

LAW TITLE: BANK OF KOREA ACT

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CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose) The purpose of this Act is to contribute to the sound development of national economy by establishing the Bank of Korea and seeking price stabilization through the establishment and execution of effective monetary and credit policy.

Article 2 (Legal Personality) The Bank of Korea shall be a special legal person without capital.

Article 3 (Neutrality of Bank of Korea) The monetary and credit policy of the Bank of Korea shall be neutrally established and independently executed, and the autonomy of the Bank of Korea shall be respected.

Article 4 (Harmony with Government Policies)

(1)The monetary and credit policy of the Bank of Korea shall be in harmony with the government's economic policy to the extent of not impeding the price stabilization.

(2)The Bank of Korea shall value the market mechanism in carrying out monetary and credit policy.

Article 5 (Publicness and Transparency of Bank of Korea) The Bank of Korea shall make efforts to secure the publicness and transparency in the execution of its business and the operation of its machinery.

Article 6 (Establishment of Operational Plan on Monetary and Credit Policy)

(1)The Bank of Korea shall, in consultations with the Government, set the price stabilization target annually, and establish and publish the operational plan on monetary and credit policy including the former.

(2)The Bank of Korea shall do its best to meet the price stabilization target referred to in paragraph (1).

Article 7 (Offices) The Bank of Korea shall have its main office in the Seoul

Special Metropolitan City and may, if necessary, have its branch offices and agencies for the execution of its business on such terms and conditions as the Articles of Incorporation may determine.

Article 8 (Articles of Incorporation)

(1)The following matters shall be entered in the Articles of Incorporation of the Bank of Korea:

- 1.Purpose;
- 2.Name;
- 3.Matters on offices, branch offices and agencies;
- 4.Matters on executives and the staff;
- 5.Matters on the business and its execution;
- 6.Matters on budget and accounting;
- 7.Methods of public announcement and publication; and
- 8.Other matters as determined by the Presidential Decree.

(2)The Bank of Korea may amend the Articles of Incorporation through the deliberation and resolution of the Monetary Board referred to in Article 12.

Article 9 (Registration)

(1)The Bank of Korea shall register on such terms and conditions as the Presidential Decree may determine.

(2)The Bank of Korea shall come into existence on its registration at the seat of the main office.

(3)The Bank of Korea shall not set against a third party in respect of matters to be registered unless they are registered.

Article 10 (Ban on Use of Similar Names) No person other than the Bank of Korea shall use the Bank of Korea or any similar name.

Article 11 (Scope of Financial Institutions)

(1)The term "financial institutions" as used in this Act means financial institutions referred to in Article 2 of the Banking Act.

(2)Any credit business division of the National Agricultural Cooperative Federation, the National Federation of Fisheries Cooperatives and its member fisheries cooperatives and the National Livestock Cooperative Federation shall be deemed a financial institution.

(3)Insurers and companies exclusively engaged in mutual saving and finance business or trust business shall not be deemed financial institutions.

CHAPTER II MONETARY BOARD

SECTION 1. Composition of Monetary Board

Article 12 (Establishment) A Monetary Board as a policy-making body shall be established at the Bank of Korea.

Article 13 (Composition)

(1)The Monetary Board shall be composed of the following 7 persons:

1. President of the Bank of Korea;
2. One member recommended by the Minister of Finance and Economy;
3. One member recommended by the Governor of the Bank of Korea;
4. One member recommended by the Chairman of the Financial Supervisory Commission;
5. One member recommended by the Chairman of the Korea Chamber of Commerce and Industry;
6. One member recommended by the Chairman of the National Banks Federation incorporated; and
7. One member recommended by the Chairman of the Korea Securities Dealers Association.

(2)The Governor of the Bank of Korea (hereinafter referred to as "the Governor") shall concurrently serve as the Chairman of the Monetary Board (hereinafter referred to as "the Chairman"), and shall be appointed by the President after the deliberation of the State Council.

(3)The members listed in paragraph (1) 2 through 7 shall be persons much experienced or distinguishedly learned in finance, economy or industry, and shall be appointed by the Governor upon the recommendation of the recommenders on such terms and conditions as the Presidential Decree may determine.

(4)The members of the Monetary Board (hereinafter referred to as "members") shall be standing members.

Article 14 (Chairman)

(1)The Chairman shall represent the Monetary Board, and preside over the meetings of the Monetary Board and exercise general control over its affairs.

(2)Where the Chairman is unable to discharge his duties due to any inevitable cause, a member in advance designated by the Monetary Board shall act as Chairman on his behalf.

Article 15 (Terms of Members) The terms of the members listed in Article 13 (1)

2 through 7 shall be four years, and they may be reappointed.

Article 16 (Terms of Alternate Members) Where any vacancy arises in members (excluding the Chairman), it shall be filled by a new appointment, and any newly appointed member shall hold office for the remainder of the predecessor.

Article 17 (Disqualifications for Members) No person who falls under any of the following subparagraphs shall be a member:

1. A person who is not a national of the Republic of Korea; and
2. A person who falls under any of subparagraphs of Article 33 of the State Public Officials Act.

Article 18 (Guarantee of Member's Status, etc.)

(1) No member shall be dismissed against his will during his term of office except where he falls under any of the following subparagraphs:

1. Where he falls under any of subparagraphs of Article 17;
2. Where he is unable to discharge his duties due to mental disorder and physical disability; and
3. Where it is improper for him to discharge his duties as a member for a violation of official duties under this Act.

(2) Where any member is dismissed due to any cause listed in paragraph (1), the act which he performed as a member before the dismissal shall not lose its validity.

Article 19 (Ban on Political Activities) Members shall not join a political party, and shall not involve in political movements notwithstanding the provisions of Article 6 of the Political Parties Act.

Article 20 (Ban on Holding Concurrent Office) Members shall not hold any of the following positions or be engaged in any business on a commercial basis during his term of office:

1. Any position as a National Assemblyman or local councillor;
2. Any position as a state public official or a local public official; and
3. Other positions in which remuneration is paid.

SECTION 2 Operation of Monetary Board

Article 21 (Meetings)

(1) Any meeting of the Monetary Board shall be convened by the Chairman where the chairman deems necessary or not less than two members request.

(2) Except as otherwise provided for in this Act, decisions of the meetings of

the Monetary Board shall be taken with the attendance of not less than 5 members and by affirmative votes of a majority of members present.

(3) Any member may propose a bill by affirmative votes of two persons or more: Provided, That the Chairman may propose a bill by himself.

Article 22 (Attendance and Voice, etc.)

(1) The Vice Governor and assistant vice governors of the Bank of Korea are entitled to attend and speak at the meetings of the Monetary Board.

(2) The Monetary Board may have relevant experts, etc. attend the meetings and seek opinions from them as necessary.

Article 23 (Exclusion of Members) Any member shall be excluded from deliberating and deciding on matters falling under any of the following subparagraphs:

1. Any matter in which he himself has direct interests; and
2. Any matter in which his spouse, relative by blood within the fourth degree or relative by marriage within the second degree has direct interests.

Article 24 (Drawing Up of Written Decision)

(1) Where the Monetary Board makes a decision, it shall draw up a written decision and have it entered their names, sealed or signed by the members participating in the decision.

(2) The Monetary Board shall take the minutes of the decision, and make them public on such terms and conditions as the Monetary Board may determine.

Article 25 (Damage Liability)

(1) Where the Monetary Board causes damage to the Bank of Korea due to any intention or grave negligence, all the members present at a meeting shall be jointly liable to the Bank of Korea: Provided, That this shall not apply to any member who has clearly expressed his dissenting opinion at the meeting.

(2) For a lawsuit for damages referred to in paragraph (1), the auditor shall represent the Bank of Korea.

Article 26 (Emergency Measures)

(1) Where it is pressed for time to convene the Monetary Board as necessary to take emergency measures on the monetary and credit policy due to any troubles both at home and abroad, disaster or act of God or grave financial and economic crisis, the Governor may take necessary measures within the Monetary Board's authority.

(2)Where the Governor takes measures pursuant to paragraph (1), he shall promptly convene a meeting of the Monetary Board and report the contents to it.

(3)The Monetary Board may confirm, modify or suspend the measures referred to in paragraph (1).

Article 27 (Operation of Meetings) Matters necessary for the operation of meetings of the Monetary Board shall be determined by the Presidential Decree.

SECTION 3 Powers of Monetary Board

Article 28 (Decision on Monetary and Credit Policy) The Monetary Board shall deliberate and decide on the following matters with respect to monetary and credit policy:

- 1.Basic matters on the issue of the Bank of Korea notes;
- 2.Minimum reserve requirement rates to be maintained by financial institutions;
- 3.Standards and interest rates on rediscount or other credit business extended to financial institutions by the Bank of Korea;
- 4.Basic matters on emergency credit extended to financial institutions by the Bank of Korea;
- 5.Designation of financial institutions which can be denied credit by the Bank of Korea;
- 6.Basic matters on the sale and purchase of the Bank of Korea's national bonds or government-guaranteed bonds in the open markets;
- 7.Basic matters on the issue, selling, repurchase or redemption, etc. of the Bank of Korea's currency stabilization bonds;
- 8.Basic matters on the establishment and operation of the Bank of Korea's currency stabilization bond accounts;
- 9.Basic matters of credit extended to profit-making enterprises other than financial institutions in time of extreme deflation;
- 10.Request for submission of materials to financial institutions: Provided, That this shall be limited to as necessary to establish monetary and credit policy;
- 11.Request for inspection and joint inspection of financial institutions to the Monetary Supervisory Service: Provided, That this shall be limited as necessary to establish monetary and credit policy.

12.Highest rate of interests on various kinds of deposits or other payments by financial institutions;

13.Highest rate of interests on credit business such as various kinds of loans or other charges by financial institutions;

14.Restrictions on the longest time limit of loans extended by financial institutions and kinds of securities;

15.Restrictions on the ceiling or sector ceiling on loans and investments by financial institutions within a fixed period in urgent need of national economy such as hyperinflation;

16.Prior approval on loan by financial institutions in urgent need of national economy such as hyperinflation; and

17.Other matters provided for as the powers of the Monetary Board under this Act or other Acts.

Article 29 (Decisions on Operation of Bank of Korea) The Monetary Board shall deliberate and decide on the following matters with respect to the operation of the Bank of Korea:

1.Matters on the amendment of the Articles of Incorporation of the Bank of Korea;

2.Matters on the organization and machinery of the Bank of Korea;

3.Matters on the budget and settlement of accounts of the Bank of Korea;

4.Matters on the remuneration base of the staff belonging to the Bank of Korea; and

5.Other matters provided for as the powers of the Monetary Board under this Act or the Articles of Incorporation in connection with the operation of the Bank of Korea.

Article 30 (Establishment of Regulations) The Monetary Board may establish regulations as necessary to discharge its duties.

Article 31 (Assistance in Members' Duties) The Monetary Board may have any staff belonging to the Bank of Korea assist members in the discharge of their duties.

CHAPTER III EXECUTIVE ORGANS AND AUDITOR

SECTION 1 Executive Organs

Article 32 (Executives) The Bank of Korea shall have one Governor, one Vice-Governor and five or less assistant vice governors.

Article 33 (Governor)

- (1)The Governor shall represent the Bank of Korea, and exercise general control over its affairs.
- (2)The term of the Governor shall be four years, and he may be reappointed only once.

Article 34 (Powers and Obligations of Governor)

- (1)The Governor shall carry out policies established by the Monetary Board, and exercise other powers granted under this Act and the Articles of Incorporation.
- (2)The Governor shall notify the matters to be heeded by the Monetary Board, and be under obligation to provide materials and opinions necessary for the deliberation and decision by the Monetary Board.

Article 35 (Appointment of Representatives)

- (1)The Governor may appoint representatives who are entitled to all judicial or extrajudicial acts with respect to the affairs of the Bank of Korea from among its Vice-Governor, assistant vice governors or staff.
- (2)The scope of the staff who are eligible for legal representatives pursuant to paragraph (1) shall be determined by the Presidential Decree.

Article 36 (Vice-Governor)

- (1)The Vice-Governor and assistant vice governors shall be appointed by the Governor.
- (2)The terms of the Vice-Governor and assistant vice governors shall be three years, respectively, and they may be reappointed only once.

Article 37 (Functions of Vice-Governor) The Vice-Governor shall assist the Governor, and assistant vice governors shall assist the Governor and the Vice-Governor, each taking partial charge of the affairs on such terms and conditions as the Articles of Incorporation may determine.

Article 38 (Dismissal of Vice-Governor) The Governor may dismiss the Vice-Governor and assistant vice governors if any of them falls under any of the following subparagraphs:

1. Where he is declared bankrupt;
2. Where he is sentenced to any punishment heavier than imprisonment without prison labor or any punishment heavier than fine under this Act or other finance-related Acts and subordinate statutes (including foreign finance-related Acts and subordinate statutes);
3. Where he is unable to discharge his duties due to mental disorder and

physical disability; and

4. Where he violates this Act, an order under this Act or the Articles of Incorporation.

Article 39 (Appointment and Dismissal of Staff) The staff of the Bank of Korea shall be appointed and dismissed by the Governor.

Article 40 (Obligations of Executive Organs)

(1) The Governor, the Vice-Governor, assistant vice governors and the staff shall execute in good faith the monetary and credit policy established by the Monetary Board.

(2) The Monetary Board may request the Governor to correct or discipline as necessary for the discharge of the duties of the Governor, the Vice-Governor, assistant vice governors, and the staff.

Article 41 (Restriction on Holding Concurrent Office) The Governor, the Vice-Governor, assistant vice governors and the staff shall not be engaged in any business on a commercial basis other than their duties, and shall not hold other duties concurrently unless approved by the appointer concerned.

Article 42 (Duty of Integrity and Confidentiality)

(1) The Governor, the Vice-Governor, assistant vice governors and the staff shall not extort credit or receive money and other valuables or other benefits from any financial institution or any officer and employee of the institution.

(2) The Governor, the Vice-Governor, assistant vice governors and the staff or any person who was in such position shall not reveal any information learned with respect to their duties to others or use it for non-official purposes.

SECTION 2 Auditor

Article 43 (Appointment)

(1) The Bank of Korea shall have an Auditor.

(2) The Auditor shall be appointed by the President of the Republic of Korea on the recommendation of the Minister of Finance and Economy.

Article 44 (Term) The term of the Auditor shall be three years, and he may be reappointed only once.

Article 45 (Functions)

(1)The Auditor shall audit ordinarily the affairs of the Bank of Korea, and shall report the results to the Monetary Board at any time.

(2)The Auditor shall prepare and submit comprehensive audit reports annually to the Government and the Monetary Board.

(3)The Governor shall consult with the Auditor about the appointment and dismissal of the staff necessary for the discharge of Auditor's duties: Provided, That this shall not apply to subordinate staff on such terms and conditions as the Articles of Incorporation may determine.

Article 46 (Restriction on Holding Concurrent Office) The provisions of Articles 38, 41 and 42 shall apply mutatis mutandis to the dismissal, restriction on holding concurrent office, and the duties of integrity and confidentiality of the Auditor.

CHAPTER IV OPERATIONS OF BANK OF KOREA

SECTION 1 Issue of Bank of Korea Notes

Article 47 (Issue of Currency) The Bank of Korea shall have the exclusive right to issue currency within the territory of the Republic of Korea.

Article 48 (Circulation of Bank of Korea Notes) Bank of Korea notes issued by the Bank of Korea shall as legal tender pass current freely for all transactions.

Article 49 (Denominations of Bank of Korea Notes) The Bank of Korea may, upon approval of the Government, issue Bank of Korea notes of any size, pattern and denomination on such terms and conditions as the Monetary Board may determine.

Article 50 (Bank of Korea Notes Held by Bank of Korea) Bank of Korea notes held by the Bank of Korea shall not be the assets or liabilities of the Bank of Korea.

Article 51 (Collection of Claims by Bank of Korea)

(1)The Bank of Korea shall collect claims and receive deposits in Bank of Korea notes: Provided, That deposit transactions shall be limited to those who are entitled to make a deposit in the Bank of Korea.

(2)The Bank of Korea shall refund a deposit immediately on the request of a depositor: Provided, That if an agreement is made on the date of refund, the deposit shall be refunded after it comes due.

Article 52 (Exchange of Bank of Korea Notes)

(1)The Bank of Korea shall meet a demand for exchange between denominations as far as circumstances in Bank of Korea notes permit.

(2)The Bank of Korea shall exchange any Bank of Korea note unsuitable for circulation due to damage, contamination or any other cause with a new note.

Article 53 (Mintage of Coins)

(1)The Bank of Korea may mint coins.

