the preceding paragraph.

#### Article 51

(Independence of Investment Assets)

Fiduciary investment assets received from customers by securities investment trust enterprises or securities investment consulting enterprises shall be kept separate and independent from the private property of the securities investment trust enterprises or securities investment consulting enterprises and full fiduciary custodian institutions.

Creditors may not make any claim or exercise any other rights against the fiduciary investment assets to satisfy liabilities incurred by the securities investment trust enterprise or securities investment consulting enterprise and the full fiduciary custodian institution with respect to their own private properties.

#### Article 52

(Operation Bond and Compensation Reserve)

A securities investment trust enterprise or securities investment consulting enterprise that will operate discretionary investment business shall deposit an operation bond with a financial institution.

Where a trust enterprise that will concurrently operate discretionary investment business has already deposited a compensation reserve, it is not required to deposit an operation bond.

The Competent Authority shall prescribe the deposit method and amount of the operation bond and the eligibility criteria for financial institutions with which it may be deposited.

A principal, settlor, or beneficiary who is [a creditor of] a claim arising from discretionary investment business shall have preferential right of payment from the operation bond referred to in paragraph 1 or the compensation reserve referred to in paragraph 2.

#### Article 53

(Placement of Assets in Custody or Keeping in Own Custody)

Where a securities investment trust enterprise or securities investment consulting enterprise operates discretionary investment business on a mandate basis, the customer shall place the assets in the full fiduciary custody of the custodian institution or transfer them to the custodian institution by trust.

A trust enterprise that concurrently operates discretionary investment business may keep the trust property in its own custody; if it keeps the trust property in its own custody it shall appoint dedicated personnel to handle the custodial matters.

A securities investment trust enterprise or securities investment consulting enterprise may not keep fiduciary investment assets in its own custody except under the circumstances provided in the preceding paragraph. If a customer of a discretionary investment business is a trust enterprise or another enterprise approved by the Competent Authority, the customer may keep the fiduciary investment assets in its own custody.

#### Article 54

(Obligation to Inform of Control Relationship)

Where a control relationship exists between the full fiduciary custodian institution and the securities investment trust enterprise or securities investment consulting enterprise, the securities investment trust enterprise or securities investment consulting enterprise shall be obligated to inform the customer.

"Control relationship" in the preceding paragraph shall be defined by the Competent Authority.

#### Article 55

(Limit on Amount of Discretionary Investment Assets of a Single Customer)  
The value of the fiduciary investment assets of a single customer accepted by a securities investment trust enterprise or securities investment consulting enterprise operating discretionary investment business may not be less than a certain amount.

The total amount accepted for investment purposes by a securities investment consulting enterprise operating discretionary investment business may not exceed a certain multiple of its net worth. Provided, this restriction shall not apply where its paid-in capital reaches a certain amount.

"Certain multiple" and "certain amount" in the preceding two paragraphs shall be defined by the Competent Authority.

#### Article 56

(Discretionary Investment Business Investment or Trading Scope and Restrictions)

The scope of investment or trading by securities investment trust enterprises or securities investment consulting enterprises operating discretionary investment business, and restrictions thereupon, shall be prescribed by the Competent Authority.

Where business of discretionary investment in foreign securities operated by a securities investment trust enterprise or securities investment consulting enterprise involves inward or outward remittance of funds, approval shall be obtained from the Central Bank.

A securities investment trust enterprise or securities investment consulting enterprise operating discretionary investment business and investing in securities shall, except as otherwise provided by law, appoint a securities broker to do so on the centralized securities exchange market or over-the-counter markets.

#### Article 57

(Discretionary Investment Business Operating Rules)

A securities investment trust enterprise or securities investment consulting enterprise operating discretionary investment business shall do so in compliance with operating rules.

Operating rules under the preceding paragraph regarding contract signing, account opening, trading, settlement, clearing, and handling of other related matters, and any amendments thereto, shall be drafted by the Securities Investment Trust and Consulting Association and ratified by the Competent Authority.

#### Article 58

(Mutatis Mutandis Application of Provisions Regarding Investment Decisions and Diversification Rate)

The provisions of Article 17 shall apply mutatis mutandis to investment decisions that a securities investment trust enterprise or securities investment consulting enterprise makes for the utilization of fiduciary investment assets.

A securities investment trust enterprise or securities investment consulting enterprise utilizing fiduciary investment assets shall diversify its investments; the Competent Authority shall prescribe the investment target diversification rate.

#### Article 59

(Conduct Prohibited in Discretionary Investment Business)

The following acts are prohibited in the operation of discretionary investment business:

1. using information learned in the course of professional duties to engage in securities trading for the enterprise's own account or for any party other than the customer.
2. engaging in any trading prejudicial to the rights and interests of the customer when utilizing fiduciary investment assets to trade securities.
3. signing any agreement with the customer to share proceeds or losses resulting from investment in securities; provided, this restriction shall not apply where the Competent Authority has otherwise made provision for performance-linked compensation.



4. using a customer's fiduciary investment assets to conduct cross trading with the enterprise's own funds or the fiduciary investment assets of another customer; provided, that this restriction does not apply to unintentional cross trades that occur on the centralized securities exchange market or on an over-the counter market.
5. using a customer's account to trade securities for the enterprise's own account or for any other party.
6. outsourcing a discretionary investment services contract, in full or in part, to another party to perform, or assigning such a contract to another party; provided, this restriction shall not apply where the Competent Authority has provided otherwise.
7. when utilizing a customer's fiduciary investment assets to trade securities, in the absence of legitimate reason, shifting executed orders from the discretionary investment account into the enterprise's own account, the account of another, or another discretionary investment account, or shifting them from another account into the discretionary investment account.
8. formulating investment decisions not based upon an investment analysis report, or basing investment decisions on an investment analysis report that clearly is lacking in reasonable analytical foundation and basis; provided, that this restriction shall not apply where a reasonable explanation can be given.
9. any other acts that would adversely affect the operation of the enterprise or the rights or interests of customers.

#### Article 60

(Matters Required to Be Done Before Signing Contract)

Before signing a discretionary investment contract with a customer, a securities investment trust enterprise or securities investment consulting enterprise shall carry out the following matters:

1. It shall assign dedicated personnel to explain in detail to the customer matters related to the discretionary investment services, and provide the customer with a discretionary investment services prospectus.
2. It shall allow the customer a period of at least seven days to review the entire content of the terms and conditions and shall fully acquaint itself with the customer's financial ability, investment experience, objectives, and requirements, and shall compile a reference file on the customer including a data sheet and other relevant documentation. The discretionary investment services prospectus shall be made an attachment to the discretionary investment contract; the Competent Authority shall prescribe the particulars required to be included in the prospectus.

