

On the Disclosure of Trust

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In recent years, in step with the rapid increase of assets held in trust accounts, growing interest has been expressed not only by trust beneficiaries but the public as a whole in the contents of these trust assets. On the other hand, however, disclosure of trust assets has been and should continue to be under reasonable restrictions. Such restrictions include the duty of confidentiality imposed on trustees and technical impossibility forced on trustees from time to time by excessive monetary costs and administrative burden involved.

Moreover, restrictions on disclosable contents are reasonably instituted depending on the party to whom the disclosure is intended such as trusters, beneficiaries, other interested parties, regulatory authorities, creditors or shareholders or trustees, or society at large. Still other factors rendering disclosure of trust to many unspecified number of outsiders a rather restrictive one are the facts that: trust properties remain other peoples' properties and thus they should in principle be managed separately and are not suited to collective representation; and even in the United States, there has been virtually no practice of disclosure on trust business.

Notwithstanding such restrictions, overall and summary disclosure of trust should be possible and stand to reason while keeping to the confidentiality for each transaction such as individual items of investments and names of borrowers of trust funds. The contents of disclosure, needless to say, must vary from one trust business to another due to their different purposes and recipients or expected functions. And these contents are bound to gradually change as the time goes by. For example, emphasis in disclosure will shift from lending activities to the analysis of portfolios.

For the future, the author wishes to recommend that the trust business industry work out a set of autonomous disclosure rules fully taking into account their legitimate purposes and reasonableness thereby forestalling the possibility

of breach in the duty of confidentiality. This will also contribute to the development of trust business through enhanced confidence by trusters, beneficiaries and the general public at large in the coming years.