(2)The provisions of Articles 48 through 52 shall apply mutatis mutandis to coins referred to in paragraph (1).

SECTION 2 Deposits and Reserve Requirements of Financial Institutions

Article 54 (Bank of Korea's Receipt of Deposits) The Bank of Korea may receive deposits from financial institutions.

Article 55 (Deposit of Reserve Requirements)

(1)Any financial institution shall hold as reserve requirements an amount larger than that equivalent to reserve requirement rates referred to in Article 56 in proportion to deposit liabilities.

(2)Reserve requirements referred to in paragraph (1) shall be held as reserve requirement deposits in the Bank of Korea: Provided, That any financial institution may hold a portion of reserve requirement deposits as Bank of Korea notes in the financial institution on such terms and conditions as the Monetary Board may determine.

(3)Interests may be paid to any reserve requirement deposits referred to in paragraph (2) on such terms and conditions as the Monetary Board may determine.

Article 56 (Determination of Reserve Requirement Rates)

(1)The Monetary Board shall determine the minimum rates of reserve requirements (hereinafter referred to as "reserve requirement rates") to be held by respective financial institutions and may change them as necessary.

(2)The reserve requirement rates shall, except as otherwise provided for in

Article 57, be not more than 50/100, and shall apply to all financial institutions in a uniform manner.

Article 57 (Marginal Reserve Requirements) The Monetary Board may request to hold the full amount in excess of the amount equivalent to reserve requirement rates as minimum reserve requirements further to any increase exceeding the amount of deposits as of the date as designated by the Monetary Board as necessary in galloping inflation.

Article 58 (Reserve Requirement Rates by Kinds of Deposits) The Monetary Board may determine reserve requirement rates differently by kinds of deposits within the scope under Articles 55 and 57 as necessary.

Article 59 (Calculation of Minimum Reserve Requirements)

(1) Minimum reserve requirements to be held by each financial institution shall be calculated semimonthly on such terms and conditions as the Monetary Board may determine.

(2) Minimum reserve requirements of each financial institution shall be calculated, putting those in its head office, branches, and sub-branches within the Republic of Korea together.

Article 60 (Imposition of Fine for Negligence)

(1) Where reserve requirements held by any financial institution during the half month fall short of minimum reserve requirements calculated pursuant to

Article 59, the financial institution shall pay a fine for negligence equivalent to 1/100 of the average shortage during such a half month to the Bank of Korea.

(2) Where the shortage of minimum reserve requirements continues for a period of more than two and a half months, the Monetary Board may prohibit the financial institution from making new loans and investments or paying dividends to stockholders until it continues to hold minimum reserve requirements for not less than one month.

Article 61 (Raise in Reserve Requirements Rates) Where the Monetary Board raises reserve requirement rates, it shall do so in a gradual manner, and notify in advance all financial institutions.

Article 62 (Use of Reserve Requirements) Reserve requirements held in the Bank of Korea may be used as settlement funds for the Bank of Korea or other financial institutions on such terms and conditions as the Monetary Board may determine.

Article 63 (Reserve Requirement Assets System) The Monetary Board may, if

necessary, request financial institutions to reserve requirement assets aside from reserve requirements on such terms and conditions as the Presidential Decree may determine.

SECTION 3 Loans to Financial Institutions

Article 64 (Credit Business for Financial Institutions)

(1)The Bank of Korea may do the following credit business for financial institutions on such terms and conditions as the Monetary Board may determine:

1.Rediscount, discount and selling and buying of promissory notes, bills of exchange and other credit instruments received by financial institutions:

Provided, That they shall be limited to instruments which become due within a year from the date on which the Bank of Korea acquires; and

2.Term loans within a year with the following instruments offered as security:

(a)Credit instruments listed in subparagraph 1;

(b)Negotiable instruments representing obligations of, or guaranteed by the Government;

(c)Negotiable instruments representing obligations of the Bank of Korea.

(2)The credit instruments rediscounted, discounted, bought, or acquired as security pursuant to paragraph (1) shall be endorsed thereon by or accompanied by a deed of transfer by any financial institution which offers them.

Article 65 (Emergency Credit to Financial Institutions)

1)The Bank of Korea may, in any of the following subparagraphs, extend credits to any financial institution secured on assets whose properness has been temporarily granted with the consent of not less than four members:

1.Where it extends credits temporarily to any financial institution in a vital emergency in which the stabilization of currency and banking business are directly threatened; and

2.Where it extends credits temporarily recognized as creating serious obstacles to discharging its affairs through a temporary deficiency in payment funds to financial institutions due to disorder in computer data processing system or any accident.

(2)Any financial institution which receives credits pursuant to paragraph (1) shall not, unless it redeems them, increase loans and investments without approval.

(3)The Bank of Korea may investigate and confirm the operations and financial status of the financial institution as necessary in connection with credits referred to in paragraph (1).

Article 66 (Bank of Korea's Denial of Loans)

(1)Where the Monetary Board deems that any financial institution which has applied to the Bank of Korea for loans has been relied heavily on credits extended by the Bank of Korea or maintained unsound loan or investment directions, the Bank of Korea may deny the financial institution loans.

(2)The Monetary Board may, where it grants credits to any financial institution falling under paragraph (1), raise discount rates or interest rates applied to credits to the financial institution.

Article 67 (Restriction on Bank of Korea's Credits) The Bank of Korea shall restrict credits to financial institutions in hyperinflation, and shall extend new credits only under inevitable circumstances and make efforts to reduce credit amount as soon as possible.

SECTION 4 Selling and Buying of Bonds in Open Markets

Article 68 (Open Market Operation)

(1)The Bank of Korea may sell and buy the following bonds in open markets on its own account in order to carry out monetary and credit policy on such terms and conditions as the Monetary Board may determine:

- 1.State bonds;
- 2.Securities which the Government guarantees the redemption of their principal and interests; and
- 3.Other securities as determined by the Monetary Board.

(2)Securities listed in any of subparagraphs of paragraph (1) shall be limited to those which are freely negotiated and of which issue conditions are fully fulfilled.

Article 69 (Bank of Korea Currency Stabilization Bonds)

(1)The Bank of Korea may issue Bank of Korea currency stabilization bonds (hereinafter referred to as "urrency stabilization bonds") in open markets on such terms and conditions as Acts and the Monetary Board may determine.

(2)The Bank of Korea may repurchase currency stabilization bonds or redeem by drawing them at par value prior to the date of maturity.

(3)The matters on interest rates, date of maturity and redemption conditions

of currency stabilization bonds shall be determined by the Monetary Board.

(4)Redemptions by drawing referred to in paragraph (2) may be made only where the Monetary Board deems necessary.

(5)The Bank of Korea shall collect and discard without delay currency stabilization bonds repurchased or redeemed: Provided, That this shall not apply in case it buys them on conditions of repurchase and sale.

(6)The provisions of Article 50 shall apply mutatis mutandis to currency stabilization bonds held by the Bank of Korea: Provided, That this shall not apply in case it buys them on conditions of repurchase and sale.

Article 70 (Establishment of Bank of Korea Currency Stabilization Bond Accounts)

(1)The Bank of Korea may establish Bank of Korea currency bond accounts and it may have financial institutions deposit currency stabilization bonds in the accounts on such terms and conditions as the Monetary Board may determine.

(2)The amount of deposits made in Bank of Korea currency stabilization bond accounts shall not be deemed as reserve requirements referred to in Section 2 of Chapter 4.

SECTION 5 Business with Government and Government Agencies

Article 71 (Deposit-Receiving Agency) The Bank of Korea shall handle government money as an agency receiving Republic of Korea government money on such terms and conditions as the Budget and Accounts Act may determine.

Article 72 (Safe Deposit-Receiving Business) The Bank of Korea may accept bonds, documents or other valuables which belong to the Government, on safe deposit.

Article 73 (Handling of State Affairs) The Bank of Korea may assist the State with collecting revenues and handle the issue, sale, redemption of state bonds or other affairs on such terms and conditions as Acts and subordinate statutes may determine.

Article 74 (Commission) The Bank of Korea may charge rates or commissions within the scope of actual costs for handling government's affairs.

Article 75 (Credit for Government)

(1)The Bank of Korea may extend overdrafts or another form of credits to the Government and accept government bonds directly from the Government.

(2)The total amount of credits and directly accepted government bonds referred to in paragraph (1) shall not exceed the debt limit decided by the National Assembly putting all debts together borne by the Government to financial institutions and the general public.

(3)Interest rates or other conditions on credits referred to in paragraph (1) shall be determined by the Monetary Board.

Article 76 (Direct Acceptance of Government-Guaranteed Claims)

(1)The Bank of Korea may accept directly bonds which the Government guarantees their principal and interests.

(2)Interest rates or other conditions on the accepted bonds referred to in paragraph (1) shall be determined by the Monetary Board.

Article 77 (Extending Loans to and Accepting Deposits from Government Agencies)

(1)The Bank of Korea may accept deposits from, and extend loans to government agencies.

(2)The term "government agencies" as used in paragraph (1) means legal persons discharging public projects or functions for the Government in producing, purchasing, selling or distributing, which are designated by the Government.

(3)The loans referred to in paragraph (1) shall be extended only where the Government guarantees the redemption of their principal and interests.

(4)The Monetary Board shall determine the Bank of Korea lending rates or other terms on government agencies.

Article 78 (Restriction on Credits to Government Agencies) The Bank of Korea shall make efforts to restrain credits to government agencies and to reduce the amount of credits in inflation.

SECTION 6 Operations for Private Individuals

Article 79 (Transaction Restrictions with Private Individuals) Except as otherwise provided for in this Act, the Bank of Korea shall not do deposit or loan transactions with legal persons or individuals other than the Government, government agencies or financial institutions or buy bonds representing the obligations of any legal person or individual other than the Government, government agencies or financial institutions: Provided, That the Bank of Korea may do deposit transactions with legal persons as are deemed necessary for the discharge of its business on such terms and conditions as the Monetary Board may determine.

Article 80 (Credits to Profit-Making Enterprises)

(1) In severe deflation of monetary credits where financial institutions collect loaned money and restrain new loans, the Bank of Korea may, notwithstanding the provisions of Article 79, extend credits to profit-making enterprises such as those who are engaged in financial business, not financial institutions with the consent of not less than four members.

(2) Credits referred to in paragraph (1) shall abide by such terms and conditions as the Monetary Board may determine.

(3) The provisions of Article 65 (3) shall apply mutatis mutandis in case the Bank of Korea extends credits pursuant to paragraph (1).

SECTION 7 Other Business

Article 81 (Payment and Settlement Businesses) The Bank of Korea shall carry out the operation and management business of payment and settlement system directly related to monetary and credit policy.

Article 82 (Foreign Exchange Business) The Bank of Korea may carry out the business falling under any of the following subparagraphs on authorization by the Minister of Finance and Economy:

1. Foreign exchange business and foreign currency holdings;
2. Receiving deposits from foreign financial institutions, international financial organizations, foreign governments and their agencies or the United Nations agencies; and
3. Selling and buying precious metals.

Article 83 (Consultation on Exchange Rate Policy) The Bank of Korea shall carry out consultative functions on the Government exchange rate policy, foreign exchange banks' receiving and extending foreign currencies, and policy on setting a ceiling on excess purchase and sale of foreign currency.

Article 84 (Exchange Transaction Agreement) The Bank of Korea may make exchange transaction agreements with financial institutions on such terms and conditions as the Monetary Board may determine.

Article 85 (Government Representatives in International Organizations) The Bank of Korea shall represent the Government in its business, negotiations and transactions with the International Monetary Fund or financial organizations in which the Republic of Korea has joined as members under instructions from the Government.

Article 86 (Collection and Compilation of Statistical Data) The Bank of Korea may collect and compile the statistical data on currency and banking business, finance, prices, wages, production, balance of international payments, and other economy in general necessary for the establishment of monetary and credit policy, carry out some research on the economy, and request any government agency, legal person or individual for data and information necessary therefor.

CHAPTER V REQUEST FOR INSPECTION OF FINANCIAL INSTITUTIONS

Article 87 (Right to Request for Submission of Data) The Bank of Korea may request financial institutions (including those who are engaged in financial business, not financial institutions, and have made current deposit transaction agreements with the Bank of Korea) to submit data as the Monetary Board deems necessary for the discharge of monetary and credit policy. In this case, data to be requested shall be confined to the least necessary scope, taking into account fully the business burden of financial institutions.

Article 88 (Request for Inspection and Joint Inspection)

(1)The Bank of Korea may request the Financial Supervisory Service established under the Act on the Establishment, etc. of Financial Supervisory Organization (hereinafter referred to as "the Financial Supervisory Service") to inspect any financial institution by setting the specific scope as the Monetary Board deems necessary for the discharge of monetary and credit policy, and may request the staff belonging to the Bank of Korea to take part jointly in the inspection of a financial institution as necessary.

(2)The Bank of Korea may demand that the Financial Supervisory Service transmit the inspection results referred to in paragraph (1) or take necessary corrective measures on a financial institution depending on the inspection results.

(3)The Financial Supervisory Service shall comply with the Bank of Korea's request or demand referred to in paragraphs (1) and (2).

Article 89 (Right to Request for Reconsideration)

(1)Where the Monetary Board is dissatisfied with the measures directly related to monetary and credit policy which are taken by the Financial Supervisory Commission, it may request the Commission to reconsider them.

(2)Where a request for reconsideration referred to in paragraph (1) is made, the measures listed in paragraph (1) shall become definite if the Financial Supervisory Commission takes the same decision as the previous one with the consent of two-thirds of all members.

CHAPTER VI RELATIONS WITH THE GOVERNMENT

Article 90 (Attendance at State Council)

(1)The Governor may attend and speak at the State Council on the matters on finance and currency.

(2)The Government may request the Governor to attend at the State Council.

Article 91 (Presence and Speaking) The Vice Minister of Finance and Economy may be present and speak at a meeting of the Monetary Board.

Article 92 (Request for Reconsideration)

(1)Where any decision taken by the Monetary Board is judged to contradict the government economic policy, the Minister of Finance and Economy may request the Board to reconsider it.

(2)Where a request for reconsideration referred to in paragraph (1) is made, the President shall take the last decision if the Monetary Board takes the same decision as the previous one with the consent of five or more members.

(3)Where the Minister of Finance and Economy makes a request referred to in paragraph (1), he shall publish it promptly on such terms and conditions as the Presidential Decree may determine.

Article 93 (Advice at Policy-Making) The Government shall seek advice from the Monetary Board in establishing important policies on finance and currency.

Article 94 (Cooperation on Data) The Minister of Finance and Economy, the Monetary Board and the Financial Supervisory Commission may request data one another as necessary to establish policies. In this case, each shall comply with such request unless any special cause exists.

Article 95 (Audit by Board of Audit and Inspection) The Bank of Korea shall be audited annually by the Board of Audit and Inspection.

Article 96 (Report to National Assembly)

(1)The Bank of Korea shall prepare a report on the execution situations of monetary and credit policies at least once annually and submit it to the National Assembly.

(2)The Governor shall attend and reply where the National Assembly or any its committee requests him to attend in connection with the report submitted pursuant to paragraph (1).

CHAPTER VII ACCOUNTING, ETC.
SECTION 1 Accounting

Article 97 (Fiscal Year) The fiscal year of the Bank of Korea shall be in accordance with that of the Government.

Article 98 (Budgets and Settlement Accounts)

(1) Any budget of each fiscal year of the Bank of Korea shall be finalized through a decision of the Monetary Board.

(2) The Bank of Korea shall obtain approval in advance from the Minister of Finance and Economy on a budget on expenses except for a budget relating to monetary and credit policy of the budget listed in paragraph (1) (hereinafter referred to as "estimated appropriation").

(3) The Bank of Korea shall submit an estimated appropriation to the Minister of Finance and Economy 60 days prior to the commencement of the fiscal year concerned.

(4) The scope of an estimated appropriation referred to in paragraph (2) shall be determined by the Presidential Decree.

(5) The Governor shall submit the year's statement of accounts to the Minister of Finance and Economy within 2 months after the closing of the fiscal year concerned.

Article 99 (Disposal of Profits)

(1) Where there leaves a balance after appropriating net profits at closing accounts for depreciating assets every fiscal year, the Bank of Korea shall accumulate 10/100 of net profits at closing accounts every year.

(2) Where there leaves a balance after accumulating net profits at closing accounts pursuant to paragraph (1), the Bank of Korea may accumulate the balance as special purpose reserves on approval by the Government.

(3) Where there leaves a balance after disposing of net profits at closing accounts pursuant to paragraphs (1) and (2), the Bank of Korea shall pay it as revenues to the Government.