#### Article 61

(Required Contents and Template of Contract)

A securities investment trust enterprise or securities investment consulting enterprise operating discretionary investment business shall sign a discretionary investment contract with the customer specifying the various rights and obligations arising between it and the customer as a result of the mandate or trust relationship, and the customer and the custodian institution also shall separately sign a mandate or trust contract. Provided, this restriction shall not apply to one who under this Act is permitted to keep the fiduciary investment assets in its own custody.

Where fiduciary investment assets involve idle funds, the utilization and scope thereof shall be prescribed by the Competent Authority.

The particulars required to be included in a discretionary investment contract under paragraph 1 shall be prescribed by the Competent Authority. A template for discretionary investment contracts under paragraph 1 shall be drafted by the Securities Investment Trust and Consulting Association and submitted to the Competent Authority for ratification.

#### Article 62

(Obligation to Accept Customer Inquiries and Produce Current Status Reports)

An operator of discretionary investment business shall create a separate

account for each individual customer, and record on a daily basis the trading activities of the customer's assets, and the balance of the fiduciary investment assets by volume and monetary amount. A customer may request to examine the data referred to in the preceding paragraph and the appointed securities investment trust enterprise or securities investment consulting enterprise may not refuse such a request. Any service fees returned or other benefits paid by a securities firm, futures broker, or other trading counterparty when investment assets are used for trading of securities, securities-related products, or other items that may be invested in or traded as provided by the competent authority, shall be applied to offset the customer's transaction costs. An operator of discretionary investment business shall produce monthly reports detailing each customer's asset trading record and current status, and shall deliver the reports to the customers. When losses on the net asset value of the fiduciary investment assets of a customer reach a certain percentage of the original fiduciary investment assets, the securities investment trust enterprise or securities investment consulting enterprise shall within two business days from the date of occurrence of the event produce a report referred to in the preceding paragraph and deliver the report to the customer. The same shall subsequently apply each time losses reach a certain percentage of the net asset value recorded in the previous report. The "certain" percentages in the preceding paragraph shall be prescribed by the Competent Authority. In the case of a discretionary investment business customer who meets conditions set by the competent authority, the securities investment trust enterprise or securities investment consulting enterprise and the customer may between themselves agree on matters including the custody of the fiduciary investment assets, matters required to be done before signing a contract, and account processing, and are exempted from application of the provisions of the preceding four paragraphs, paragraph 1 of Article 53, and Article 60, and of paragraph 1 of the preceding Article regarding the signing of a mandate or trust contract between a customer and a custodian institution.

#### Chapter IV Securities Investment Trust and Consulting Enterprises

##### Section I General Provisions

###### Article 63

(Business License and Permission for Establishment of Branches)

Securities investment trust enterprises and securities investment consulting enterprises may begin operations only after obtaining permission from the Competent Authority and being issued a business license. Securities investment trust enterprises and securities investment consulting enterprises shall obtain permission from the Competent Authority before establishing branch units.

None other than a securities investment trust enterprise or securities investment consulting enterprise may use a name similar to "securities investment trust enterprise" or "securities investment consulting enterprise."

###### Article 64

(Operation of Discretionary Investment Business by Means of a Trust)

A securities investment trust enterprise or securities investment consulting enterprise may operate discretionary investment business by means of a trust; where it meets certain conditions, it shall apply under the Trust Enterprise Act to concurrently operate trust business.

"Certain conditions" in the preceding paragraph shall be defined by the competent authority for the Trust Enterprise Act in consultation with the Competent Authority.

Operators of discretionary investment business by means of trusts shall be limited to securities investment trust enterprises, securities investment consulting enterprises, or entities permitted to operate trust business under the Trust Enterprise Act.

#### Article 65

##### (Application to Concurrently Operate Discretionary Investment Business)

A trust enterprise operating business ratified by the competent authority for the Trust Enterprise Act that involves discretionary decision-making in the underlyings utilized, where the trust property is utilized in securities defined in Article 6 of the Securities and Exchange Act, and where certain conditions are met, shall apply to the Competent Authority to concurrently operate discretionary investment business.

"Certain conditions" in the preceding paragraph shall be defined by the Competent Authority in consultation with the competent authority for the Trust Enterprise Act.

#### Article 66

##### (Concurrent Operation of SITEs and SICEs and Concurrent Operation of Other Enterprises by SITEs and SICEs)

it meet the conditions prescribed by the Competent Authority and obtains permission, a securities investment trust enterprise may concurrently operate a securities investment consulting enterprise, and vice versa.

A securities investment trust enterprise or securities investment consulting enterprise that has obtained approval from the Competent Authority may concurrently operate other enterprises.

Securities firms, futures trust enterprises, futures advisory enterprises, managed futures enterprises, or other related enterprises that have obtained permission from the Competent Authority, may concurrently operate securities investment trust enterprises or securities investment consulting enterprises.

Where futures trading accounts for a certain percentage or monetary amount of the issued amount of a securities investment trust fund publicly placed or privately offered by a securities investment trust enterprise, it shall apply to concurrently operate a futures trust enterprise.

The percentage or monetary amount of futures trading under the preceding paragraph shall be prescribed by the Competent Authority.

#### Article 67

##### (Organization and Minimum Paid-In Capital of SITEs and SICEs)

Securities investment trust enterprises and securities investment consulting enterprises may be organized only as companies limited by shares.

The minimum paid-in capital amount of a securities investment trust enterprise or securities investment consulting enterprise shall be fully subscribed by the promoters at the time of incorporation. The amount thereof shall be prescribed by the Competent Authority.

#### Article 68

##### (Disqualifications of Promoters, Responsible Persons, and Associated Persons of SITEs and SICEs)

A person under any of the following circumstances may not serve as a promoter, responsible person, or associated person of a securities investment trust enterprise or securities investment consulting enterprise; where such a person is already serving as a responsible person or associated person, he or she shall be dismissed, and may not serve as a director, supervisor, or manager, and the Competent Authority shall request the competent authority for corporate registration by letter to void or revoke the registration of such person:

1. has previously been convicted by a final and unappealable judgment of a crime under the Organized Crime Prevention Act, and has not completed serving the sentence, or five years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.

