

Investment Trust for Real Estate

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1. The real estate business has been relied on bank loans for its fund raising, but securitisation, i. e. direct financing or giving liquidity to real estate assets, should be introduced urgently so as to diversify finance methods.

Investment Trusts are expected to play an important role in popularizing real estate securitisation.

2. There have been no Investment Trusts for real estate in Japan because it was argued that the huge amount of funds raised through such trusts and flowing onto the real estate market would cause land prices, already excessively high, to rise further.

Nevertheless, the attitude against the use of Investment Trusts for real estate is changing as it is believed that such trusts would help solve land price problem and diversify methods of financing.

3. Possible schemes for real estate-related Investment Trusts are examined in view of the Trust Law.

- 1) An Investment Trust scheme in which the Trustee has discretionary powers in making investment decision.

- a) Duty of Loyalty

A Trustee must manage the investment in a manner that will not cause any prejudice to the beneficiary.

- b) Duty of Care in Good Faith

A Trustee's responsibility will not be claimed when he has operated in accordance with reasonable standards as expressed clearly in the trust agreement.

- c) Duty of Self-Operation

A Trustee is required to be sufficiently qualified to make himself all

the decisions pertaining to the investment and its administration.

d) Duty of Separate Administration

A Trustee may manage the funds of two or more trusts in a joint unit even if they are settled with assets other than money if expressly empowered in trust agreements.

2) An Investment Trust scheme in which the Settlor has discretionary powers in making investment decision.

A Settlor should be charged with the similar duties which the Trustee is charged.