Article 100 (Compensation for Losses) Losses incurred in a fiscal year of the Bank of Korea shall be compensated from reserves, and if reserves are insufficient, they shall be compensated by the Government on such terms and conditions as the Budgets and Accounts Act may determine.

SECTION 2 Balance Sheet and Annual Report

Article 101 (Announcement of Balance Sheet)

(1)The Bank of Korea shall announce a balance sheet which itemizes assets and liabilities as of the last working day of the previous month not later than the 20th day of every month. In this case, the balance sheet as of the last working day of every fiscal year may be announced within 2 months after the closing of the fiscal year.

(2)The Governor, the Auditor and the responsible person in charge of preparing a balance sheet referred to in paragraph (1) shall sign and seal the balance sheet and enter their names in it.

Articles 102 (Publication of Annual Report)

(1)The Bank of Korea shall submit to the Government and publish an annual report which outlines the business status of the Bank of Korea and currency and government foreign exchange policies during the fiscal year and analyzes financial and economic conditions within 3 months after the expiry of every fiscal year.

(2)An annual report referred to in paragraph (1) shall be subject to a decision by the Monetary Board.

Article 103 (Ban on Profit-Making Activities) The Bank of Korea shall not, whether directly or indirectly, be engaged in profit-making activities or own or operate any profit-making enterprise, and it shall not buy or own real estate unless necessary for the execution of its business.

CHAPTER VIII SUPPLEMENTARY PROVISIONS

Article 104 (Penal Provisions) Any person who violates the provisions of Article 42 (2) (including the application mutatis mutandis under Article 46) shall be punished by imprisonment for not more than 3 years or a fine not exceeding 20 million won.

Article 105 (Penal Provisions) Any person who violates the provisions of Article 10 shall be punished by imprisonment for not more than one year or a fine not exceeding 10 million won.

Article 106 (Fiction as Public Officials in Application of Penal Provisions)

(1)The members of the Monetary Board and the Governor, Vice Governor, assistant vice governors, Auditor and the staff of the Bank of Korea shall be deemed public officials in the application of penal provisions under the Criminal Act or other Acts.

(2)The scope of the staff who are deemed public officials pursuant to paragraph (1) shall be determined by the Presidential Decree.

ADDENDA

Article 1 (Enforcement Date) This Act shall enter into force on April 1, 1998.

Article 2 (Examples of Application to Restriction on Reappointment of Vice Governor and Auditor) Amendments to Articles 36 (2) and 44 shall apply starting from a Vice Governor and an Auditor first appointed under this Act.

Article 3 (General Transitional Measures)

(1)Any authorization, approval, decision, order, disposition or other acts done by the Monetary Operating Board pursuant to the previous provisions prior to the entry into force of this Act shall be deemed acts done by Monetary Board under this Act.

(2)Any application, report or other acts done to the Monetary Operating Board pursuant to the previous provisions prior to the entry into force of this Act shall be deemed acts done to the Monetary Board under this Act.

Article 4 (Transitional Measures on Members and Executives, etc.) At the time of the entry into force of this Act, the Chairman and members of the Monetary Operating Board, and the Governor, Vice Governor, directors and Auditor of the Bank of Korea shall discharge the functions of the Chairman and members of the Monetary Board, and the Governor, Vice Governor, assistant vice governors and Auditor of the Bank of Korea under this Act until they are newly appointed under this Act.

Article 5 (Special Cases for Terms of Members) The terms of members referred to in Article 13 (1) 2 through 4 from among members first appointed under this Act shall be two years, notwithstanding the amendment to Article 15 (2).

Article 6 (Amendment to Articles of Incorporation) The Bank of Korea shall have the Articles of Incorporation amended to bring into consistency with the amendment to this Act and obtain authorization from the Minister of Finance and Economy simultaneously with the entry into force of this Act.

Article 7 (Amendment of Other Acts) Omitted.

Article 8 (Relations with Other Acts and Subordinate Statutes) Where other Acts and subordinate statutes cite the provisions of the former Bank of Korea Act at the time of the entry into force of this Act, the clauses corresponding to this Act shall be deemed to have been cited if this Act includes the

provisions corresponding to them; the directors of the Bank of Korea shall be deemed to cite the assistant vice governors of the Bank of Korea; the Office of Banking Supervision at the Bank of Korea or the Office of Banking Supervision shall be deemed to cite the Financial Supervisory Service; and the Director of the Office of Banking Supervision at the Bank of Korea or the Director of the Office of Banking Supervision shall be deemed to cite the Director of the Financial Supervisory Service.

LAW TITLE: BANKING ACT

Law: 9 of 2

Last Article: 69

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose) The purpose of this Act is to contribute to the development of the national economy by ensuring the sound operation of financial institutions, protecting depositors, and maintaining credit order.

Article 2 (Definitions)

(1) For the purpose of this Act, the definitions of terms shall be as follows: <Amended by Act No. 5745, Feb. 5, 1999>

1. The term "banking business" means a business of lending funds raised by bearing debts from many unspecified persons through the receipt of deposits and issuance of securities and other bonds;
2. The term "financial institutions" means all legal persons other than the Bank of Korea regularly and systematically engaged in the banking business;
3. The term "commercial financial business" means a business which loans funds primarily raised by receipt of demand deposits within a period of less than a year, or makes loans for a period of not less than a year but less than three years, within the scope not exceeding the ceiling limit on loans as determined by the Financial Supervisory Commission, taking into account the total deposits;
4. The term "long-term financial business" means a business which loans funds raised by capital stock, reserves, other surplus, or time deposits with a maturity of more than one year, or through the issue of debentures or other bonds for a period exceeding one year;
5. The term "equity capital" means the total amount of core capital and supplementary capital according to the standards set by the Bank for International Settlements;
6. The term "payment guarantee" means a guarantee or acceptance of another

person by financial institutions; and

7. The term "credits" means loans, payment guarantees and purchase of securities (limited to those of fund assistance nature) or other direct and indirect transactions by financial institutions, which involve credit risk in financial transactions.

(2) The specific scope of equity capital and credits under paragraph (1) 5 and 7 shall be determined by the Financial Supervisory Commission on such terms and conditions as the Presidential Decree may determine. <Newly Inserted by Act No. 5745, Feb. 5, 1999>

Article 3 (Applicable Provisions)

(1) All financial institutions in the Republic of Korea shall be operated under this Act, the Bank of Korea Act, the Act on the Establishment of Financial Supervisory Organizations, and regulations and orders issued thereunder.

(2) This Act and the Bank of Korea Act shall prevail over the Commercial Act and other Acts and subordinate statutes.

Article 4 (Legal Persons) No person other than legal persons shall be engaged in the banking business.

Article 5 (Special Cases for National Agricultural Cooperatives Federation, etc.) Any credit business sector of the National Agricultural Cooperatives Federation, the National Federation of Fisheries Cooperatives and its member, fisheries cooperatives and the National Livestock Cooperatives Federation shall be deemed a financial institution.

Article 6 (Insurers, etc.) Insurers and companies engaged exclusively in the mutual savings and financial business and trust business shall not be deemed financial institutions.

Article 7 (Determination on whether Legal Persons are Financial Institutions)

(1) Whether a legal person is a financial institution shall be determined by the Financial Supervisory Commission. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

(2) The Financial Supervisory Commission may require any legal person concerned to submit books and other documents as necessary to make decisions referred to in paragraph (1). <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

CHAPTER II AUTHORIZATION, ETC. OF BANKING BUSINESS

Article 8 (Authorization of Banking Business)

(1) Any person who desires to be engaged in the banking business shall be subject to authorization by the Financial Supervisory Commission. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

(2) In determining whether to grant authorization under paragraph (1), the Financial Supervisory Commission shall confirm the feasibility of a business project, the appropriateness of capital stock, stockholders' makeup and stock subscription capital, managerial abilities and probity of the organizers or the management, and the public-interest. In this case, the matters necessary for confirmation methods, etc. shall be determined by the Presidential Decree. <Amended by Act No. 5540, May 25, 1998; Act No. 5745, Feb. 5, 1999; Act No. 5982, May 24, 1999>

(3) The Financial Supervisory Commission may set conditions for authorization under paragraph (1). <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

Article 9 (Minimum Capital Stock) Capital stock of a financial institution shall be not less than one hundred billion won: Provided, That capital stock of a financial institution which does not operate nationwide may be not less than twenty-five billion won.

Article 10 (Authorization on Amendment of Articles of Association and Reduction in Capital Stock)

(1) Where any financial institution desires to perform the following activities, it shall be subject to authorization by the Financial Supervisory Commission:

1. Amendment of the articles of association: Provided, That this shall not apply where it intends to alter minor matters as determined by the Financial Supervisory Commission; and

2. Reduction in capital stock as determined by the Presidential Decree.

(2) Where a financial institution amends the articles of association under the proviso of paragraph (1) 1, or makes a change in capital stock which does not fall under subparagraph 2 of the said paragraph, it shall report to the Financial Supervisory Commission within seven days from the date on which such a cause occurs.

(3) The Financial Supervisory Commission may set conditions for authorization referred to in paragraph (1).

Article 11 (Submission of Application)

(1) Any person who intends to obtain authorization under Articles 8 (1) and 10

(1) shall submit an application to the Financial Supervisory Commission.
<Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

(2)The contents and type of the application under paragraph (1) shall be determined by the Financial Supervisory Commission. <Amended by Act No. 5982, May 24, 1999>

Article 12 (Public Notice for Authorization) Where the Financial Supervisory Commission grants authorization under Article 8 (1) or 10 (1), he shall make public notification of the contents in the Gazette or one or more daily newspapers published in Seoul Special Metropolitan City. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

Article 13 (Establishment and Relocation, etc. of Branches) The Financial Supervisory Commission may set the standards and procedures on the establishment and closure of branches, agents or other business places or offices of a financial institution, and the relocation of its head office, branches, agents or other business places or offices.

Article 14 (Ban on Use of Similar Trade Names) No person other than the Bank of Korea and financial institutions shall use words used in the bank in his trade name or words used in the banking business or banking operations in indicating his business.

CHAPTER III STOCKHOLDING LIMIT BY FINANCIAL INSTITUTIONS

Article 15 (Stockholding Limit, etc. by Same Persons)

(1)One stockholder and a person who has a special relationship associated with the former as determined by the Presidential Decree (hereinafter referred to as the "same person") shall not hold or control (including those which the same person holds in another's name or casts votes in collusion, hereinafter in this Article, Articles 16 and 26 referred to as "holding") more than 4/100 of the total number of issued voting stock): Provided, That this shall not apply to any case falling under any of the following subparagraphs and paragraphs (2) through (4):

1. Where the Government or the Korea Deposit Insurance Corporation established under Article 3 of the Depositor Protection Act holds stocks of a financial institution; and

2. Where he holds less than 15/100 of the total number of issued voting stocks of a financial institution which does not operate nationwide.

(2)Foreigners listed in subparagraph 1 of Article 2 of the Foreign Investment Promotion Act (hereinafter referred to as "foreigners") may hold less than 10/100 of the total number of issued voting stocks in financial institutions, notwithstanding the provisions of the main sentence of paragraph (1). In this case, the foreigners shall report to the Financial Supervisory Commission.

<Amended by Act No. 5745, Feb. 5, 1999>

(3)Where any person intends to hold voting stocks of a financial institution as any of the following subparagraphs may determine, he may, notwithstanding the provisions of the main sentence of paragraph (1), upon approval by the Financial Supervisory Commission, hold stocks to the extent approved:

1.Where he intends to hold stocks of such financial institution at the time of the establishment of a joint financial institution as determined by the Presidential Decree;

2.Where he intends to hold stocks of such financial institution at the time of the establishment of a financial institution established by foreigners as determined by the Presidential Decree; and

3.Where a foreigner intends to hold stocks of a financial institution above the limits under any of the following items:

(a)Limit in paragraph (2) (for financial institutions under paragraph (1) 2, the limit in the same paragraph and subparagraph);

(b)25/100 of the total number of issued voting stocks of the relevant financial institution; and

(c)33/100 of the total number of issued voting stocks of the relevant financial institution.

(4)Nationals or legal persons of the Republic of Korea referred to in subparagraphs 2 and 3 of Article 2 of the Foreign Investment Promotion Act may, notwithstanding the provisions of the main sentence of paragraph (1), hold stocks of the relevant financial institution through the same procedures within the limit of a report under paragraph (2) or of approval obtained under paragraph (3) 3 by any foreigner. <Amended by Act No. 5745, Feb. 5, 1999>

(5)Where the Financial Supervisory Commission refuses to accept a report under paragraphs (2) and (4) or does not grant approval under paragraphs (3) and (4), it shall specify and notify such cause to the applicant within the period as determined by the Presidential Decree.

(6)In applying the provisions of paragraphs (2) through (5), the qualifications for any person to hold stocks of financial institutions, the requirements and procedures of report or approval related to stockholding and other necessary matters shall be determined by the Presidential Decree in consideration of the propriety of the size of assets and financial status, size of loans from the financial institution, and the possible contribution to the efficiency and soundness of the banking business: Provided, That the number of financial institutions in which any enterprise belonging to an affiliated business group as determined by the Presidential Decree and its persons concerned can hold stocks under paragraphs (3) and (4), taking into account the size of loans, shall be limited to one.

(7)The total amount of loans and debt-payment guarantees which a financial institution can make to the same person who holds stocks of the financial

institution upon approval under paragraphs (3) and (4) shall not exceed the amount equivalent to the ratio as determined by the Presidential Decree, within the scope of 45/100 of the financial institution's equity capital or the amount equivalent to the ratio of contribution made to the financial institution by the same person, whichever is smaller.

(7) Credits which can be extended to the same person who holds more than 10/100 (15/100 for any financial institution which dose not cover the nationwide territory) of the total number of issued voting stocks of the relevant financial institution shall, within the limit of 25/100 of the financial institution' equity capital, not exceed the amount equivalent to the ratio as determined by the Presidential Decree or the ratio invested by the same person in the financial institution, whichever is smaller.
<Amended by Act No. 5745, Feb. 5, 1999> <<Enforcement Date: Jan. 1, 2000>>

(8)A stockholder of a financial institution shall not have the financial institution in which he holds stocks force any act derogating from any sound financial trade or excercise influence on it.

Article 16 (Restriction, etc. on Voting Right of Limit Excess Stocks)

(1)Where the same person holds stocks beyond the stockholding limit referred to in Article 15, the extent to which he is entitled to cast votes on the stocks shall be restricted to the limit referred to in Article 15, and he shall ensure that he conforms to the limit.

(2)Where the same person does not observe the provisions of paragraph (1), the Financial Supervisory Commission may order him to dispose of the stocks beyond the limit within a specified period of not more than six months.
Article17 Deleted. <by Act No. 5745, Feb. 5, 1999>

CHAPTER IV OFFICERS AND EMPLOYEES

Article 18 (Qualifications, etc. for Officers)

(1)No person falling under any of the following subparagraphs shall be an officer of any financial institution, and if he falls hereunder after becoming one, he shall lose the office: <Amended by Act No. 5540, May 25, 1998; Act No. 5745, Feb. 5, 1999>

1.Deleted; <by Act No. 5540, May 25, 1998>

2.A minor or a person who is incompetent or quasi-incompetent;

3.A bankrupt who has not been reinstated;

4.A person who has been sentenced to imprisonment without prison labor or more severe punishment and for whom five years have not elapsed since he completed the sentence (including where he is deemed to have completed the sentence) or was exempted from the sentence;

5.A person who has been sentenced to a fine or more severe punishment under this Act or any foreign country's banking Acts and subordinate statutes and

other finance-related Acts and subordinate statutes as determined by the Presidential Decree and for whom five years have not elapsed since he completed the sentence (including where he is deemed to have completed the sentence) or was exempted from the sentence;

6.A person who has been granted a stay of execution of a sentence to imprisonment without prison labor or more severe punishment and who is under a suspended sentence;

7.A person who has been dismissed or removed from office by disciplinary punishment under this Act, the Bank of Korea Act, the Act on the Establishment, etc. of Financial Supervisory Organizations, the Act on the Structural Improvement of the Financial Industry, or any foreign country's finance-related Acts and subordinate statutes, and for whom five years have not elapsed since he was dismissed or removed by disciplinary punishment; and

8.A person who is or was an officer or employee of a financial institution(refers to financial institutions under subparagraph 1 of Article 2 of the Act on the Structural Improvement of the Financial Industry) which was subject to timely corrective measures by the Financial Supervisory Commission pursuant to Article 10 (1) of the said Act or administrative dispositions such as decision on contract transfer pursuant to Article 14 (2) of the said Act (limited to any person directly or likewise responsible for a reason for such timely corrective measures being taken, who is determined by the Presidential Decree), and for whom two years have not passed since such timely contractive measures, etc. were taken.