2. has previously been sentenced by a final and unappealable judgment to imprisonment for one year or more for fraud, breach of trust, or misappropriation, and has not completed serving the sentence, or two years have not elapsed since completion of the term of sentence, expiration of the suspended sentence, or pardon.

3. has previously been sentenced by a final and unappealable judgment to a sentence of imprisonment or greater severity for misappropriation related to public function or occupation and has not completed serving the

sentence, or two years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.

4. has previously been convicted by a final and unappealable judgment of a crime under the Securities and Exchange Act or this Act, and has not completed serving the sentence, or three years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.

5. has previously been sentenced by a final and unappealable judgment to a sentence of imprisonment or greater severity for engaging in business of accepting deposits, managing trust funds or public properties, or handling domestic or foreign remittances in violation of Article 29, paragraph 1, of the Banking Act and has not completed serving the sentence, or three years have not elapsed since completion of the term of sentence, expiration of the suspended sentence, or pardon.

6. has previously been sentenced by a final and unappealable judgment to a sentence of imprisonment or greater severity for engaging in trust business in violation of Article 33 of the Trust Enterprise Act and has not completed serving the sentence, or three years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.

7. has been adjudicated bankrupt and his or her rights have not been reinstated, or previously served as a director, supervisor, manager, or in another equivalent position of a juristic person when such juristic person was adjudicated bankrupt, and three years have not elapsed since the bankruptcy was concluded, or the reconciliation has not been fulfilled.

8. has been refused transaction because of dishonor of a negotiable instrument and transactions have not been reinstated.

9. has no legal disposing capacity or limited disposing capacity, or has been declared by a court to be under assistance and that declaration has not been voided.

10. has been subject to a disposition under Article 56, or subparagraph 2 of Article 66 of the Securities and Exchange Act, or to a disposition of dismissal from duties under subparagraph 2 of Article 103, or Article 104, of this Act, and three years have not elapsed since such disposition.

11. has previously served as a director or supervisor of a securities firm, securities investment trust enterprise, or securities investment consulting enterprise, and during the term of such position, such enterprise was subject to a disposition under subparagraph 3 of Article 66 of the Securities and Exchange Act, or to a disposition of suspension of business or revocation of its permission for operation under subparagraph 4 or 5 of Article 103 of this Act, and one year has not elapsed since such disposition.

12. has been subject to removal or dismissal from duties under Article 100, paragraph 1, subparagraph 2, or Article 101, paragraph 1 of the Futures Trading Act, and five years have not elapsed since such disposition.

13. it has been discovered that the promoter has allowed the use of his or her own name by others for the purpose of acting as a promoter, director, supervisor, manager or associated person of a securities investment trust enterprise or securities investment consulting enterprise.

14. there is factual evidence that the promoter has engaged in or been involved in other dishonest or improper activities, showing the promoter to be unsuitable for engaging in securities investment trust and securities investment consulting business.

Where a promoter, director, or supervisor is a juristic person, the provisions of the preceding paragraph shall apply mutatis mutandis with respect to the exercise of duties by its representative or designated representative.

#### Article 69

(Prescription of Regulations for Compliance with Respect to Promoters, Responsible Persons, and Associated Persons of SITES and SICEs)

The Competent Authority shall prescribe regulations governing personnel requirements, qualification requirements for responsible persons and associated persons, codes of conduct, training, registration deadlines, procedures, and other compliance requirements for securities investment trust enterprise and securities investment consulting enterprises.

#### Article 70

(Prescription of Regulations for Compliance in the Conduct of Business Activities of SITES and SICES)

The Competent Authority shall prescribe regulations governing restrictions, bans, prohibitions, or other compliance matters in the conduct of advertising, public informational meetings, and other business activities by securities investment trust enterprises and securities investment consulting enterprises.

#### Article 71

(Exercise of Duties by Personnel)

Responsible persons, associated persons, and other employees of securities investment trust enterprises and securities investment consulting enterprises are also prohibited from doing, in the course of exercising their duties, any act that an enterprise is prohibited from doing as provided in Article 19, paragraph 1, Article 59, or in an act, regulation, or contract.

Acts done by responsible persons, associated persons, and other employees of securities investment trust enterprises and securities investment consulting enterprises when engaging in business listed in the subparagraphs of paragraph 3 of Article 3 and paragraph 3 of Article 4, where civil liability is involved, are presumed to be acts within the scope of the authorization by the enterprise.

#### Article 72

(Prescription of Regulations Governing Conditions for Establishment, Establishment of Departments, Application Procedures, and Required Documents)

The Competent Authority shall prescribe establishment standards governing the conditions for establishment of securities investment trust enterprise and securities investment consulting enterprise companies and branch units, the departments they are required to establish, application procedures, and required documents, and supervisory regulations governing their finances, business, relocation, closure, and other compliance matters.

For concurrent operation of securities investment trust enterprises or securities investment consulting enterprises by other kinds of enterprises, the Competent Authority shall consult with the competent authorities for the target enterprises concerning the establishment and financial and business supervision matters under the preceding paragraph.

### Section II Securities Investment Trust Enterprises

#### Article 73

(Prohibition of Concurrent Service by Directors, Supervisors, or Shareholders and of Service by Those with a Relationship of Affiliated Enterprise)

A director or supervisor of a securities investment trust enterprise or a shareholder holding 5 percent or more of the total issued shares thereof may not concurrently serve as a promoter of any other securities investment trust enterprise or as a shareholder holding 5 percent or more of the total issued shares thereof.

One that has a relationship of affiliated enterprise as defined under Chapter VI-I of the Company Law with respect to a director, supervisor or shareholder holding 5 percent or more of the issued shares of a securities investment trust enterprise may not serve as a promoter, director, or supervisor, or a shareholder holding 5 percent or more of the total issued shares, of another securities investment trust enterprise.

Where non-compliance with the preceding two paragraphs results from a merger, adjustments shall be made to effect compliance within one year from the date of merger.

Shares held by the shareholder's spouse or minor children or held under others' names shall be included in calculation of shareholdings of five percent or more of total issued shares under paragraphs 1 and 2 above.

#### Article 74

(Qualifications of Promoters)

The promoters operating a securities investment trust enterprise shall meet certain qualification requirements; among the promoters shall be a fund management institution(s), bank(s), insurance company(ies), financial holding company(ies), securities firm(s), or other institution(s) recognized by the Competent Authority, and the combined share subscribed thereby shall be not less than 20 percent of the first issue of shares; before any transfer of shareholdings by such promoter(s), the securities investment trust enterprise shall file an advance report of such transfer with the Competent Authority for recordation.

