

# Trust

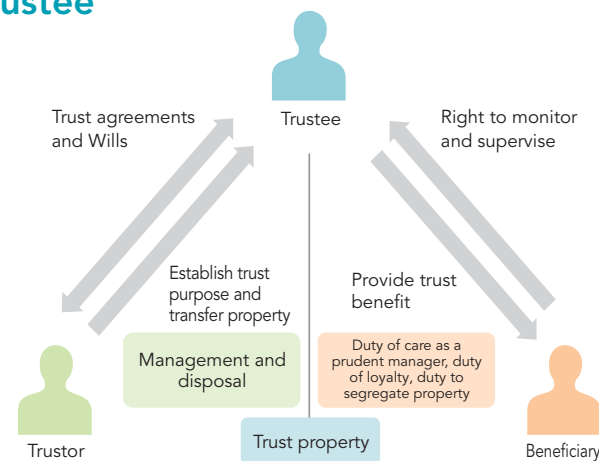
## — Property management system based on trust

### 1 Legal support and expertise of the trustee

Trust is a legally established property management system.

The person who holds property (trustor) transfers property to a trusted person (trustee), and the trustee manages and disposes of property for the beneficiary in accordance with the purpose of the trust.

The first significance of entrusting important property to others is the use of the trust's unique functions to manage property for the purpose they wish to realize and to enable beneficiaries to enjoy the benefits. In addition, there is an expectation that the trustee's conduct will be disciplined with the support of the law and that the trustee's expertise regarding the property will be expected.



### 2 Establishment of the trust system in Japan — Discipline of trust

It has been 100 years since trust was legislated in Japan. Before this legislation, there were many companies that in reality performed high-interest lending, and that called themselves trust companies. In 1922, the Trust Act and the Trust Business Act were enacted in order to crack down on these issues and create a system of trust, and the companies that called themselves trust companies were eliminated and liquidated. Trust have been positioned in the financial system, leading to the modern trust system.



Provided by Mainichi Shimbun



Trust spread from Britain and the United States as an excellent mechanism for entrusting property to a trusted person for proper management, but it also had weaknesses. One is a risk of abuse by the person entrusted with property (trustee). Therefore, instead of having exclusive authority to manage and dispose of property, trustees are obligated to act exclusively in the interests of beneficiaries and to handle property with care as a good manager. This discipline for trustees has been organized as a "fiduciary relationship." A trust system has also been introduced in Japan, and the "fiduciary relationship" is the basis of this system. Trust was enacted into law as a system for administering and managing assets based on cordial trust in trustees and have a history of development to date.

### Q&A on trust

#### Q. How do you set up trust?

**A.** A trust may be entered into by contract, will, or declaration of intention (self-trust). Most general trust products of trust banks are set up based on trust agreements.

#### Q. Who owns trust property?

**A.** When any property is placed in trust, the ownership is legally transferred to the trustee and formally belongs to the trustee. However, the trustee manages and disposes of the trust property in accordance with the trust purpose that reflects the trustor wishes. The purpose of the trust is often set up for the beneficiary, and the trustee manages the property exclusively for the benefit of the beneficiary. Therefore, in effect, the trust property belongs to the beneficiary.



#### Q. What happens to trust when the beneficiary dies?

**A.** Some trusts terminate when the beneficiary dies, while others continue without termination. This depends on provisions such as trust agreements. When the trust is terminated, the trust property is delivered to the beneficiaries or vested right holders. In cases where a trust continues, the rights as beneficiaries (beneficiary rights) may be inherited, or the person designated in the trust agreement may become the next beneficiary.

#### Q. What happens to trust property if trustee goes bankrupt (dies)?

**A.** Even if the trustee goes bankrupt, creditors of the trustee's own property cannot seize the trust property, and the trust property will be preserved. When the trustee dies, the administration of the trust property is passed to the new trustee.

#### Q. What trusts are around us?

**A.** These include investment trusts (asset management products), pension trusts (employee welfare and asset formation), real estate trusts (commercial facilities are trust assets, or there are trusts for investment purposes that invest in real estate), trusts for making donations and gifts, trusts that transfer assets across generations such as marriage and childcare support trusts and tuition fund endowment trusts and other trusts.

#### Q. What property can we trust?

**A.** Any properties that can be transferred separately from the trustor property and whose monetary value can be estimated can be the subject of trust. For example, in addition to money, securities, monetary claims and real estate, the possibility of using trust for movables, intangible assets and other assets is expanding. Expectations for products and services that take advantage of the flexibility of trust in response to diversifying client needs and increasing complexity of social issues are rising even further.