(2) The officers of any financial institution shall be persons who are equipped with experience and knowledge in finance and who are unlikely to threaten to hinder the public-interest, sound management, and credit order of financial institutions.

(3) The specific matters on the qualifications for officers of financial institutions shall be determined by the Financial Supervisory Commission.
<Amended by Act No. 5745, Feb. 5, 1999>

Article 19 Deleted. <by Act No. 5745, Feb. 5, 1999>

Article 20 (Restriction on Concurrent Posts Held by Officers, etc.)

(1)No officer or employee of a financial institution shall be an officer or employee of the Bank of Korea or other financial institution, and no permanent officer of a financial institution shall be engaged in the day-to-day operations of other profit-making corporations: Provided, That this shall not apply where an officer of a financial institution is appointed as manager pursuant to the Company Reorganization Act.

(2)No officer or employee of a financial institution shall be an officer or employee of its subsidiary referred to in Article 37 (2): Provided, That this shall not apply where the Presidential Decree may otherwise determine.
<Amended by Act No. 5745, Feb. 5, 1999>

Article 21 (Prohibition of Bribery, etc.) No officers or employees of a financial institutions shall request or accept bribes, or receive or promise bribes in connection with his duties.

Article 22 (Composition of Board of Directors)

(1) Deleted. <by Act No. 5745, Feb. 5, 1999>

(2) The board of directors of a financial institution shall be composed of permanent directors and non-permanent directors, and the permanent directors shall be less than 50/100 of all the directors.

(3) The non-permanent directors shall be recommended by the stockholders' representatives and the board of directors, respectively, according to the ratio as determined in the following subparagraphs:
1. 70/100 of all the non-permanent directors shall be recommended by the stockholders' representatives;
2. 30/100 of all the non-permanent directors shall be recommended by the board of directors.

(4) Where the composition of the board of directors fails to meet the requirements under paragraph (2) or (3) due to any non-permanent director's resignation or death, the composition of the board of directors shall be adjusted to meet the requirements under paragraphs (2) and (3) by the date of the regular general stockholders' meeting convened for the first time after such a cause occurs.

(5) Candidates for non-permanent directors as recommended by the stockholders' representatives pursuant to paragraph (3) 1 shall be the stockholders' representatives themselves or persons recommended by the stockholders' representatives.

(6) The stockholders' representatives referred to in paragraph (3) 1 shall be appointed, excluding those falling under any of the following subparagraphs:

1. An institutional investor as determined by the Presidential Decree;

2. A person of bad credit standing as determined by the Presidential Decree;

3. An enterprise belonging to any affiliated business group as determined by the Presidential Decree, taking into account the size of credit from financial institutions;

4. A person who controls any affiliated business group listed in subparagraph 3 (hereinafter referred to as an "owner of affiliated enterprises"); and

5. A person who has a special relationship under Article 15 (1) with the owner of affiliated enterprises.

(7) No person who falls under any of the following subparagraphs shall be a non-permanent director referred to in paragraph (3):

1. An officer or equivalent of an enterprise belonging to any affiliated business group as determined by the Presidential Decree, taking into account the size, etc. of credit from financial institutions;

2. An owner of affiliated enterprises; and

3. A person who has a special relationship under Article 15 (1) with the owner of affiliated enterprises.

(8) In applying the provisions of paragraph (3), the method of dealing with fractions, the mode of appointing the stockholders' representatives, and the mode of recommending non-permanent directors shall be determined by the Presidential Decree.

(9) Deleted. <by Act No. 5745, Feb. 5, 1999>

(10) The necessary matters on the operation, composition, and procedures of the board of directors not provided in this Act shall be determined by the Presidential Decree.

Article 23 (Powers of Board of Directors)

(1) The following matters shall be subject to deliberation and decision by the board of directors:

1. Matters on management objectives and evaluation;

2. Matters on the amendment of the articles of association;

3. Matters on the budget and settlement of accounts, including the remuneration of officers and employees;

4. Deleted; and <by Act No. 5745, Feb. 5, 1999>

5. Matters on major changes in organization such as dissolution, business transfer, and merger.

(2) Of the powers of the board of directors under Article 393 (1) of the Commercial Act, the powers of appointment or dismissal of managers and establishment, relocation or closure of branches may be delegated on conditions as the articles of association of a financial institution may determine.

Article 24 (Recommendation for Candidates as Bank Governor and Auditors)

Candidates for governor and auditors of a bank shall be recommended by a committee on recommendations for candidates which is composed of all of the non-permanent directors. In this case, the committee on recommendations for candidates shall make decisions by an affirmative vote of a two-thirds majority of all the non-permanent directors.

Article 25 (Restriction on Voting Right of Interested Persons) Any person who

has special interests in any bill under consideration by the board of directors shall not cast his vote.

Article 26 (Exclusion, etc. from Application)

(1)The provisions of Article 22 (3) and (5) through (9) shall not apply to the following financial institutions: <Amended by Act No. 5745, Feb. 5, 1999>

1.Financial institutions under Article 15 (3) 1, and financial institutions in which the same person holds more than 10/100 (15/100 for any financial institution which does not cover the territory nationwide) but not more than 50/100 of the total number of issued voting stocks pursuant to subparagraph 3 of the said paragraph; and

2.Financial institutions having a stable management agency and meeting the standards as determined by the Presidential Decree, such as being unlikely to bring about the centralization of economic power, in consideration of stock distribution.

(2)The provisions of Articles 22 through 24 shall not apply to financial institutions under Article 15 (3) 2 and financial institutions in which the same person holds more than 50/100 of the total number of issued voting stocks. <Amended by Act No. 5745, Feb. 5, 1999>

(3)Deleted. <by Act No. 5745, Feb. 5, 1999>

CHAPTER V BANKING OPERATIONS

Article 27 (Scope of Operations)

(1)Financial institutions may be engaged in all operations in the banking business (hereinafter referred to as "banking operations") within the scope of this Act and other related Acts and subordinate statutes.

(2)The scope of banking operations referred to in paragraph (1) shall be determined by the Presidential Decree. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

Article 28 (Authorization on Combined Business)

(1)Where any financial institution intends to conduct any business other than the banking business, it shall be subject to authorization by the Financial Supervisory Commission. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

(2)Where engaged in the business listed in paragraph (1), the financial institution shall separate the business from banking operations and maintain distinct records.

Article 29 (Trust Business)

(1) Any financial institution which operates trust business as an additional business shall separate funds, securities, or properties pertaining to the business and maintain distinct books and records.

(2) The provisions of Article 30 (1) shall not apply to a trust business referred to in paragraph (1). <Amended by Act No. 5745, Feb. 5, 1999>

Article 30 (Matters to be Observed on Reserves for Deposits and Interests, etc.)

(1) Financial institutions shall hold not less than the minimum ratio of reserves for deposits and reserve assets for deposits under Section 2 of Chapter IV of the Bank of Korea Act as the reserve requirement for deposit liabilities.

(2) Financial institutions shall abide by the following decisions and restrictions taken or placed the Monetary Board under the Bank of Korea Act:

1. Decision on the maximum rates of interest on all kinds of deposits or other payments of financial institutions;

2. Decision on the maximum rates of interest for the credit business, such as all kinds of loans or other charges of financial institutions;

3. Restriction on the time limit for loans and kinds of securities handled by financial institutions;

4. Restriction on the maximum limit on loans and investment, or maximum limits by sector for financial institutions within a given period in case of national economic emergencies such as hyper-inflation; and

5. Prior approval on loans by financial institutions in case of national economic emergencies such as hyper-inflation.

Article 31 (Commercial Financial and Long-term Financial Businesses)

(1) Financial institutions may combine their commercial financial business and long-term financial business.

(2) Any loan with a maturity of not less than three years shall be repaid regularly on an installment plan of not more than a year: Provided, That any loan for an enterprise to which income accrues after a lapse of a given period may be granted a grace period for a specified period.

Article 32 (Handling of Checking Accounts) Checking accounts may be handled only by financial institutions which are engaged in the commercial financial business.

Article 33 (Issuance of Debentures, etc.) The necessary matters on the conditions and method for issue of debentures or equivalent bonds of financial institutions shall be determined by the Presidential Decree. In this case, the issue ceiling on debentures, etc. shall be determined by the Presidential Decree within the limits of five times of any equity capital.

<Amended by Act No. 5745, Feb. 5, 1999>

Article 34 Deleted. <by Act No. 5745, Feb. 5, 1999>

Article 35 (Credit Line on Same Borrower, etc.)

(1) No financial institution shall make loans exceeding 15/100 of the equity capital of the financial institution to the same individual or corporation:

Provided, That this shall not apply to the following subparagraphs:

1. Where it has, due to an urgent national economic need, obtained approval from the Financial Supervisory Commission within the scope as determined by the Presidential Decree; and

2. Where it makes loans to any governmental agency under the Bank of Korea Act.

(2) No financial institution shall provide a debt-payment guarantee exceeding 30/100 of the equity capital of the financial institution: Provided, That this shall not apply where it has, due to an urgent national economic need, obtained approval from the Financial Supervisory Commission within the scope as determined by the Presidential Decree.

(3) The kinds of loans and debt-payment guarantees, method of approval under paragraphs (1) and (2), and other necessary matters, and the kinds of loans and debt-payment guarantee under Article 15 (7) shall be determined by the Presidential Decree. Article 35 (Credit Line on Same Borrowers, etc.) (1) No financial institution shall extend credits exceeding 25/100 of the financial institution's equity capital to the same individual, corporation or person with whom it shares credit risk as determined by the Presidential Decree (hereinafter referred to as the "same borrowers"): Provided, That this shall not apply hereunder as determined by the Presidential Decree: <<Enforcement Date: Jan. 1, 2000>>

1. Where it is necessary for the national economy or for a financial institution to promote the effectiveness of securing claims; and

2. Where a financial institution exceeds the line referred to in the main sentence due to changes in its equity capital or changes in the composition of the same borrowers although it did not extend further credits. (2) Where a financial institution exceeds the line referred to in the main sentence of paragraph (1) pursuant to paragraph (1) 2, it shall ensure that it meets the line under the main sentence of paragraph (1) within one year from the date on which it exceeds such line: Provided, That in any inevitable cause as determined by the Presidential Decree, the Financial Supervisory Commission may extend it by setting such period. <<Enforcement Date: Jan. 1, 2000>> (3)

No financial institution shall extend credits exceeding 20/100 of the financial institution's equity capital to the same individual or corporation, respectively: Provided, That this shall not apply where it falls under the proviso of paragraph (1). <<Enforcement Date: Jan. 1, 2000>>

(4)Where credit which a financial institution extends to the same individual, corporation, or the same borrower exceeds 10/100 of the financial institution's equity capital, the total amount of such large credits shall not exceed five times of the financial institution's equity capital: Provided, That this shall not apply where it falls under the proviso of paragraph (1).
[This Article Wholly Amended by Act No. 5745, Feb. 5, 1999]

Article 36 (Loans to Governmental Agencies) Loans to governmental agencies under the Bank of Korea Act shall be made only where the Government guarantees the redemption of their principal and interest.

Article 37 (Restriction on Investments in Other Companies)

(1)No financial institution shall hold more than 10/100 of issued stocks (including stakes; hereinafter in this Article the same shall apply) in any other company. <Amended by Act No. 5520, Feb. 24, 1998>

(2)Notwithstanding the provisions of paragraph (1), a financial institution, if a company falls under any category of business as determined by the Financial Supervisory Commission or obtains approval from the Financial Supervisory Commission as necessary for promoting corporate restructuring, may hold more than 15/100 of issued stocks in the company: Provided, That this shall apply only where it falls under the following subparagraphs:
<Amended by Act No. 5520, Feb. 24, 1998; Act No. 5745, Feb. 5, 1999>

1.Where a financial institution invests the total amount not exceeding an amount equivalent to the ratio as determined by the Presidential Decree within the limit of 20/100 of the equity capital of the financial institution in a company in which it holds more than 15/100 of issued stocks (hereinafter referred to as "subsidiaries"): and

2.Where it meets the requirements as otherwise determined by the Financial Supervisory Commission under conditions as the Presidential Decree may determine.

(3)No financial institution shall carry out the following activities in doing business with its subsidiaries: <Amended by Act No. 5745, Feb. 5, 1999>

1. Credit extensions exceeding the ceiling as determined by the Financial Supervisory Commission to its subsidiaries;

2.Credits in which the stocks of the financial institution's subsidiaries are offered as security, and credits to purchase the stocks of the financial institution's subsidiaries; and

3.Loans to officers or employees of the financial institution's subsidiaries

(excluding petty loans as determined by the Financial Supervisory Commission).

(4) Where any financial institution makes investments in its subsidiaries under paragraph (2), it shall report to the Financial Supervisory Commission within seven days.

Article 38 (Prohibited Business) No financial institution shall conduct the following activities: <Amended by Act No. 5745, Feb. 5, 1999>

1. Investment in stocks or other securities (excluding state bonds and Bank of Korea currency stabilization bonds) with a period of redemption of not less than three years which exceeds the amount equivalent to the ratio as determined by the Presidential Decree within the limit of 100/100 of its equity capital. In this case, the Financial Supervisory Commission may, if necessary, otherwise determine the ceiling on investment in stocks and derivatives which are securities within the ceiling on investment;

2. Ownership of real estate (excluding real estate acquired through the exercise of a security such as mortgage) other than real estate for business purposes;

3. Ownership of real estate used for business purposes in excess of an amount equivalent to the ratio as determined by the Presidential Decree with the limits of 100/100 of equity capital;

4. Loans of funds to speculate in commodities or securities;

5. Loans in which stocks of the financial institution or stocks exceeding 20/100 of issued stocks of other stock companies are offered as security, whether directly or indirectly.

6. Loans contingent on the purchase of stocks of the financial institution, whether directly or indirectly;

7. Loans for political funds, directly or indirectly;

8. Loans to officers or employees of the financial institution (excluding petty loans as determined by the Financial Supervisory Commission); and

9. Acquisition or ownership of stocks of the financial institution (excluding where determined by the Presidential Decree, such as the acquisition of nonvoting stocks).

Article 39 (Disposal of Assets for Non-Business Purposes) A financial institution shall, of its properties or other assets, where it is prohibited from acquiring or holding them or acquires assets through the exercise of a security, dispose of them under the conditions as determined by the Financial Supervisory Commission.

CHAPTER VI ACCOUNTING

Article 40 (Accumulation of Legal Reserve) A financial institution shall accumulate not less than 10/100 of its net profits until the reserve amounts to the total amount of capital stock each time it pays dividends on earned net profits.

Article 41 (Public Notice, etc. of Financial Statements)

(1)A financial institution shall make public notice of balance sheets as of closing date, a profit and loss statement for the period for settlement of accounts concerned, and consolidated financial statements as determined by the Financial Supervisory Commission in accordance with the form as determined by the Financial Supervisory Commission within three months from the closing date: Provided, That for documents which cannot be made public within three months for compelling reasons, the public notice may be delayed upon approval by the Financial Supervisory Commission.

(2)Balance sheets, profit and loss statements, and consolidated financial statements under paragraph (1) shall be signed and sealed by the representative and the person in charge.

(3)The closing date of financial institutions shall be December 31: Provided, That the Financial Supervisory Commission may direct the change of the closing date and financial institutions may change the closing date upon approval by the Financial Supervisory Commission.

Article 42 (Submission of Balance Sheets, etc.)

(1)A financial institution shall submit its balance sheets at the end of every month to the Bank of Korea, and the Bank of Korea shall carry them in the statistical monthly of the Bank of Korea.

(2)Balance sheets referred to in paragraph (1) shall be signed and sealed by the person in charge or his agent.

(3)A financial institution shall, as prescribed by Acts, provide the Bank of Korea with periodical statistical data or information required for carrying out its functions and duties other than balance sheets referred to in paragraph (1).

Article 43 (Refusal to Disclose Materials) A financial institution may, upon request for the inspection or copy of account books referred to in Article 466 (1) of the Commercial Act, refuse the request where it threatens to cause serious damage to the rights and interests of customers.

CHAPTER VII SUPERVISION AND INSPECTION

Article 44 (Supervision over Financial Institutions) A Financial Supervisory Service established under the Act on the Establishment of Financial Supervisory Organizations (hereinafter referred to as "the Financial Supervisory Service") shall supervise whether financial institutions observe this Act, other related Acts, and regulations, and orders and directions of the Financial Supervisory Commission under conditions as the regulations and directions may determine.

Article 45 (Guidance for Sound Management)

(1) Financial institutions engaged in the banking business shall secure sound management such as completing equity capital and maintaining adequate liquidity.