Qualification requirements for promoters referred to in the preceding paragraph shall be prescribed by the Competent Authority.

A securities investment trust enterprise shall have one or more shareholder meeting the qualification requirements referred to in the preceding two paragraphs, whose total shareholdings (excluding shareholdings from distributions of new shares for employee bonuses, or from issuance of new shares reserved for subscription by employees, or shareholdings meeting certain conditions) may not be less than 20 percent of the total issued shares; before any transfer of shareholdings by such shareholder(s), the securities investment trust enterprise shall file an advance report of such transfer with the Competent Authority for recordation.

"Certain conditions" in the preceding paragraph shall be defined by the Competent Authority.

Article 75

(Restriction on Combined Shareholding With Respect to a Single Shareholder)

The total combined shares held by a single securities investment trust enterprise shareholder other than one meeting the qualification requirements in the preceding article, related parties of the shareholder, and any other persons under whose name the shareholder holds shares, may not exceed 25 percent of the total issued shares of the company.

The scope of related parties referred to in the preceding paragraph shall be prescribed by the Competent Authority.

Article 76

(Professional Technology Transfer)

A promoter of a securities investment trust enterprise may not, within one year from the date of the company's incorporation, concurrently serve as a promoter of another securities investment trust enterprise.

A promoter of a securities investment trust enterprise who has served as promoter in accordance with the qualifications set forth under Article 74 may not serve as a promoter of any other securities investment trust enterprise within three years from the date of issuance of the business license of that securities investment trust enterprise by the Competent Authority.

Article 77

(Restriction on Trading of Corporate Stock or Equity Derivatives)

From the time that the securities investment trust enterprise decides to utilize the securities investment trust fund to engage in any type of corporate stock or equity derivative trade until such time as the securities investment trust fund no longer holds that corporate stock or equity derivative, no responsible person, department supervisor, branch unit manager, or fund manager of the securities investment trust enterprise, him or herself or his or her spouse, minor child, or other person in whose name he or she transacts, may engage in trading such corporate stock or equity derivative; provided, this restriction shall not apply where otherwise provided by the Competent Authority.

A responsible person, department supervisor, branch unit manager, fund manager, or related party thereof, of a securities investment trust enterprise who engages in trading of any corporate stock or equity derivative shall report the circumstances of the trade to the securities investment trust enterprise as provided by the Competent Authority.

The scope of "related persons" in the preceding paragraph shall be defined by the Competent Authority.

#### Article 78

(Decision Making in Which Insiders May Not Participate and Positions in Which They May Not Serve)

A responsible person of a securities investment trust enterprise and its department supervisors, branch unit managers, fund managers, or spouses thereof, when acting as a director, supervisor, manager, or shareholder with 5 percent or more of the total issued shares, of a securities issuing company may not participate in decision making when the securities investment trust enterprise utilizes the securities investment trust fund to trade in the securities of such issuing company.

A securities investment trust enterprise and its responsible persons, department supervisors, branch unit managers, fund managers, or shareholder's representative in a share issuing company from which the securities investment trust enterprise purchases stock may not assume a position as a director, supervisor, or manager of an issuing company from which the securities investment trust fund purchases stock; provided, this restriction shall not apply where otherwise provided by the Competent Authority.

The responsible persons, department supervisors, or branch unit managers of a securities investment trust enterprise may not invest in any other securities investment trust enterprise or concurrently act as a director, supervisor, or manager of another securities investment trust enterprise, securities investment consulting enterprise, or securities firm; provided, this restriction shall not apply where otherwise provided by the Competent Authority.

Paragraph 4 of Article 73 shall apply mutatis mutandis to the calculation of the shareholding of shareholders with 5 percent or more of the total issued shares under paragraph 1.

#### Article 79

(Mutatis Mutandis Application of Provisions Concerning Directors and Supervisors)

Where a director or supervisor of a securities investment trust enterprise is a corporate shareholder, the provisions of this Act concerning directors and supervisors shall apply mutatis mutandis to the performance of duties by its representative or designated representative.

Where a position of director or supervisor in a securities investment trust enterprise is held by a representative of a corporate shareholder, the provisions of this Act concerning directors and supervisors shall apply mutatis mutandis to the corporate shareholder.

#### Article 80

(Credit Rating and Deposit of an Operation Bond)

As necessary for purposes of protecting the public interest or beneficiaries' rights and interests, the Competent Authority may order a securities investment trust enterprise or a securities investment trust fund managed by it to obtain a credit rating from a credit rating institution approved or recognized by the Competent Authority.

As necessary for purposes of protecting the public interest or beneficiaries' rights and interests, the Competent Authority may order a securities investment trust company meeting certain conditions to deposit an operation bond; those certain conditions, the method of deposit of the operation bond, the deposit rate, conditions for withdrawing the deposit, custody of the bond, and the method of its utilization shall be prescribed by the Competent Authority.

#### Article 81

(Public Announcement, and Definition, of Matters that Materially Affect the Rights and Interests of Beneficiaries)

A securities investment trust enterprise shall publicly announce and report to the Competent Authority any matter that materially affects the rights and interests of beneficiaries within two days from the occurrence of the fact.

"An matter that materially affects the rights and interests of beneficiaries" in the preceding paragraph shall be defined by the Competent Authority.

## Article 82

(Provisions Excluded from Application)

The provisions of Articles 73 to 76 do not apply to other enterprises concurrently operating securities investment trust enterprises, unless the Competent Authority provides otherwise for purposes of protecting the public interest or preserving market order.

## Section III Securities Investment Consulting Enterprises

### Article 83

(Entering Into and Termination of Written Contract, Entitlement to Compensation, and Required Content of Contract)

When a securities investment consulting enterprise accepts a mandate from a customer to provide analysis, opinions, or recommendations regarding matters relating to investment or trading in securities, it shall enter into a written securities investment consulting contract setting forth the rights and obligations of both parties.

A customer may terminate a contract under the preceding paragraph by giving written notice within seven days from the date of receiving the written contract.

A declaration of intention to terminate a contract under the preceding paragraph shall take effect from the time it reaches the securities investment consulting enterprise.

When a contract is terminated under paragraph 2, the securities investment consulting enterprise may demand commensurate compensation from the customer for services provided before termination of the contract, but it may not demand any damages or penalty for the termination of the contract. Required content of securities investment consulting contracts under paragraph 1 shall be prescribed by the Competent Authority. The Securities Investment Trust and Consulting Association shall draft a template for the contract and submit it to the Competent Authority for ratification; the same shall apply to any amendments thereto.

