

# The Involvement of Commercial Trust to Family Trust

Toshiyuki Nishikawa  
(Trust Companies Association of Japan)

Japan has become aging and mature society with a declining birthrate through rapid economic growth. As a result, there is a growing need for individuals to entrust property management to others in preparation for a decline in cognitive function. Under such circumstances, it is considered that family trust can be one of the appropriate measures for realizing the management and succession of the property desired by the settlor by combining the property management function with the function of personal supervision.

However, in the case of family trust, for example, when an individual such as a close relative becomes a trustee, there are serious concerns about the trustee's property management ability and creditworthiness, continuity of trust. Besides, it has been pointed out that the beneficiaries of family trust may be harmed by the breach of fiduciary duty as a result of insufficient supervision of the trustees.

This report examines the measures to protect beneficiary interest through the involvement of commercial trust with family trust from the perspective of appropriate use and development of the trust system. And this report points out two issues as issues for involvement of commercial trust to family trust.

Firstly, family trust with a combination of commercial trust is a tailor-made trust with high individuality, so at this stage, the corporate trustee cannot cover the costs and rewards unless the trust property is of considerable scale, and it is difficult to undertake trust from the

viewpoint of securing profitability to maintain soundness.

Secondly, it is not clear whether the corporate trustee can perform specific custodial services such as entering into a contract with third-parties for medical care, nursing, housekeeping and so on and making a payment to third-parties for those purposes.

In aging and mature society with a declining birthrate, a safe trust that meets the needs for management and succession of property is desired. About commercial trust, I expect further development, such as new trust that is organically combined with family trust, based on the developments made so far.