(2) The Financial Supervisory Commission may set the guidelines for management guidance to ensure the sound management of financial institutions under conditions as the Presidential Decree may determine.

(3) In its determining the guidelines for management guidance pursuant to paragraph (2), the Financial Supervisory Commission shall reflect the principle of asset quality for financial institutions recommended by the Bank for International Settlements. <Newly Inserted by Act No. 5745, Feb. 5, 1999>

(4) Where any financial institution is deemed to threaten to seriously harm its sound management, such as failing to meet the guidelines for management guidance referred to in paragraph (2), the Financial Supervisory Commission may require it to take measures necessary to improve management such as increase in capital stock and restriction on profits sharing.

Article 46 (Measures for Insolvency, etc. of Deposits) Where any financial institution is deemed to threaten to seriously harm the interests of depositors, such as threatening to go bankrupt or insolvent, the Financial Supervisory Commission may order to restrict the receipt of deposits and credits extensions, suspend payment of deposits in whole or in part, or take other necessary measures.

Article 47 (Submission of Business Report, etc.)

(1) A financial institution shall submit a business report of business operations to the Governor of the Financial Supervisory Service in accordance with the form as determined by the Governor of the Financial Supervisory Service (hereinafter referred to as "the FSS Governor") by the end of the following month.

(2) The report under paragraph (1) shall be signed and sealed by the representative and the person in charge or his agent.

(3) Financial institutions shall provide materials for the execution of his functions as may be requested by the FSS Governor.

Article 48 (Inspection)

(1)The FSS Governor shall inspect the business and financial standing of financial institutions.

(2)Financial institutions shall, upon request by the FSS Governor or his employees, provide books, records, or other material necessary for the inspection.

(3)The FSS Governor may request any outside auditor appointed by a financial institution under the Act on External Audit of Stock Companies to submit information which he has learned as a result of auditing the financial institution, or other material relating to sound management.

Article 49 (Contributions)

(1)Financial institutions which are inspected by the Financial Supervisory Service shall pay contributions for meeting the inspection costs to the Financial Supervisory Service.

(2)The sharing rate and limit of contributions under paragraph (1) and other necessary matters on the payment of contributions shall be determined by the Presidential Decree.

Article 50 (Request for Holding Reserves and Disposal of Losses) The FSS Governor may request any financial institution to take the following measures as it deems necessary to maintain sound management of the institution:

- 1.Changes in book values of assets;
- 2.Holding reserves for unsound assets; and
- 3.Writing off assets deemed valueless.

Article 51 (Disclosure of Management) Financial institutions shall disclose important information and other materials on management conditions other than those provided for in Article 41 (1) on conditions as the Financial Supervisory Commission may determine.

Article 52 (Modification, etc. of Contractual Standards)

(1)A financial institution shall protect the rights and interest of the users of the financial institution in conducting business under this Act, and where it intends to establish or modify the contractual standards relating to financial transactions, it shall make a report in advance to the Financial Supervisory Commission.

(2)The Financial Supervisory Commission may recommend that a financial institution modify its contractual standards referred to in paragraph (1) as necessary to maintain sound order in financial transactions.

(3)The Financial Supervisory Commission may determine the time and procedures for reporting the establishment or modification of contractual standards under paragraph (1) and other necessary matters.

(4)Financial institutions shall disclose terms and conditions of a contract on financial transactions on conditions as the Financial Supervisory Commission may determine.

Article 53 (Sanctions against Financial Institutions)

(1)Where any financial institution violates this Act or any rules, orders, or instructions under this Act, or does business in an unsound manner, the Financial Supervisory Commission may, upon the recommendation of the FSS Governor, take any of the following measures against it or have the FSS Governor take appropriate measures, such as suspending unlawful acts or issuing a warning: <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

- 1.Suspension of such unsound business activities;
- 2.Suspension of operations for less than six months; and
3. Cancellation of banking business authorization.

(2)Deleted. <by Act No. 5982, May 24, 1999>

Article 54 (Sanctions against Officers and Employees)

(1)Where any officer of a financial institution intentionally violates this Act or any rules, orders, or instructions under this Act, or performs an act which seriously damages the sound operation of the financial institution, the Financial Supervisory Commission may, upon the recommendation of the FSS Governor, order the officer to suspend the execution of his functions or recommend that the general stockholders' meeting dismiss the officer, and may have the FSS Governor take appropriate measures such as issuing a warning.

(2)Where any employee of a financial institution intentionally violates this Act or any rules, orders or instructions under this Act, or performs an act which seriously damages the sound operation of the financial institution, the FSS Governor may request the head of the financial institution to take appropriate disciplinary measures such as dismissal, suspension, deduction of salary, or reprimand.

CHAPTER VIII MERGER, CLOSURE, AND DISSOLUTION

Article 55 (Authorization on Merger, Dissolution, and Closure)

(1)Where any financial institution intends to perform any of the following acts, it shall be subject to authorization by the Financial Supervisory Commission: <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24,

1999>

1. Merger with any other financial institution;
2. Dissolution or closure of banking business; and
3. Transfer or takeover of business operations in whole or in part.

(2) The Minister of Finance and Economy may set conditions for authorization under paragraph (1). <Amended by Act No. 5540, May 25, 1998>

Article 56 (Dissolution Order, etc. for Financial Institutions)

(1) Deleted. <by Act No. 5745, Feb. 5, 1999>

(2) A financial institution shall be dissolved when its authorization on banking business is cancelled pursuant to Article 53.

(3) Where any financial institution is dissolved pursuant to paragraph (2), the court may, at the request of interested persons or the Financial Supervisory Commission, or ex officio, appoint or dismiss a liquidator. <Amended by Act No. 5540, May 25, 1998; Act No. 5745, Feb. 5, 1999; Act No. 5982, May 24, 1999>

Article 57 (Appointment of Liquidator, etc.)

(1) Where any financial institution is dissolved or goes bankrupt, the FSS Governor or one of his employees shall be appointed as liquidator or trustee in bankruptcy.

(2) The FSS Governor or his employee appointed as liquidator or trustee in bankruptcy pursuant to paragraph (1) shall not demand remuneration for his functions: Provided, That expenses required for the execution of his functions may be disbursed from the property concerned.

CHAPTER IX DOMESTIC BRANCHES OF FOREIGN FINANCIAL INSTITUTIONS

Article 58 (Authorization, etc. on Banking Business for Foreign Financial Institutions)

(1) Where any foreign financial institution (meaning any institution established under any foreign Act or subordinate statute and conducting the banking business in a foreign country; hereinafter the same shall apply) intends to establish any branch or agent to conduct the banking business in the Republic of Korea, it shall be subject to authorization for each branch or agent by the Financial Supervisory Commission. The same shall apply where it closes or relocates any branch or agent, or establishes or closes an office. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

(2)The Financial Supervisory Commission may set conditions for authorization under paragraph (1). <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999 >

Article 59 (Application of Act to Foreign Financial Institutions)

(1)Branches or agents of foreign financial institutions authorized pursuant to Article 58 (1) shall be deemed financial institutions under this Act, and the domestic representatives of foreign financial institutions shall be deemed officers of financial institutions under this Act: Provided, That the provisions of Articles 4, 9 and 15 shall not apply. <Amended by Act No. 5745, Feb. 5, 1999>

(2)Where a foreign financial institution establishes two or more branches or agents in the Republic of Korea, the branches or agents in total shall be deemed a financial institution.

Article 60 (Cancellation, etc. of Authorization)

(1)Where the head office of a foreign financial institution falls under any of the following subparagraphs, the Financial Supervisory Commission may cancel the authorization for any branch or agent of the foreign financial institution referred to in Article 58 (1): <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

1. Where it ceases to exist due to a merger or transfer of business operations;
2. Where it has been subject to disciplinary action by the financial supervisory agency due to causes such as unlawful acts or unsound business activities; and
3. Where it suspends or temporarily suspends business.

(2)Where the head office of a foreign financial institution falls under any of subparagraphs of paragraph (1), any branch, agent, or office of the foreign financial institution shall report to the Financial Supervisory Commission within seven days from the date on which such a cause occurs. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

(3)Where the head office of a foreign financial institution is dissolved or goes bankrupt, closes its banking business, or it has its authorization on banking business cancelled, authorization for branches or agents of the foreign financial institution referred to in Article 58 (1) shall be deemed to have been cancelled on the date on which such a cause occurs.

Article 61 (Closure and Liquidation of Branches at the Time of Cancellation of Authorization)

(1)Where any branch or agent of a foreign financial institution has or is deemed to have its authorization cancelled pursuant to Article 53 or 60 (1)

or (3), the branch or agent shall be closed and shall liquidate all properties in the Republic of Korea.

(2)The court may, at the request of interested persons or the Financial Supervisory Commission, or ex officio, appoint or dismiss a liquidator. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

(3)The provisions of Article 620 (2) of the Commercial Act shall apply mutatis mutandis to the liquidation under paragraph (1).

Article 62 (Domestic Assets of Foreign Financial Institutions)

(1)Branches or agents of foreign financial institutions shall hold all or part of assets in the Republic of Korea on conditions as the Presidential Decree may determine.

(2)Where any branch or agent of a foreign financial institution is liquidated or goes bankrupt, its assets, capital stock, reserves, and other surplus shall be preferentially appropriated for nationals of the Republic of Korea and foreigners who have addresses or abodes in the Republic of Korea.

Article 63 (Application of Provisions on Capital Stock) The application of the provisions on capital stock of financial institutions of this Act with respect to branches or agents of foreign financial institutions shall be governed by the Presidential Decree.

CHAPTER X SUPPLEMENTARY PROVISIONS

Article 64 (Hearing) The Financial Supervisory Commission shall hold a hearing where he intends to take any of the following dispositions: <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

- 1.Cancellation of authorization under Article 53; and
- 2.Cancellation of authorization on branches or agents of foreign financial institutions under Article 60 (1).

Article 65 (Entrustment of Powers)

(1)Deleted. <by Act No. 5982, May 24, 1999>

(2)The Financial Supervisory Commission may entrust part of his powers under this Act to the FSS Governor on conditions as the Presidential Decree may determine.

CHAPTER XI PENAL PROVISIONS

Article 66 (Penal Provisions) Any person who violates the provisions of Article 21 shall be punished by imprisonment for not more than five years or a fine not exceeding thirty million won.

Article 67 (Penal Provisions) Any person who is engaged in the banking business without authorization by the Financial Supervisory Commission shall be punished by imprisonment for not more than three years or a fine not exceeding twenty million won. <Amended by Act No. 5540, May 25, 1998; Act No. 5982, May 24, 1999>

Article 68 (Penal Provisions)

(1) Where any officer, manager, agent representative (where the agent representative is a corporation, any member, officer, manager, or any other corporation's representative executing the functions), or liquidator of a financial institution (hereinafter referred to as "officer, etc. of a financial institution") performs any of the following acts, he shall be punished by imprisonment for not more than one year or a fine not exceeding ten million won: <Amended by Act No. 5745, Feb. 5, 1999>

1. Where its capital stock falls short of the standards under Article 9;
2. Where he violates the provisions of Article 10 (1);
3. Where he violates the provisions of Article 29 (1);
4. Where he violates the provisions of Article 30;
5. Where he violates the provisions of Article 32;
6. Where he issues bonds in violation of Article 33;
7. Deleted; <by Act No. 5745, Feb. 5, 1999>
8. Where he violates the provisions of Article 35 (1), (2), (3) or (4);
9. Where he violates the provisions of Article 37 (1) through (3);
10. Where he violates the provisions of Article 38;
11. Where he violates the provisions of Article 40;
12. Where he gives a false public notice under Article 41;
13. Where he makes a false entry in a report under Article 47;
14. Where he performs acts as well as without authorization under Article 55 (1);

15. Where he violates the provisions of Article 58 (1) (excluding those to be authorized in order to establish a new branch or agent);

16. Where he violates the provisions of Article 62 (1) or (2); and

17. Where he hinders an inspection under this Act by concealing books and documents, making a false report, or other means.

(2) Any person who violates the provisions of Article 14 shall be punished by imprisonment for not more than one year or a fine not exceeding ten million won.

(3) Where any officer or employee who serves or has served at financial institutions discloses any information which he has learned in the course of business, or uses it for non-occupational purposes, he shall be punished by imprisonment for not more than one year or a fine not exceeding ten million won.

Article 69 (Fine for Negligence)

(1) Where any financial institution violates this Act or any rules, orders, or instructions under this Act, it shall be punished by a fine for negligence not exceeding twenty million won.

(2) Where any financial institution falls under any of the following subparagraphs, it shall be punished by a fine for negligence for not exceeding ten million won.

1. Where any officer or employee of a financial institution violates the provisions of Article 20;

2. Where any officer, etc. of a financial institution neglects to keep, submit, report, announce, or make public documents under this Act; and

3. Where any officer, etc. of a financial institution violates any rules, orders, or instructions under this Act.

(3) Where any stockholder of a financial institution violates an order issued by the Financial Supervisory Commission under Article 16 (2), he shall be punished by a fine for negligence not exceeding twenty million won.

(4) A fine for negligence under paragraphs (1) through (3) shall be imposed and collected by the Financial Supervisory Commission on conditions as the Presidential Decree may determine.

(5) Any person who is dissatisfied with the disposition of a fine for negligence under paragraph (4) may make objections to the Financial Supervisory Commission within thirty days from the date of receipt of the notice for such disposition.

(6) Where any person who has been subject to a disposition of a fine for negligence pursuant to paragraph (4) makes objections pursuant to paragraph

(5), the Financial Supervisory Commission shall notify the competent court without delay and the court shall bring the case to trial under the Non-Contentious Case Litigation Procedure Act.

(7) Where no objection is made and no fine for negligence is paid within the period under paragraph (5), the Financial Supervisory Commission shall collect the fine following the example of the collection of national taxes in arrears.

ADDENDA

Article 1 (Enforcement Date)

(1) This Act shall enter into force on April 1, 1998: Provided, That the amended provisions of Article 64 and amended provisions of Article 7 of the Addenda shall enter into force on January 1, 1998 and the provisions of Articles 15 through 17, 22 (1) through (8) and (10), 26, 35 (3), and the amended provisions of Articles 6 (3) and 10 (2) shall enter into force on the date of its promulgation.

(2) The powers of the Financial Supervisory Commission in connection with the enforcement of the provisions of the proviso of paragraph (1) shall be exercised by the Director of the Board of Bank Supervision at the Bank of Korea from the date on which this Act is promulgated until March 31, 1998.

Article 2 (Example of Application on Term of Office of Auditors) The term of office of auditors under the amended provisions of subparagraph 1 of Article 19 shall apply to the first auditors to be appointed after the entry into force of this Act.

Article 3 (General Transitional Measures)

(1) Any authorization, approval, decisions, orders, dispositions, or other acts by the Minister of Finance and Economy, the Monetary Board, or the Director of the Board of Bank Supervision at the Bank of Korea under the previous provisions prior to the entry into force of this Act shall be deemed to be acts by the Minister of Finance and Economy, the Financial Supervisory Commission, or the FSS Governor under this Act.

(2) Any declarations, reports, or other acts directed to the Minister of Finance and Economy, the Monetary Board, or the Director of the Board of Bank Supervision at the Bank of Korea under the previous provisions prior to the entry into force of this Act shall be deemed to be acts directed to the Minister of Finance and Economy, the Financial Supervisory Commission, or the FSS Governor.

Article 4 (Transitional Measures Pursuant to Adjustment of Component Ratio of Non-Permanent Directors) A board of directors under the amended provisions of

Article 22 shall be composed at the first regular general stockholders' meeting to be convened after January 1, 1998, and until then the board of directors as of January 1, 1998 shall be deemed the board of directors under this Act.

Article 5 (Transitional Measures on Penal Provisions) The application of the penal provisions to acts committed prior to the entry into force of this Act shall be governed by the previous provisions.

Article 6 (Special Cases for Ceiling, etc. on Stockholding)

(1)Notwithstanding the amended purview of Article 15 (1), financial institutions converted under the Act on the Structural Improvement of the Financial Industry prior to the entry into force of this Act may hold or control a limit of 8/100 of the total number of issued voting stocks of the financial institution concerned, or cast votes on the stocks.

(2)At the time of entry into force of the amended provisions of Article 17-3 (1) of Act No. 4833 amendment to the Banking Act, where the same person holds or controls stocks exceeding the limit under the amended provisions of the said Act and paragraph, he shall ensure that he shall conform to the limit under the amended provisions of the said Article and paragraph within three years from May 29, 1995 (for financial institutions whose stocks are not listed on the Korea Stock Exchange under the Securities and Exchange Act, the date on which their stocks become listed), and the extent in which he is entitled to cast votes on stocks shall be restricted to the limit under the amended provisions of paragraph (2) of the same Article: Provided, That this shall not apply where the same person makes a report to or obtains approval from the Financial Supervisory Commission pursuant to the amended provisions of Article 15 (4).