## Chapter V Self-Regulatory Organizations

### Article 84

(Establishment of the SITCA and Admission to Membership)

Securities investment trust enterprises and securities investment consulting enterprises may not commence business without being admitted to membership in the Securities Investment Trust and Consulting Association; without legitimate reason, the Securities Investment Trust and Consulting Association may not deny an application for membership thereby or attach improper conditions to its membership.

Unless otherwise provided in this Act, the Commercial Associations Act shall apply to the establishment, organization, and supervision of the Securities Investment Trust and Consulting Association referred to in the preceding paragraph.

### Article 85

(Directors and Supervisors: Numbers, Election Procedures, and Restrictions on Continued Service by Re-Election)

The Securities Investment Trust and Consulting Association shall install at least three directors and one supervisor, all of whom shall be elected by the general meeting of members from among the member delegates in accordance with the articles of association. Provided, at least one-fourth each of the directors and supervisors shall consist of related experts, among whom at least half shall be appointed by the Competent Authority, and the remainder shall be appointed by the boards of directors and supervisors and ratified by the Competent Authority. The rules governing such appointments shall be prescribed by the Competent Authority.

The directors and supervisors shall serve for a term of three years. Those serving by re-election may not exceed one-half. If those serving by re-election exceed one-half, they shall be kept or eliminated on the basis of the relative numbers of votes they received, with the resultant vacancies to be occupied by member delegates not serving by re-election, likewise



based sequentially upon the relative numbers of votes that they received. The chairman of the board of directors is eligible for re-election once only.

#### Article 86

(SITCA Articles of Association and Governing Regulations)

The Competent Authority shall prescribe regulations governing the regulation and supervision of Securities Investment Trust and Consulting Association business by the Competent Authority, the required content of the articles of association of the Securities Investment Trust and Consulting Association, the qualification requirements for the responsible persons and associated persons of the Securities Investment Trust and Consulting Association, its finances and business, and other compliance requirements.

#### Article 87

(Collection of Necessary Fees)

The Securities Investment Trust and Consulting Association may collect some fees from its members in addition to the fees set forth by the Commercial Associations Act, as necessary to effect the function of self-regulation and to coordinate with the development of securities investment trust and consulting business. The categories and rates of such fees shall be proposed by the Securities Investment Trust and Consulting Association and ratified by the Competent Authority.

#### Article 88

(SITCA Missions)

The missions of the Securities Investment Trust and Consulting Association include the following matters, in addition to the matters set out in Article 5 of the Commercial Associations Act:

1. adopting self-regulatory rules and overseeing self-regulation by its members.
2. carrying out matters that the Competent Authority has authorized it to handle.
3. imposing sanctions on members who violate acts, regulations, or self-disciplinary rules, such sanctions including suspension of privileges, imposition of penalties, warnings, orders to make corrections by a deadline, and so forth; or requiring a member to suspend an associated person thereof from executing his or her duties for a period of one to six months.
4. investigating whether members are abiding by acts, regulations, and self-regulatory rules.
5. in cases where a member's business operations are obviously unsound and have materially injured the rights and interests of investors, coordinating other members to assist in handling the business of the member, or reporting to the Competent Authority and asking it to make an appropriate disposition.
6. administering property of bankrupt members.
7. rendering dispositions to void or suspend the memberships of members who violate this Act.

Where the Securities Investment Trust and Consulting Association requires a member to suspend an associated person thereof from executing his or her duties under subparagraph 3 of the preceding paragraph, or renders a disposition under subparagraph 7 of the preceding paragraph, it shall report to the Competent Authority for recordation.

As necessary to the mission under paragraph 1, the Securities Investment Trust and Consulting Association may make inquiries of its members, require them to provide relevant materials for review, or notify them to give explanations; a member may not refuse to comply.

#### Article 89

(SITCA Member Self-Regulatory Agreement and Regulations Governing Appeals Against Sanctions for Violations)

The Securities Investment Trust and Consulting Association shall adopt a member self-regulatory agreement and regulations governing appeals against sanctions for violations. These shall be enforced after they have been

submitted to and passed by the general meeting of members and then reported to and ratified by the Competent Authority; the same shall apply to any amendments thereto.

#### Article 90

(Competent Authority's Supervisory and Regulatory Authority Over SITCA)  
When the Competent Authority deems necessary for purposes of protecting the public interest or rights and interests of beneficiaries, it may order the Securities Investment Trust and Consulting Association to amend its articles of association, rules, or resolutions, or to provide reference materials or reports, or to perform certain other acts.

#### Article 91

(Competent Authority's Dispositive Authority Over SITCA Directors and Supervisors)  
Where a director or supervisor of the Securities Investment Trust and Consulting Association violates an act or regulation, fails to abide by the Association's articles of association or rules, abuses his or her authority, or breaches the principle of good faith, the Competent Authority may issue an official reprimand or order the Securities Investment Trust and Consulting Association to dismiss the director or supervisor.

#### Article 92

(Competent Authority's Authority to Sanction SITCA Members and Member Delegates)  
The Securities Investment Trust and Consulting Association may, in accordance with the articles of association, impose necessary sanctions upon members or member delegates who violate its articles of association, rules, self-regulatory agreement, or related operational self-regulatory codes, or resolutions of the general members meeting or the board of directors.

### Chapter VI Administrative Supervision

#### Article 93

(Internal Control System)  
Securities investment trust enterprises, and securities investment consulting enterprises operating business of discretionary investment services for customers, shall establish internal control systems; the Competent Authority shall prescribe regulations governing such systems.

#### Article 94

(Prescription of Regulations Governing Concurrent Service of Responsible Persons and Associated Persons and Other Business Matters and Promotional Activities)  
Where, pursuant to this Act or another act or regulation, and with the approval of the Competent Authority, a securities investment trust enterprise concurrently operates a securities investment consulting enterprise or vice versa, or either such kind of enterprises concurrently operates another enterprise, or is concurrently operated by another enterprise, they may do nothing that would involve a conflict of interest with or prejudice to the rights or interests of beneficiaries or customers in terms of concurrent appointments of and codes of conduct of their responsible persons or associated persons, sharing and utilization of information, sharing of operating equipment or places of business, or advertising, public informational meetings, or other business promotion activities. The Competent Authority shall prescribe applicable regulations.