(3)Where any institutional investor under the previous provisions of Article 17-3 (1) 6 at the time of entry into force of this Act holds issued voting stocks of financial institutions exceeding the limit under the purview of Article 15 (1) as of the date of entry into force of the previous provisions of Article 15, he shall make a report on the holding to the Financial Supervisory Commission. In this case, where the institutional investor meets the qualifications listed in Article 15 (6), he may hold issued voting stocks of financial institutions exceeding the limit under the purview of Article 15 (1).

Article 7 (Special Cases for Committee on Recommendations for Candidates)

(1)Any financial institution to which the previous provisions of Article 14-7 did not apply as of January 1, 1998 and in which the term of office of the governor or auditors expires at the first regular general stockholders' meeting convened after January 1, 1998, shall compose a provisional committee on recommendations for candidates.

(2)The members of the provisional committee on recommendations for candidates under paragraph (1) shall be composed of candidates for non-permanent

directors under the amended provisions of Article 22, and shall not be subject to appointment by a general stockholders' meeting.

(3)The number of members of the provisional committee on recommendations for candidates under paragraph (1) shall be determined by the board of directors.

(4)The chairman of the provisional committee on recommendations for candidates shall be chosen from among members.

(5)The members of the provisional committee on recommendations for candidates shall be recommended as candidates for non-permanent directors at the first regular general stockholders' meeting convened after January 1, 1998.

Article 8 (Special Cases for Application of Board of Directors System) With regard to financial institutions converted under the Act on Structural Improvement of the Financial Industry prior to the entry into force of this Act, the amended provisions of Article 22 (3), (5) through (9) shall not apply. <Amended by Act No. 5745, Feb. 5, 1999>

Article 9 Omitted.

Article 10 (Relation with Other Acts and Subordinate Statutes)

(1) Where any of Acts or subordinate statutes at the time of the entry into force of this Act cite the previous provisions of the Banking Act, the provisions corresponding to this Act, if included, shall be deemed to have been cited.

(2) Notwithstanding the provisions of Article 2 of the Framework Act on the Management of Government-Invested Institutions, where the Government holds not less than 50/100 of issued stocks of financial institutions, the financial institutions shall not be deemed to be government-invested institutions.

ADDENDA <Act No. 5520, Feb. 24, 1998>

(1)(Enforcement Date)This Act shall enter into force on the date of its promulgation.

(2)(Transitional Measures concerning Authorization of Financial Supervisory Commission)The approving power of the Financial Supervisory Commission in connection with the enforcement of the amended provisions of Article 37 (2) shall be exercised by the Director of the Board of Bank Supervision at the Bank of Korea from the date on which this Act is promulgated until March 31, 1998.

ADDENDUM <Act No. 5540, May 25, 1998>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 5745, Feb. 5, 1999>

Article 1 (Enforcement Date) This Act shall enter into force on April 1, 1999:
Provided, That the amendments to Articles 15 (7) and 35 (1) through (3) shall enter into force on January 1, 2000.

Article 2 (Transitional Measures on Credit Line)

(1) A financial institution which extends credits in excess of the line under the amendments to Articles 15 (7) and 35 (1) and (3) pursuant to the proviso of Article 1 of the Addenda at the time of the entry into force of the amendments shall ensure that it conforms to the said amendments not later than December 31, 2002, and shall present a detailed plan for such implementation to and obtain approval from the Financial Supervisory Commission not later than January 31, 2000.

(2) A financial institution which extends credits in excess of the line under the amendments to Article 35 (4) at the time of the entry into force of this Act shall ensure that it conforms to the said amendments not later than March 31, 2000, and shall present a detailed plan for such implementation to and obtain approval from the Financial Supervisory Commission not later than April 30, 1999.

Article 3 (Transitional Measures on Qualification of Officers)

(1) Where an officer of a financial institution who is in office at the time of the entry into force of this Act falls under Article 18 (1) 7 or 8 for a cause arising prior to the entry into force of this Act, he shall be governed by the former provisions for one year from the date of the entry into force of this Act.

(2) The terms of officers of financial institutions who are in office at the time of the entry into force of this Act shall be governed by the former provisions notwithstanding the amendments to Article 19: Provided, That this shall not apply where the financial institution may otherwise determine by the articles of incorporation.

Article 4 (Transitional Measures on Penal Provisions) The application of penal provisions to acts committed prior to the entry into force of this Act shall be governed by the former provisions.

ADDENDA <Act No. 5982, May 24, 1999>

Article 1 (Enforcement Date) This Act shall enter into force on the date of its promulgation. <Proviso Omitted.>

Articles 2 through 6 Omitted.

LAW TITLE: ENFORCEMENT DECREE OF THE BANKING ACT

Law: 9 of 3
Last Article: 27

Article 1 (Purpose) The purpose of this Decree is to prescribe matters delegated by the Banking Act and matters necessary for the enforcement thereof.

Article 2 (Reduction of Capital Stock) For the purpose of Article 10 (1) 2 of the Banking Act (hereinafter referred to as the "Act"), the term "reduction of capital stock as determined by the Presidential Decree" means a substantial reduction of capital stock arising from a reduction in the value or number of stocks.

Article 3 (Scope of Same Person) For the purpose of the purview of Article 15 (1) of the Act, the term "one stockholder and a person who has a special relationship associated with the former as determined by the Presidential Decree" means one stockholder and a person who has a relationship with the former under any of the following subparagraphs (hereinafter referred to as the "same person"):

1. Spouse, a relative by blood within eighth degree, or by marriage within fourth degree, of the stockholder;
2. The stockholder, and a nonprofit corporation, partnership, or organization in which those under subparagraph 1 or 4 occupy a majority of the board members or account for more than fifty percent of the investment in combination with those under subparagraph 3 or 5, or of which one of them is the founder;
3. The stockholder and a company in which those under subparagraphs 1, 2 and 4 hold not less than thirty percent of the total issued voting stocks (including the stockholding; hereinafter the same shall apply) or participate in the management as the largest stockholders;
4. The stockholder and a person employed by a person under subparagraph 2 or 3 (if the employer is a corporation, it refers to an officer, and in case of an individual, a commercial employee, a person employed by an employment contract, or a person who maintains his livelihood by his money or property);
5. The stockholder and a company in which those under subparagraphs 1 through 4 hold not less than thirty percent of the total issued voting stocks or participate in the management as the largest stockholders;
6. Where the stockholder is a person (hereinafter referred to as the "owner of affiliated companies") controlling a large group of companies designated under the Monopoly Regulation and Fair Trade Act (hereinafter referred to as "large group of companies"), a member company of the large group of companies under his control (including the foreign corporation in which the group owner

meets the requirements as prescribed in the main sentence of subparagraphs 1 and 2 of Article 3 of the Enforcement Decree of the Monopoly Regulation and Fair Trade Act by himself or in combination with a person who falls under any of subparagraphs 1 and 2 of the same Article; hereinafter the same shall apply in this Article.) and the officers of that company;

7. Where the stockholder is a person having a relation under subparagraph 1 or 2 with the owner of affiliated companies or an officer of a member company of the large group of companies under the control of the owner of affiliated companies, a member company of the large group of companies under the control of the owner of affiliated companies and the officers of that company; and

8. Where the stockholder is a member company of the large group, a member company of the same large group of companies and the officers of that company.

Article 4 (Demand, etc. for Submission of Materials)

(1) In order to determine the scope of stocks which the same person holds or actually controls (including those which the same person holds in his own or another's name or casts his votes in collusion; hereinafter in Articles 4 through 10, 15 and 18 referred to as "holding"), the financial institution may request the stockholder concerned to submit necessary materials.

(2) Where the stockholder who is requested to submit necessary materials pursuant to paragraph (1) fails to submit such materials within ten days after the receipt of such request or submits false materials, the financial institution shall determine the scope of stocks which the same person holds on the basis of known or available materials.

(3) Where the financial institution determines the scope of stocks which the same person holds pursuant to paragraphs (1) and (2), it shall notify the stockholder concerned thereof, and shall report the current status of stockholdings held by the same person in the financial institution to the FSS Governor on conditions as determined by the FSS Governor.

(4) Where the FSS Governor deems that there is any error in the scope of stocks which the same person holds as determined by the financial institution, he may directly request the stockholder concerned to submit necessary materials.

Article 5 (Requirements for Acceptance and Approval of Report on Stockholding by Foreigners)

(1) Any foreigner who intends to hold stocks of financial institutions pursuant to Article 15 (2) of the Act (meaning any foreigner under subparagraph 1 of Article 2 of the Foreign Investment and Foreign Capital Inducement Act; hereinafter the same shall apply) shall meet the following requirements:

1. He shall be a financial institution engaged in the banking business or the financial business as otherwise determined by the Financial Supervisory Commission in a foreign country (hereinafter referred to as "foreign

financial institution"), or be a holding company of the foreign financial institution;

2.His total assets (for a holding company, it means the total assets of a foreign financial institution controlled by the holding company) shall exceed the size as determined by the Financial Supervisory Commission and have a high international confidence rating;

3.He shall guarantee that he has not been subject to suspension of business for the most recent three years by any financial supervisory agency of the foreign country;

4.He shall not be a person of bad credit standing under Article 22 (6) 2 of the Act; and

5.His capital adequacy ratio on risk-weighted assets according to the standards set by the Bank for International Settlements in the immediately preceding year is not less than 8/100 or corresponding thereto, and he shall meet the standards as otherwise determined by the Financial Supervisory Commission. In this case, the holding company of a foreign financial institution shall be based upon the foreign financial institution whose management is controlled by the holding company.

(2)Any foreigner who intends to hold stocks of financial institutions pursuant to Article 15 (3) of the Act shall meet the following requirements:

1.He shall meet the requirements listed in paragraph (1) 1 through 4;

2.His capital adequacy ratio on the risk-weighted assets according to the standards set by the Bank for International Settlements for the most recent three years in a row is not less than 8/100 or corresponding thereto and he shall meet the standards as otherwise determined by the Financial Supervisory Commission. In this case, the holding company of a foreign financial institution shall be based upon the foreign financial institution whose management is controlled by the holding company;

3.The contents of application for approval shall conform to the provisions of Article 15 (7) of the Act;

4.He shall guarantee that his management and financial standing is confirmed to be sound by the financial supervisory agency of the foreign country concerned, and that the agency consents his stockholding in the financial institution or that his stockholding of the financial institution does not violate Acts and subordinate statutes of the foreign country; and

5.He shall guarantee that he is appropriate as controlling stockholder of the financial institution and is able to contribute to the soundness of the financial institution and efficiency of the financial industry according to documents submitted at the time of application for approval.

Article 6 (Exception to Restriction on Stockholding)

(1)For the purpose of Article 15 (3) 1 of the Act, the term "joint financial

institution as determined by the Presidential Decree" means any financial institution which meets the following requirements:

1. A foreigner shall have been registered as foreign investment enterprise under the Foreign Investment and Foreign Capital Inducement Act (hereinafter referred to as "the Foreign Investment Act") in joint investment with any national or corporation of the Republic of Korea referred to in subparagraphs 2 and 3 of Article 2 of the Foreign Investment Act;

2. The number of voting stocks of the financial institution held by all foreigners shall be not less than 25/100 of the total number of the issued voting stocks of the financial institution; and

3. The number of voting stocks of the financial institution held by the same foreigner shall be more than 10/100 but not more than 50/100 of the issued voting stocks of the financial institution.

(2) For the purpose of Article 15 (3) 2 of the Act, the term "financial institution established by foreigners as determined by the Presidential Decree" means any financial institution registered as a foreign investment enterprise under the Foreign Investment Act individually or as a joint venture by a foreigner with a national of the Republic of Korea, and in which the number of voting stocks of the financial institution held by the same foreigner is more than 50/100 of the total number of issued voting stocks.

Article 7 (Requirements for Acceptance and Approval of Report on Stockholding by National, etc. of Republic of Korea)

(1) Where any national of the Republic of Korea listed in subparagraph 2 of Article 2 of the Foreign Investment Act makes a report to hold stocks of financial institutions pursuant to Article 15 (4) of the Act, he shall meet the requirements listed in subparagraphs 1 and 2, and meet the following requirements where he applies for approval to hold stocks of financial institutions:

1. His funds for acquiring stocks shall not be borrowed from financial institutions (including those under Article 16 (1) 5 through 15, 18, 19, 23 and 24);

2. He shall not be a person of bad credit standing under Article 22 (6) 2 of the Act;

3. The contents of application for approval shall conform to the provisions of Article 15 (7) of the Act; and

4. He shall guarantee that he is appropriate as the controlling stockholder of the financial institution and is able to contribute to the soundness of the financial institution and efficiency of the financial industry according to documents submitted at the time of application for approval.

(2) Where any corporation of the Republic of Korea listed in subparagraphs 3 of Article 2 of the Foreign Investment Act makes a report to hold stocks of financial institutions pursuant to Article 15 (4) of the Act, it shall meet

the requirements listed in subparagraphs 1 through 3, and meet the following requirements where it applies for approval to hold stocks of financial institutions:

1. The capital adequacy ratio of the same person who belongs to the corporation shall be more than the ratio as determined by the Financial Supervisory Commission to the extent of 50/100. In this case, the capital adequacy ratio of the same person shall be calculated as the Financial Supervisory Commission may determine;
2. Its funds for acquiring stocks shall not be borrowed, such as funds raised through the capital increase for value or the disposal of properties held by the corporation within the most recent one year, and shall be within the limits as determined by the Financial Supervisory Commission.
3. Requirements listed in paragraph (1) 2; and
4. Requirements listed in paragraph (1) 3 and 4.

Article 8 (Methods and Procedures for Acceptance and Approval of Report on Stockholding)

- (1) Where it is deemed necessary in light of the qualifications for applicants and distribution of equities of financial institutions in accepting or approving a report under Article 15 (2) through (4) of the Act, the Financial Supervisory Commission may restrict the time and methods of acquiring stocks.
- (2) Where it is deemed that there are exceptional circumstances such as the settlement of insolvent financial institutions under subparagraph 3 of Article 2 of the Act on the Structural Improvement of the Financial Industry, the Financial Supervisory Commission may accept or approve the report where it fails to meet the requirements listed in Article 5 or 7.
- (3) Where any foreigner intends to report or apply for approval under the Act or this Decree in connection with stockholding of financial institutions, the Financial Supervisory Commission may order him to designate a resident (meaning any resident under the Foreign Exchange Control Act) as his agent.
- (4) The detailed matters on methods for the report and application for approval on stockholding of financial institutions shall be determined by the Financial Supervisory Commission.

Article 9 (Period for Processing Acceptance and Approval of Report on Stockholding)

- (1) For the purpose of Article 15 (5) of the Act, the term "the period as determined by the Presidential Decree" means fifteen days from the date on which the report has been made for accepting the report, and thirty days from the date on which the application has been made for approving it.
- (2) Where it is necessary to supplement the contents of the report or the application for approval under Article 15 (2) through (4) of the Act, the Financial Supervisory Commission may require its supplementation within a

specified period.

(3)The period required for supplementation under paragraph (2) and the period for which a notification cannot be given for compelling reasons pursuant to Article 15 (5) of the Act shall not be included in the period listed in paragraph (1).

Article 10 (Restriction, etc. on Stockholding)

(1)For the purpose of the proviso of Article 15 (6) of the Act, the term "any enterprise belonging to an affiliated business group as determined by the Presidential Decree and its persons concerned" means any enterprise belonging to the same affiliated business group whose size of loans from financial institutions ranks first to thirtieth, any person who controls the affiliated business group and persons who have a special relation under Article 3 with him from among the same affiliated business groups as determined by the Financial Supervisory Commission pursuant to Article 35 (5) of the Act.

(2)For the purpose of Article 15 (7) of the Act, the term "ratio as determined by the Presidential Decree" means 25/100 of equity capital.

(3)An amount equivalent to the ratio of contribution made by the same person under Article 15 (7) of the Act to the financial institution shall be an amount calculated by multiplying the ratio, dividing the number of voting stocks of the financial institution held by the same person by the total number of issued voting stocks of the financial institution, by equity capital of the financial institution.

(4)Where any financial institution fails to conform to the limit set forth in paragraph (2) or (3) for any of the following causes although it has not extended additional loans or debt-payment guarantees, it shall submit a plan to conform to the limit to the Financial Supervisory Commission within three months from the date on which such a cause occurs and the plan shall be subject to approval by the Financial Supervisory Commission:

- 1.Increase in amount calculated in terms of won due to fluctuations in exchange rates;
- 2.Decrease in equity capital of the financial institution;
- 3.Mergers between enterprises or takeover of business; and
- 4.Other compelling reasons as recognized by the Financial Supervisory Commission.

Article 11 (Kinds of Credit)

(1)The loans referred to in Articles 15 (7) and 35 (1) of the Act shall mean the following loans on balance sheets of financial institutions:

- 1.Loans;

2. Foreign currency loans;
3. Local import usances; and
4. Substitute payments under payment guarantees (hereinafter referred to as "payment-guaranteed substitute payments").

(2) Payment guarantees referred to in Articles 15 (7) and 35 (2) of the Act shall mean payment guarantees on balance sheets: Provided, That the following shall be excluded:

1. Bid bond; and
2. Payment guarantees listed in Article 34 (2) of the Act.

Article 12 (Exception to Restriction on Appointment as Officers of Foreigners)
For the purpose of the proviso of Article 18 (1) of the Act, the term "financial institutions as determined by the Presidential Decree" means financial institutions registered as foreign investment enterprises under the Foreign Investment Act.

Article 13 (Qualifications, etc. for Officers) For the purpose of Article 18

- (1) 5 of the Act, the term "finance-related Acts and subordinate statutes as determined by the Presidential Decree" means Acts referred to in Article 16 (1) 2, 3, 5 through 23 and the Act on the Establishment, etc. of Financial Supervisory Organizations.

Article 14 (Number of Directors at Financial Institutions) For the purpose of Article 22 (1) of the Act, the term "scope as determined by the Presidential Decree" means the following scope: Provided, That where the number exceeds the following scope for compelling reasons such as mergers between financial institutions or takeovers of business, it shall conform to the following scope within three years from the merger registration date or business takeover date:

1. For a financial institution whose paid-in capital is not less than five hundred billion won or whose total assets are not less than thirty trillion won: not less than eleven but not more than twenty-five persons; and
2. For a financial institution whose paid-in capital is less than five hundred billion won or whose total assets are less than thirty trillion won: not less than seven but not more than fifteen persons.

Article 15 (Method, etc. for Selection of Stockholders' Representative)

- (1) Stockholder representatives referred to in Article 22 (3) of the Act shall be selected in proportion to the ratio of issued voting stocks of the financial institution they hold, and they shall be as many as the number of non-permanent directors referred to in Article 22 (3) 1 of the Act. In this

case, the following stocks shall not be included in the ratio of holding issued stocks:

1. Stocks held by any person who is not qualified as a stockholders' representative pursuant to Article 22 (6) of the Act; and

2. Stocks except for those listed in subparagraph 1, which are held in excess of the limit referred to in Article 15 of the Act.

(2) Where any fractions remain in determining the number of non-permanent directors according to the ratio under Article 22 (3) of the Act, the non-permanent directorship shall be allotted to the larger fraction and where fractions are the same, it shall be allotted to the stockholders' representative.

(3) The detailed matters on the methods for selecting stockholders' representatives and methods for recommending candidates for non-permanent directors shall be determined by the Financial Supervisory Commission.

Article 16 (Restriction on Qualifications for Stockholders' Representatives)

(1) For the purpose of Article 22 (6) 1 of the Act, the term "institutional investors as determined by the Presidential Decree" means those falling under any of the following subparagraphs:

1. The Government;

2. The Bank of Korea established under the Bank of Korea Act;

3. The Korea Deposit Insurance Corporation established under the Depositor Protection Act;

4. Financial institutions under the Banking Act;

5. The Korea Development Bank established under the Korea Development Bank Act;

6. The Industrial Bank of Korea established under the Industrial Bank of Korea Act;

7. The Korea Long-term Credit Bank established under the Korea Long-term Credit Bank Act;

8. The Export and Import Bank of Korea established under the Export and Import Bank of Korea Act;

9. Securities companies, securities finance companies, and investment advisory companies under the Securities and Exchange Act;

10. Insurers under the Insurance Act;

11. Merchant banks under the Merchant Bank Act;

12. Trust companies under the Trust Business Act;
13. Management companies under the Securities Investment Trust Business Act;
14. Mutual savings and finance companies and their federation under the Mutual Savings and Finance Company Act;
15. Specialized credit finance companies under the Specialized Credit Financial Business Act;
16. The Credit Guarantee Fund established under the Credit Guarantee Fund Act;
17. The Korea Technology Credit Guarantee Fund established under the Financial Assistance to New Technology Businesses Act;
18. Credit cooperatives and their federation under the Credit Cooperatives Act;
19. Saemaul Savings depositories and their federation under the Saemaul Savings Depository Act;
20. Establishment investment companies under the Support for Small and Medium Enterprise Establishment Act;
21. Credit information providers under the Use and Protection of Credit Information Act;
22. Futures traders under the Futures Trading Act;
23. The Korea Technology Banking Corporation under the Korea Technology Banking Corporation Act;
24. Persons who conduct taking over, managing or recovering sold bonds acquired by producers and sellers of goods and services through installment sale or deferred sale as their main business;
25. Associations which have been established for the purpose of stabilizing stock markets by making investments in listed securities; and
26. Foreigners who have acquired stocks under the Securities and Exchange Act and who are similar to those in subparagraphs 1 through 24.

(2) For the purpose of Article 22 (6) 2 of the Act, the term "persons of bad credit standing as determined by the Presidential Decree" means those falling under any of the following subparagraphs:

1. An enterprise which is under company reorganization procedures under the Company Reorganization Act;
2. A person who meets the standards as determined by the Presidential Decree from among those of bad credit standing registered with any credit information concentration under Article 17 of the Use and Protection of Credit Information Act; and

3. A person who has caused or is certain to cause financial institutions to incur a large quantity of losses due to holding unsound excess loans, as determined by the Financial Supervisory Commission.

(3) For the purpose of Article 22 (6) 3 and (7) 1 of the Act, the term "enterprise belonging to any affiliated business group" means any enterprise belonging to the same affiliated business group whose size of credit from financial institutions ranks first to fifth from among the same affiliated business groups as determined by the Financial Supervisory Commission pursuant to Article 35 (5) of the Act.

Article 17 (Operation, etc. of Board of Directors)

(1) The board of directors shall be presided over by the governor of a bank: Provided, That this shall not apply where it obtains approval from the Financial Supervisory Commission in consideration of the prospectus and the composition of the board of directors of the financial institution.

(2) The governor of a bank shall report the stockholders' representatives and officers who have made recommendations for candidates for non-permanent directors and transaction (excluding deposit transactions) statements between financial institutions to the board of directors or the general stockholders' meeting on conditions as the Financial Supervisory Commission may determine as he deems necessary for the fair discharge of directors' functions.

(3) The drawing up minutes of the board of directors or other matters necessary for the operation of the board of directors shall be determined by the Financial Supervisory Commission.

Article 18 (Standards for Exclusion from Application of Rules for Appointment of Non-Permanent Directors) For the purpose of Article 26 (1) 2 of the Act, the term "financial institutions meeting the standards as determined by the Presidential Decree" means:

1. A financial institution in which a group of homogeneous stockholders has been formed through restrictions on stockholders' qualifications or the specificity in the distribution of equity holdings at the time of its establishment, in which the group of stockholders virtually controls the management of the financial institution by holding more than 25/100 of the total number of voting stocks issued by the financial institution, and in which the equity holdings of stockholders are dispersed; and

2. A financial institution in which the Government or the Korea Deposit Insurance Corporation holds more than 4/100 of the total number of issued voting stocks (15/100 for a financial institution which is not nationwide) through investments under Article 12 of the Act on the Structural Improvement of the Financial Industry or Article 38-2 of the Depositor Protection Act. [This Article Wholly Amended by Presidential Decree No. 15949, Dec. 29, 1998]

Article 19 (Issuance, etc. of Bonds)

(1) Any financial institution may, upon approval by the Financial Supervisory Commission, issue debentures, convertible bonds, bonds with stock purchase warrants or other debentures equivalent thereto (hereinafter referred to as "financial debentures") as determined by the Commercial Act pursuant to Article 33 of the Act: Provided, That the approval may be replaced by an ex post facto report where they are issued in foreign countries as determined by the Foreign Exchange Control Act and by a report where otherwise determined by the Financial Supervisory Commission.

(2) Where any financial institution issues new financial debentures to redeem already issued financial debentures, the issue amount of financial debentures to be redeemed shall not be included in the issue ceiling on bonds referred to in the later sentence of Article 33 of the Act. In this case, financial debentures which are to be redeemed shall be redeemed within one month after the new financial debentures are issued.

(3) Any financial institution may issue financial debentures through the method of sales by fixing a selling period in advance.

(4) The Financial Supervisory Commission may restrict the kinds, size of issue, method of issue of financial debentures and uses, etc. for raised funds, taking into account economic conditions as deemed necessary.

(5) In applying the Securities and Exchange Act to financial debentures issued pursuant to paragraphs (1) through (4), they shall be bonds referred to in Article 2 (1) 3 of the said Act.

Article 20 (Credit Ceiling, etc.)

(1) For the purpose of Article 35 (1) 1 of the Act and the proviso of paragraph (2) of the said Article, the term "scope as determined by the Presidential Decree" means the ceiling according to the following classification:

1. Where it falls under any of the following items: 20/100 of any financial institution's equity capital for loans and 35/100 of any financial institution's equity capital for debt-payment guarantees:

(a) Where it contributes to acquiring or saving foreign currency;

(b) Where it produces goods or energy which form the basis of industrial development;

(c) Where it contributes greatly to producing daily necessities or boosting employment necessary for the stabilization of national life;

(d) Where it is necessary to strengthen international competitiveness in industry such as promoting policies for increasing specialization in business pursuant to Article 10-3 of the Industry Development Act; and

(e) Where it is necessary to promote social overhead capital infrastructure

projects referred to in subparagraphs 2 and 3 of Article 2 of the Promotion of Private Capital into Social Overhead Capital Investment Act.

2. Where it falls under any of subparagraph 1 and under any of the following items: the ceiling or higher referred to in subparagraph 1 and which is acknowledged by the Financial Supervisory Commission:

(a) Loans and payment guarantees handled by any branch or agent of a foreign financial institution (hereinafter referred to as "foreign bank branch");

(b) Loans and payment guarantees for corporations wholly funded by the Government; and

(c) Payment guarantees for sound overseas constructors from among overseas constructors under the Overseas Construction Promotion Act:

3. Where it exceeds the ceiling provided for in the purview of Article 35 (1) of the Act due to making payment-guaranteed substitute payments: 55/100 of the financial institution's equity capital for the total amount of loans and payment guarantees; and

4. Where it exceeds the ratio provided for in the purview of Article 35 (1) or (2) of the Act for any cause listed in Article 10 (4) although the financial institution have not provided additional loans or payment guarantees: the ceiling or higher referred to in subparagraph 1 and which is acknowledged by the Financial Supervisory Commission.

(2) The Financial Supervisory Commission shall make allowances for the enterprise's importance in terms of national economy, its financial standing and the effect of loans and payment guarantees to the financial institutions on the sound assets of the financial institution in granting approval under Article 35 (1) 1 or (2) of the Act.

Article 21 (Conditions for Contributions to Subsidiaries) The Financial Supervisory Commission may, pursuant to Article 37 (2) 2 of the Act, set the following conditions for financial institutions which can acquire issued stocks of other companies:

1. Management conditions of a financial institution;

2. Management conditions of a subsidiary already invested by a financial institution; and

3. Total investment ceiling in a subsidiary.

Article 22 (Exception to Restriction on Stockholding of Financial Institutions)

(1) For the purpose of subparagraph 9 of Article 38 of the Act, the term "where determined by the Presidential Decree" means:

1. Where it acquires nonvoting stocks issued by other financial institutions;

2. Where it acquires stocks by paying dividends or increasing capital without compensation;

3. Where it acquires stocks through the exercise of a security right such as pledge;

4. Where it participates in capital increase with compensation within the scope of its stake;

5. Where it comes to hold another financial institution's stocks due to mergers or conversions under the Act on the Structural Improvement of the Financial Industry; and

6. Where it acquires its own stocks pursuant to Article 189-2 of the Securities and Exchange Act. In this case, it shall be subject to approval by the FSS Governor, and he may set conditions to the approval.

(2) Where any financial institution acquires stocks pursuant to paragraph (1) 1 through 5, it shall dispose of the stocks within six months from the base date according to the following classification:

1. Where nonvoting stocks acquired pursuant to paragraph (1) 1 are converted into voting stocks: conversion date;

2. For paragraph (1) 2 through 4: acquisition date; and

3. For paragraph (1) 5: merger date or conversion date.

Article 23 (Accumulation Time for Earned Surplus Reserve by Foreign Bank Branches) For foreign bank branches, the term "when it settles accounts" shall be deemed to read "when it pays dividends" referred to in Article 40 of the Act.

Article 24 (Guidelines for Management Guidance) The Financial Supervisory Commission shall set the guidelines for management guidance for the following matters pursuant to Article 45 (2) of the Act:

1. Matters on the appropriateness of capital;

2. Matters on the soundness of assets;

3. Matters on liquidity; and

4. Other matters as deemed necessary with a view to securing sound management.

Article 24-2 (Contributions) The sharing rate and limit of contributions referred to in Article 49 (2) of the Act or the payment of contributions shall be governed by the provisions of Article 12 of the Enforcement Decree of the Act on the Establishment, etc. of Financial Supervisory Organizations. [This Article Newly Inserted by Presidential Decree No. 15761, Apr. 1, 1998]

Article 25 (Scope of Domestic Assets Holdings) The scope of assets to be held by a foreign bank branch pursuant to Article 62 (1) of the Act shall be assets equal to the operating funds under Article 26.

Article 26 (Fiction of Capital Stock) For any foreign bank branch, pursuant to Article 63 of the Act, the operating funds which fall under any of the following subparagraphs and which are acknowledged by the Financial Supervisory Commission shall be its capital stock:

1. Funds in Korean won supplied for a foreign bank branch by selling foreign currency funds by its head office for the establishment of the branch and doing business.
2. Funds transferred from reserves by the foreign bank branch referred to in Article 40 of the Act;
3. Funds transferred from earned surplus carried forward by a foreign bank branch already established in Korea to establish an additional foreign bank branch; and
4. Funds in Korean won raised by selling foreign currency funds by a foreign bank branch to the Bank of Korea.

Article 27 (Procedures for Imposition and Collection of Fine for Negligence)

(1) In imposing a fine for negligence pursuant to Article 69 (1) through (3) of the Act, the Financial Supervisory Commission shall specify in written the conduct of an offense and the amount of a fine for negligence after investigating and confirming the offense, and notify the person subject to the disposition of a fine for negligence.

(2) Where the Financial Supervisory Commission intends to impose a fine for negligence pursuant to paragraph (1), it shall give the person subject to the disposition a fine for negligence an opportunity to state his opinion orally or in writing by fixing a period of ten days or longer. In this case, if no statement is made by the designated date, he shall be deemed to have no opinion.

(3) The Financial Supervisory Commission shall take into account the motive of the offence and its consequences in determining the amount of a fine for negligence.

(4) The fine for negligence shall be collected by the procedures for administration of offices by revenue collectors. In this case, a notice for payment shall include the method for objection and period for objection.

ADDENDA

Article 1 (Enforcement Date) This Decree shall enter into force on April 1, 1998: Provided, That the amendments to Articles 3, 5 through 11, 14 through

18 and 20 shall enter into force on the date of its promulgation.

Article 2 (General Transitional Measures)

(1) Any authorization, approval, decisions, orders, dispositions or other acts by the Monetary Board or the Director of the Board of Bank Supervision at the Bank of Korea under the previous provisions prior to the entry into force of this Decree shall be deemed acts by the Financial Supervisory Commission or the FSS Governor under this Decree.

(2) Any declaration, reports or other acts to the Monetary Board or the Director of the Board of Bank Supervision at the Bank of Korea under the previous provisions prior to the entry into force of this Decree shall be deemed acts to the Financial Supervisory Commission or the FSS Governor under this Decree.

(3) The powers of the Financial Supervisory Commission and the FSS Governor in connection with the entry into force of this Decree shall be delegated to the Director of the Board of Bank Supervision at the Bank of Korea from the date of its promulgation until March 31, 1998.

Article 3 (Transitional Measures on Recognition of Exception to Restriction on Stockholding of Financial Institutions)

(1) Any association under liquidation at the time of the entry into force of this Decree which falls under the previous provisions of Article 4 (3) 2 shall, notwithstanding the amendments to Article 7 (1), be deemed to meet the requirements listed in the said paragraph until the completion of its liquidation.