#### Article 95

(Prescription of Regulations Governing Merger Procedures)  
Regulations governing qualification requirements, merger procedures, and other compliance requirements for mergers between securities investment trust enterprises and securities investment consulting enterprises or between such enterprises and financial institutions or other enterprises shall be prescribed by the Competent Authority, except where such matters are otherwise provided for in the Financial Institution Mergers Act,

Business Mergers and Acquisitions Act, or other acts.

#### Article 96

(Procedures for Handling of Dissolution, Suspension or Termination of Business, or Voidance or Revocation of Business Permission)

Where a securities investment trust enterprise is unable to continue engaging in securities investment trust fund business because of dissolution, suspension or termination of business, or voidance or revocation of its business permission, it shall seek another securities investment trust enterprise to succeed to that business, subject to the approval of the Competent Authority.

When a securities investment trust enterprise is unable to find a successor in accordance with the preceding paragraph, the Competent Authority will designate another securities investment trust enterprise as successor; the designated securities investment trust enterprise may not refuse unless it reports to and receives approval from the Competent Authority based on a legitimate reason.

Where there is obvious mismanagement of a securities investment trust fund by a securities investment trust enterprise, the Competent Authority may order the enterprise to transfer the fund to the management of another securities investment trust enterprise designated by the Competent Authority.

Public announcement of succession or transfer referred to in the preceding three paragraphs shall be made by the successor securities investment trust enterprise.

Paragraphs 1 to 3 shall apply mutatis mutandis where a fund custodian institution is unable to continue engaging in fund custody business because of dissolution, suspension or termination of business, or voidance or revocation of its business permission; public announcement of succession or transfer matters thereof shall be made by the securities investment trust enterprise.

#### Article 97

(Procedures for Handling of Discretionary Investment Business upon Dissolution, Voidance or Revocation of Business Permission, Suspension or Termination of Business, or Mismanagement, of a SITE or SICE)

If a securities investment trust enterprise or securities investment consulting enterprise is unable to continue operating discretionary investment business because of dissolution of the enterprise or because of voidance or revocation of its business permission, its discretionary investment contracts shall be terminated.

If a securities investment trust enterprise or securities investment consulting enterprise has suspended or ceased business or is obviously being mismanaged, the Competent Authority may order it to transfer its discretionary investment contracts to be managed by another securities investment trust enterprise or securities investment consulting enterprise designated by the Competent Authority

Under the circumstances in the preceding paragraph, the securities investment trust enterprise or securities investment consulting enterprise shall solicit the opinion of the customer; if the customer disagrees or does not express any intention, its discretionary investment contract will be deemed terminated.

#### Article 98

(Winding Up of Business)

Where a securities investment trust enterprise or securities investment consulting enterprise has had its permission voided or revoked, been ordered to suspend business, or ceased business of its own accord, such enterprise shall wind up any securities investment trust or securities investment consulting business that it was doing before such voidance, revocation, suspension, or cessation.

A securities investment trust enterprise or securities investment consulting enterprise whose permission for securities investment trust or securities investment consulting business has been voided or revoked shall continue to be deemed a securities investment trust enterprise or securities investment consulting enterprise within the scope of winding

down securities investment trust or securities investment consulting business under the preceding paragraph; a securities investment trust enterprise or securities investment consulting enterprise that has been ordered to suspend business or has ceased business of its own accord shall be deemed not yet to have suspended or ceased business within the scope of its winding down of securities investment trust or securities investment consulting business that it was doing before it suspended or ceased business.

#### Article 99

(Obligation to Publicly Announce and File the Annual Financial Report)

A securities investment trust enterprise or securities investment consulting enterprise shall, within three months after the close of each fiscal year, publicly announce and file with the Competent Authority its annual financial report that has been audited and certified by a certified public accountant, approved by the board of directors, and recognized by the supervisors.

The annual financial report referred to in the preceding paragraph shall be submitted to the Securities Investment Trust and Consulting Association for compilation and submission to the Competent Authority.

#### Article 100

(Preparation of Annual Financial Reports and Monthly Reports for Funds and Related Compliance Matters)

With respect to the utilization of each securities investment trust fund, a securities investment trust enterprise shall prepare an annual financial report with the format and content prescribed by the Competent Authority within 2 months from the close of each fiscal year, and monthly reports within 10 days from the end of each month, for submission to the Competent Authority.

The annual financial report referred to in the preceding paragraph shall be audited and certified by a certified public accountant approved by the Competent Authority, and signed by the fund custodian institution, and shall be publicly announced by the securities investment trust enterprise. The annual financial report and monthly reports referred to in paragraph 1 shall be submitted to the Securities Investment Trust and Consulting Association for compilation and submission to the Competent Authority.

#### Article 101

(Inspection of Finances and Business)

To protect the public interest or preserve order in the market, the Competent Authority may at any time require a securities investment trust enterprise, securities investment consulting enterprise, fund custodian institution, or full fiduciary custodian institution, or a related party thereof, to submit financial and business reports or other related materials within a time limit, and may, directly or by authorizing an appropriate institution to do so, inspect its financial and business condition and other related matters. Such enterprise, institution, or related party thereof may not evade, impede, or refuse the inspection. When the Competent Authority deems necessary, it may at any time appoint a lawyer, certified public accountant, or other professional or technical personnel to carry out an inspection under the preceding paragraph and to submit a factual report or opinion to the Competent Authority, with the expense to be borne by the inspected party.

To protect the public interest or preserve order in the market, the Competent Authority may request a relevant competent government authority or financial institution to provide necessary information or records with respect to anyone suspected of conduct in violation of this Act. Information obtained under paragraph 3 may not be made public or provided to any other person, except as necessary for sound supervision and investor protection.

#### Article 102

(Reprimands and Penalties for Violations of Laws and Regulations)

If, when examining a financial or business report or other relevant materials filed by a securities investment trust enterprise, securities

investment consulting enterprise, fund custodian institution, or full fiduciary custodian institution, or inspecting the financial or business condition thereof, the Competent Authority discovers any noncompliance with an act or regulation, it may issue an official reprimand and additionally may duly impose penalties in accordance with law.

#### Article 103

(Authority to Impose Sanctions for Violations of the Act or Orders Issued Under the Act)

Where a securities investment trust enterprise or securities investment consulting enterprise has violated this Act or any order issued hereunder, in addition to imposing other penalties pursuant to this Act, the Competent Authority may, depending on the severity of the offense, impose any of the following dispositions:

1. a warning.
2. order the securities firm to dismiss a director(s), supervisor(s), or manager(s) from their office.
3. suspend the whole or part of the enterprise's public offering or private placement of securities investment trust funds or acceptance of new [discretionary investment] business for not more than two years.
4. suspend the whole or part of the business of the company or its branch for not more than six months.
5. revoke the business permission of the company or its branch.
6. any other necessary disposition.

#### Article 104

(Dispositions With Respect to Violations of the Act by Directors, Supervisors, Managerial Officers, or Employees)

Where a director, supervisor, manager, or employee of a securities investment trust enterprise or securities investment consulting enterprise does anything in the course of executing their duties that violates this Act or other applicable acts or regulations, where sufficient to affect the normal execution of business, the Competent Authority may at any time order the enterprise to suspend such person from exercising business for up to one year or to dismiss such person from their position and, depending on the severity of the violation, may impose a disposition on the enterprise under the preceding article.

### Chapter VII Penal Provisions

#### Article 105

(Penal Provisions)

A person who, in operating securities investment trust business or fund custody business, violates Article 8, paragraph 1, with respect to the public or a beneficiary(ies) shall be punished by imprisonment for not less than 3 years and not more than 10 years, and may additionally be fined a criminal fine of not less than NT\$10 million and not more than NT\$200 million

A person who, in operating securities investment consulting business, discretionary investment business, full fiduciary custody business, or other business under this Act, violates Article 8, paragraph 1, with respect to the public or a customer(s) shall be punished by imprisonment for not less than one year and not more than seven years, and may additionally be fined a criminal fine of not more than NT\$50 million.

Any proceeds from the commission of a crime by an offender committing an offense under the preceding two paragraphs, other than that which shall be returned to a victim or a third party, shall be confiscated regardless of whether it belongs to the offender.

#### Article 105-1

(Penal Provisions)

A director, supervisor, manager, or employee of a securities investment trust enterprise or securities investment consulting enterprise who commits an act in breach of duties, with intent to secure for himself/herself or for another, an unlawful benefit, or a benefit detrimental to the interests of securities investment trust fund assets or discretionary investment

assets, causing damage to the securities investment trust fund assets, discretionary investment assets, or other interests, shall be punished with imprisonment for not less than three years and not more than ten years, and additionally may be fined a criminal fine of not less than NT\$10 million and not more than NT\$200 million. If the property or property interest obtained from the commission of the crime is NT\$100 million or more, the offender shall be punished with imprisonment for not less than seven years, and additionally may be fined a criminal fine of not less than NT\$25 million and not more than NT\$500 million.

An attempted offense described in the preceding paragraph shall be punishable.

In the case of a person who commits an offense under the preceding two paragraphs and subsequently voluntarily surrenders himself/herself before the offense is discovered, if he/she voluntarily hands over the criminal proceeds in full, his/her punishment shall be reduced or remitted; his/her punishment shall be remitted if another principal offender or an accomplice is captured as a result.

In the case of a person who commits an offense under paragraph 1 or 2 and confesses during the prosecutorial inquiry, if he/she voluntarily hands over the criminal proceeds in full, his or her punishment shall be reduced; his/her punishment shall be reduced or remitted if another principal offender or an accomplice is captured as a result.

#### Article 106

##### (Penal Provisions)

Any of the following offenses by a securities investment trust enterprise, securities investment consulting enterprise, fund custodian institution, or full fiduciary custodian institution shall be punished by imprisonment for not less than 1 year and not more than 7 years, and in addition a criminal fine of not more than NT\$50 million may be imposed:

1. any falsehood or concealment in the content of a prospectus or private placement memorandum submitted to the Competent Authority.
2. any falsehood or concealment in the content of any account book, form/statement, document, or other reference or report material submitted under an order by the Competent Authority.
3. any falsehood or concealment in the content of any account book, form/statement, voucher, financial report or any other business document specified by law or in an order/regulation issued by the Competent Authority under a law.

#### Article 107

##### (Penal Provisions)

Any of the following offenses shall be punished by imprisonment for not more than five years, and in addition a criminal fine of not less than NT\$1 million and not more than NT\$50 million:

1. operating, without permission from the Competent Authority, securities investment trust business, securities investment consulting business, discretionary investment business or another business requiring approval from the Competent Authority.
2. engaging in, or acting as an agent for, the public offer or sale of offshore funds within the Republic of China in violation of Article 16, paragraph 1.

#### Article 108

##### (Penal Provisions)

Any director, supervisor, manager, or employee of a securities investment trust enterprise or securities investment consulting enterprise who solicits, agrees to accept, or accepts any property or other improper benefit in connection with the performance of his or her duties shall be punished by imprisonment for not more than five years, detention, and/or a criminal fine of not more than NT\$2.4 million.

Any person referred to in the preceding paragraph who solicits, agrees to accept, or accepts any property or improper benefit for actions in breach of his or her duties shall be punished by imprisonment for not more than seven years and additionally may be fined a criminal fine of not more than NT\$3 million.

#### Article 109

##### (Penal Provisions)

Any person who promises to offer, agrees to offer, or delivers any property or other improper benefit to any person who acts contrary to his or her duty as specified in the preceding article shall be punished by imprisonment for not more than three years, detention, and/or a criminal fine of not more than NT\$1.8 million.

The punishment of the offense specified in the preceding paragraph may be mitigated if the offender confesses or voluntarily surrenders; the punishment may be mitigated if the offender confesses during investigation or trial.

#### Article 110

##### (Penal Provisions)

Any person who engages in, or acts as an agent for, investment consultancy of offshore funds within the Republic of China in violation of Article 16, paragraph 1, shall be punished by imprisonment for not more than two years, detention, and/or a criminal fine not more than NT\$1.8 million.

#### Article 111

##### (Penal Provisions)

For any of the following offenses, a securities investment trust enterprise or securities investment consulting enterprise shall be fined an administrative fine of not less than NT\$600,000 and not more than NT\$3 million, and ordered to make corrections within a specified period; if it fails to make corrections within such period, administrative fines of two to five times that amount may be imposed for each instance of failure until such time as corrections have been made:

1. operating business that has not been approved by the Competent Authority, in violation of Article 3, paragraph 4, or Article 4, paragraph 4.
2. violating provisions of the regulations prescribed by the Competent Authority under Article 14, paragraph 1, Article 18, paragraph 1, or Article 56, paragraph 1, concerning investment or trading scope, methods, or restrictions.
3. violating provisions of the regulations prescribed by the Competent Authority under Article 16, paragraph 4, concerning investment or trading scope or restrictions.
4. violating Article 16-1, paragraph 1, Article 19, paragraph 1, Article 51, paragraph 1, or Article 59.
5. violating provisions prescribed by the Competent Authority under Article 58, paragraph 2, concerning the investment target diversification rate.
6. operating without a business license issued by the Competent Authority, in violation of Article 63, paragraph 1.
7. violating applicable codes of conduct or restrictive or prohibitory provisions of the regulations prescribed by the Competent Authority under Article 69.
8. violating applicable restrictive or prohibitory provisions of the regulations prescribed by the Competent Authority under Article 70.
9. establishing a branch unit or relocating, or closing a company or branch unit without approval from the Competent Authority, in violation of the standards or regulations prescribed by the Competent Authority under Article 72, paragraph 1.

#### Article 112

##### (Penal Provisions)

Any of the following offenses shall be punished by an administrative fine of not less than NT\$300,000 and not more than NT\$1.5 million, and the offender will be ordered to make corrections within a specified period; if the offender fails to make corrections within such period, consecutive administrative fines of two to five times that amount may be imposed for each instance of failure until such time as corrections have been made:

1. failing to deliver a prospectus in accordance with Article 15, paragraph 1.
2. using a name similar to "securities investment trust enterprise" or

"securities investment consulting enterprise" in violation of Article 63, paragraph 3.

#### Article 113

##### (Penal Provisions)

A securities investment trust enterprise, securities investment consulting enterprise, fund custodian institution, or full fiduciary custodian institution that commits any of the following offenses shall be fined an administrative fine of not less than NT\$120,000 and not more than NT\$600,000, and ordered to make corrections within a specified period; if it fails to make corrections within such period, consecutive administrative fines of two to five times that amount may be imposed for each instance of failure until such time as corrections have been made:

1. violating a provision of Article 11, paragraph 4, or Article 43, subparagraph 2, concerning reporting to the Competent Authority.
2. violating Article 17, paragraph 1 or 2.
3. failing to make materials available for reading under Article 20.
4. failing to prepare, report, publicly announce, make available, or preserve any account book, form/statement, voucher, financial report, or other business document or matter as required under Article 26, Article 49, Article 74, paragraphs 1 or 3, Article 81, paragraph 1, Article 99, paragraph 1, or Article 100, paragraph 2.
5. violating a provision of Article 29, paragraph 1, Article 43, subparagraph 1, Article 45, paragraph 4, Article 96, paragraph 4 or 5, concerning matters required to be publicly announced.
6. failing to make a report, public announcement, notice, or recordation under Article 47, paragraph 2.
7. failing to prepare customer data or preserve related documents under Article 60, paragraph 1, subparagraph 2.
8. failing to create an account, record information, prepare records, or deliver records or reports under Article 62, paragraph 1, 4, or 5.
9. violating regulations prescribed by the Competent Authority under Article 69 concerning personnel requirements or under Article 72, paragraph 1, concerning departments required to be established.
10. acts causing conflicts of interests with or injury to rights and interests of beneficiaries or customers in violation of Article 94.
11. refusing designation by the Competent Authority as a successor without legitimate reason in violation of Article 96, paragraph 2.
12. failing to produce financial or business reports or other related materials within the time limit, or evading, impeding, or refusing inspection, in violation of Article 101, paragraph 1.

#### Article 114

##### (Penal Provisions)

If the Securities Investment Trust and Consulting Association violates provisions of the regulations prescribed by the Competent Authority under Article 86 concerning regulation or supervision of Securities Investment Trust and Consulting Association business, it shall be fined an administrative fine of not less than NT\$120,000 and not more than NT\$1.2 million, and ordered to make corrections within a specified period; if it fails to make corrections within such period, consecutive administrative fines of two to five times that amount may be imposed for each instance of failure until such time as corrections have been made.

#### Article 115

##### (Penal Provisions)

If a fund custodian institution or a director, supervisor, manager, or employee thereof violates Article 7, paragraph 1 or 2, Article 8, paragraph 1 or 2, Article 21, Article 23, paragraph 1, Article 24, paragraph 1, or Article 40, paragraph 1, the Competent Authority may suspend its execution of fund custody business for not less than one month to not more than two years, depending on the severity of the violation.

#### Article 116

##### (Compulsory Execution)

If an administrative fine imposed under this Act is not paid by a deadline



set for its payment, it will be duly referred for compulsory execution in accordance with law.

Article 117  
(Penal Provisions)

With respect to where a juristic person is subject to penalty for violating any administrative law obligation under this Act, any deliberate or negligent [act or omission] of a responsible person, associated person, or other employee of such juristic person is deemed a deliberate or negligent [act or omission] of the juristic person.

Article 118  
(Penal Provisions)

Where a juristic person violates a provision of Articles 105 to 110, the punishment shall be imposed on its responsible person.

Article 119  
(Penal Provisions)

Where a criminal fine assessed for an offense under this Act is NT\$50 million or more and the offender lacks the ability to pay it in full, it shall be commuted to labor for a period of not more than two years, to be calculated by the ratio of the total amount of the fine to the number of days in two years; where the fine assessed is NT\$100 million or more and the offender lacks the ability to pay it in full, it shall be commuted to labor for a period of not more than three years, to be calculated by the ratio of the total amount of the fine to the number of days in three years.

Article 120  
(Special Tribunal)

For purposes of trying criminal cases involving violations of this Act, a court may establish a special tribunal or designate a particular person(s) to handle the case.

Chapter VIII Supplementary Provisions

Article 121  
(Inapplicability of Relevant Provisions of the Securities and Exchange Act After the Enforcement of this Act)

From the date this Act enters into force, the regulations governing securities investment trust enterprises and securities investment consulting enterprises referred to in Articles 18 and 18-1 of the Securities and Exchange Act, and Articles 18-2 and 18-3 of the Securities and Exchange Act, will no longer apply.

Article 122  
(Period for Remedying Non-Compliance after Enforcement of this Act)

Any operation of a securities investment trust enterprise or securities investment consulting enterprise already underway before this Act enters into force, where not in compliance with any provision of this Act, shall be brought into compliance with this Act within one year from the date this Act enters into force.

Article 123  
(Enforcement Rules)

Enforcement Rules to this Act shall be prescribed by the Competent Authority.

Article 124  
(Date of Enforcement)

This Act shall enter into force on the date prescribed by an order of the Executive Yuan.

The amended articles of this Act shall enter into force from the date of promulgation.