(2) Where any financial institution acquires stocks of other financial institutions due to any liquidation falling under the previous provisions of

Article 4 (3) 2, it may acquire the stocks of other financial institutions although it fails to meet the requirements listed in Article 22. In this case, it shall dispose of the stocks within one year from the acquisition date.

Article 4 (Transitional Measures on Requirements for Officers)

(1) The requirements for officers of financial institution in office at the time of the entry into force of the Amendment to Presidential Decree No. 15268 (the Enforcement Decree of the Banking Act) shall be governed by the previous provisions (meaning the provisions before they are amended pursuant to the Amendment to the Decree) until the expiration of their terms.

(2) The requirements for foreign officers of financial institutions other than those pursuant to the Amendments to Article 12 at the time of the entry into force of the Amendment to Presidential Decree No. 15268 (the Enforcement Decree of the Banking Act) shall be governed by the previous provisions until

the expiration of their terms.

(3)The requirements for officers of financial institutions in office at the time of the entry into force of this Decree shall, notwithstanding the amendments to Article 13, be governed by the previous provisions until the expiration of their terms.

Article 5 (Transitional Measures on Stockholding by Same Person) Where the same person holds or controls stocks in excess of the ceiling under the amendment to Article 17-3 (1) of Act No. 5253 (the Amendment to the Banking Act) due to the amendments to subparagraphs 2 and 6 of Article 3-2 of Presidential Decree No. 15268 (the Amendment to the Enforcement Decree of the Banking Act), he shall ensure that it conforms to the provisions of Article 15 of the Act by February 4, 2002. In this case, the extent in which he is entitled to cast votes on his stocks shall be restricted to the ceiling allowed pursuant to Article 15 of the Act.

Article 6 (Transitional Measures on Joint Financial Institutions) Persons who are deemed joint financial institutions pursuant to Article 5 of the Addenda of Presidential Decree No. 15268 (the Enforcement Decree of the Banking Act) shall be deemed joint financial institutions under the amendment to Article 6 (1).

Article 7 (Transitional Measures on Loans, etc. in Excess of Ceiling)

(1)Any financial institution which provides loans or payment guarantees in excess of the ceiling referred to in Article 7 (2) and (3) of the Amendment to the Decree at the time of the entry into force of Presidential Decree No. 14634, (the Amendment to the Enforcement Decree of the Banking Act) shall conform to the Amendment to the Decree by April 28, 1998: Provided, That this shall not apply where it obtains approval from the FSS Governor.

(2)Any financial institution which falls under Article 5 of the Addenda of Act No. 5253 (the Amendment to the Banking Act) and which provides loans or payment guarantees in excess of the ceiling referred to in the amendment to Article 10 (2) and (3) at the time of the entry into force of this Decree shall conform to the amendment within three years from the date of the entry into force of this Decree: Provided, That this shall not apply where it obtains approval from the FSS Governor.

ADDENDA <Presidential Decree No. 15761, Apr. 1, 1998>

(1)(Enforcement Date)This Decree shall enter into force on the date of its promulgation.

(2)(Transitional Measures on Scope of Persons Engaged in Supervisory Duties in Supervisory Agency in Applying Penal Provisions)The application of the penal provisions to acts committed by persons engaged in supervisory duties in the supervisory agencies prior to the entry into force of this Decree shall be

governed by the previous provisions, notwithstanding the amended provisions of Article 10.

(3)(Transitional Measures on Registration Standards for Credit Information)Credit information providers or credit information concentrations, etc. shall register, modify, manage and remove credit information in accordance with the standards and procedures determined by the Minister of Finance and Economy pursuant to the previous provisions of Article 10 of the Enforcement Decree of the Use and Protection of Credit Information Act until the Financial Supervisory Commission determines the standards and procedures pursuant to the amended provisions of Article 10 of the Enforcement Decree of the Use and Protection of Credit Information Act.

(4)(Transitional Measures on Dispositions) At the time of the entry into force of this Decree, authorization or other actions taken by administrative agencies, or various reports or other actions submitted to administrative agencies under the previous provisions, shall be deemed to be actions taken by or submitted to administrative agencies under this Decree.

ADDENDUM <Presidential Decree No. 15949, Dec. 29, 1998>

This Decree shall enter into force on the date of its promulgation.

LAW TITLE: DEPOSITOR PROTECTION ACT

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CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose) The purpose of this Act is to contribute to protecting depositors and maintaining the stability of financial system by efficiently operating a deposit insurance system in order to cope with conditions in which a financial institution is unable to pay their deposits due to its bankruptcy. <Amended by Act No. 5492, Dec. 31, 1997>

Article 2 (Definitions) For the purpose of this Act, the definitions of terms shall be as follows: <Amended by Act No. 5403, Aug. 30, 1997; Act No. 5492,

Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

1. The term "insured financial institutions" means financial institutions which are the objects of application of deposit insurance as prescribed in this Act and which fall under any of the following items:

- (a) Financial institutions authorized under Article 8 (1) of the Banking Act;
 - (b) The Korea Development Bank established under the Korea Development Bank Act;
 - (c) The Industrial Bank of Korea established under the Industrial Bank of Korea Act;
 - (d) Deleted; <by Act No. 5403, Aug. 30, 1997>
 - (e) The National Agricultural Cooperatives Federation as prescribed in the Agricultural Cooperatives Act;
 - (f) The National Fisheries Cooperatives Federation as prescribed in the Fisheries Cooperatives Act, and fisheries cooperatives which are its members and which conduct such businesses as provided in Article 65 (1) 4 (d) of the Fisheries Cooperatives Act;
 - (g) The National Livestock Cooperatives Federation as prescribed in the Livestock Industry Cooperatives Act;
 - (h) The Long-Term Credit Bank as prescribed in the Long-Term Credit Bank Act;
 - (i) Domestic branch offices and agencies of foreign financial institutions authorized under Article 58 (1) of the Banking Act (excluding domestic branch offices and agencies of foreign financial institutions as prescribed by the Presidential Decree);
 - (j) Securities companies which obtain permission to conduct the securities business as provided in Article 2 (8) 2 through 4 of the Securities and Exchange Act (excluding securities companies which conduct exclusively a business of buying and selling or brokerage of securities outside the securities market);
 - (k) Insurers who obtain permission as provided in Article 5 (1) of the Insurance Business Act (excluding insurers who mainly conduct reinsurance or guarantee insurance business and who are prescribed by the Presidential Decree);
 - (l) Merchant banks as prescribed in the Merchant Banks Act;
 - (m) Mutual savings and finance companies as prescribed in the Mutual Savings and Finance Company Act; and
 - (n) Credit cooperatives as prescribed in the Credit Cooperatives Act;
2. The term "deposit" means those falling under any of the following items: Provided, That the scope may be restricted by the Presidential Decree:

(a) Money which insured financial institutions as provided in subparagraph 1 (a) through (i) (hereinafter referred to as "banks") raise by bearing liabilities from many and unspecified persons by means of deposits, installment deposits, or installments, and money which they raise through money trusts whose principals are compensated under Article 10 (2) of the Trust Business Act;

(b) Money which any customer deposits in insured financial institutions as provided in subparagraph 1 (j) (hereinafter referred to as "securities companies") in connection with buying and selling of securities or other transactions;

(c) Insurance premiums received by insured financial institutions as provided in subparagraph 1 (k) (hereinafter referred to as "insurers") according to any insurance contract;

(d) Money which insured financial institutions as provided in subparagraph 1 (l) (hereinafter referred to as "merchant banks") raise through the issuance of bills as provided in Article 7 (1) of the Merchant Banks Act, and financial goods as they raise funds from many and unspecified persons, invest such funds in securities, and pay profits therefrom;

(e) Money which insured financial institutions as provided in subparagraph 1 (m) (hereinafter referred to as "mutual savings and finance companies") raise by means of fraternity dues, installments, deposits and installment deposits; and

(f) Money which insured financial institutions as provided in subparagraph 1 (n) (hereinafter referred to as "credit cooperatives") raise by means of investments, deposit money and installment deposits;

3. The term "depositors" means those who have deposits or other claims against insured financial institutions;

4. The term "deposits or other claims" means the capital, principal, interest, profits, insured amount, sundry payments and other agreed pecuniary claims which depositors have against insured financial institutions through financial transactions such as deposits;

5. The term "insolvent financial institutions" means the following insured financial institutions:

(a) Insured financial institutions the liabilities of which exceed assets as a result of an actual inspection of management situations or insured financial institutions the normal management of which is clearly difficult because their liabilities exceed assets due to an occurrence of large financial accidents or nonperformance claims, which are determined by the Financial Supervisory Commission or the Operating Committee under Article 8;

(b) Insured financial institutions which are in suspension of payment for claims such as deposits or redemption of borrowed money from other financial institutions; and

(c) Insured financial institutions for which the Financial Supervisory Commission or the Operating Committee under Article 8 deems it difficult to pay for claims such as deposits or redeem borrowed money without financial support or special borrowing (excluding borrowing incurred from ordinary financial transactions) from outside;

5-2. The term "insolvency-threatened financial institutions" means insured financial institutions which are concluded to have a high possibility of becoming insolvent financial institutions due to their weak financial standing by the Operation Committee under Article 8;

6. The term "financial support" means the following items which the Korea Deposit Insurance Corporation established under Article 3 provides to be borne from a deposit insurance fund under Article 24 (1):

- (a) Loaning or depositing of funds;
- (b) Purchasing assets;
- (c) Guaranteeing or accepting obligations; and
- (d) Investments or contributions;

7. The term "insurance risk" means the following items:

- (a) Insured financial institutions' payment suspension of claims such as deposits (hereinafter referred to as the "first-class insurance risk"); and
- (b) Insured financial institutions' cancellation of business authorization and permission, decision of dissolution or declaration of bankruptcy (hereinafter referred to as the "second-class insurance risk").

CHAPTER II DEPOSIT INSURANCE CORPORATION

SECTION 1 Common Provisions

Article 3 (Establishment) For the purpose of efficiently operating a deposit insurance system, the Deposit Insurance Corporation shall be established under this Act.

Article 4 (Corporate Personality)

- (1) The Deposit Insurance Corporation (hereinafter referred to as the "Corporation") is a non-capital special corporation.
- (2) The Corporation shall be operated under this Act, orders issued under this Act, or the articles of incorporation.

Article 5 (Registration)

- (1) The Corporation shall be registered as prescribed by the Presidential Decree.
- (2) The Corporation shall be formed by registering its incorporation in the location of its main office.
- (3) For matters which require registration under the provisions of paragraph (1), the Corporation shall not set up against third parties unless those matters happen following the registration.

Article 6 (Articles of Incorporation)

(1) In the articles of incorporation, the following matters shall be entered:

1. Purpose;
2. Title;
3. Location of office;
4. Matters relating to the deposit insurance funds;
5. Matters relating to the Operating Committee;
6. Matters relating to the board of directors;
7. Matters relating to the officers and the employees;
8. Matters relating to the business and execution thereof;
9. Matters relating to accounting;
10. Matters relating to changes in the articles of incorporation; and
11. Method of public notification.

(2) When the Corporation desires to change its articles of incorporation, it shall obtain the authorization of the Minister of Finance and Economy, after a resolution has been passed by the Operating Committee established under the provisions of Article 8. <Amended by Act No. 5556, Sep. 16, 1998>

Article 7 (Prohibition of Use of Similar Trade Names) A person who is not the Corporation shall not use "Deposit Insurance Corporation" or similar trade names.

SECTION 2 Operating Committee

Article 8 (Operating Committee)

(1) An operating committee (hereinafter referred to as the "Committee") shall

be established in the Corporation.

(2) The Committee shall establish a basic direction relating to the operation of the Corporation, under this Act, orders issued under this Act, or the articles of incorporation, and shall deliberate upon matters such as use and purpose plans of the funds.

Article 9 (Composition of Committee)

(1) The Committee shall be composed of members of the following subparagraphs: <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

1. President of the Corporation;
2. Vice Minister of Finance and Economy;
3. Vice Chairman of the Financial Supervisory Commission;
4. Vice Governor of the Bank of Korea;
5. Chairman of the Korea Federation of Banks;
6. Chairman of the Korea Securities Dealers Association;
7. Chairman of the Incorporated Life Insurance Association;
8. Chairman of the Incorporated Korea Non-life Insurance Association;
9. Chairman of the Incorporated Merchant Banks Association;
10. Chairman of the Mutual Saving and Finance Company Federation;
11. Chairman of the Credit Cooperatives Federation; and
12. Two members commissioned by the Minister of Finance and Economy, on the recommendation of the president of the Corporation.

(2) The qualifications for the members of paragraph (1) 12 shall be prescribed by the Presidential Decree. <Amended by Act No. 5492, Dec. 31, 1997>

(3) The tenure of office of the members of paragraph (1) 12 shall be three years, and they may be re-appointed. <Amended by Act No. 5492, Dec. 31, 1997>

Article 10 (Operation)

(1) The chairman of the Committee shall be the president of the Corporation.

(2) The chairman shall represent the Committee and exercise general control over the business of the Committee.

(3) When the chairman is unable to perform his duties for compelling reasons,

the members under Article 9 (1) 2 through 4 in accordance with the order prescribed thereby shall act for the chairman. <Amended by Act No. 5492, Dec, 31, 1997>

(4) The Committee shall make resolutions with the attendance of a majority of the Committee and with the affirmative vote of a majority of the members present.

(5) Where matters to be decided by the Committee are those confined to any specific type of insured financial institution, an operating subcommittee (hereinafter referred to as the "subcommittee") may be established and operated for the effective operation of the Committee. <Newly Inserted by Act No. 5492, Dec, 31, 1997>

(6) The subcommittee shall be composed of not less than seven members, including members listed in Article 9 (1) 1 through 4 and 12. <Newly Inserted by Act No. 5492, Dec, 31, 1997>

(7) The chairman of the subcommittee shall be the member as prescribed in Article 9 (1) 1. <Newly Inserted by Act No. 5492, Dec, 31, 1997>

(8) The provisions of paragraphs (2) through (4) shall apply mutatis mutandis to the subcommittee. <Newly Inserted by Act No. 5492, Dec, 31, 1997>

(9) Decisions taken by the subcommittee shall be deemed decisions taken by the Committee. <Newly Inserted by Act No. 5492, Dec, 31, 1997>

(10) Matters necessary for the operation of the Committee and subcommittees shall be prescribed by the Presidential Decree. <Amended by Act No. 5492, Dec, 31, 1997>

SECTION 3 Officers and Employees

Article 11 (Officers)

(1) The Corporation shall have one president, not more than five directors, and one auditor. <Amended by Act No. 5492, Dec, 31, 1997>

(2) The president shall be appointed and dismissed by the President of the Republic of Korea upon recommendation of the Minister of Finance and Economy. <Amended by Act No. 5556, Sep. 16, 1998>

(3) The directors shall be appointed and dismissed by the Minister of Finance and Economy upon recommendation of the president of the Corporation. <Amended by Act No. 5556, Sep. 16, 1998>

(4) An auditor shall be appointed and dismissed by the Minister of Finance and Economy. <Amended by Act No. 5556, Sep. 16, 1998>

(5) The tenure of office of the president, the directors and the auditor (hereinafter referred to as "officers") shall be three years, and they may be re-appointed.

(6) When there is a vacancy among the officers, it shall be filled by a new appointment, and the tenure of office of the new appointee shall be reckoned from the date on which he was appointed.

Article 12 (Duties of Officers)

(1) The president shall represent the Corporation, and exercise general control over the business of the Corporation.

(2) The directors shall assist the president, and shall take partial charge of the business of the Corporation, under the articles of incorporation.

(3) When the president is unable to perform his duties, an officer shall act for the president, in the order as provided for in the articles of incorporation.

(4) The auditor shall inspect and audit the business and the accounts of the Corporation.

Article 13 (Status Guarantee of Officers) Except in cases falling under one of the following subparagraphs, an officer shall not be removed against his will before the end of his tenure:

1. When a case falls under any of the subparagraphs of Article 16;

2. When a case is in conflict with this Act, an order under this Act or the articles of incorporation; and

3. When, due to mental or physical disability, the execution of one's duties is extremely difficult.

Article 14 (Board of Directors)

(1) A board of directors shall be established in the Corporation.

(2) The board of directors shall be composed of the president and directors.

(3) The board of directors shall resolve principal matters relating to the business of the Corporation.

(4) The president shall convene the board of directors, and shall be the chairman.

(5) The board of directors shall make resolutions with the attendance of a majority of all the members and with the affirmative vote of a majority of the members present.

(6) The auditor may state his views by attending the meetings of the board of directors.

Article 15 (Appointment and Dismissal of Employees) The president shall appoint and dismiss the employees of the Corporation.

Article 16 (Disqualification for Appointment to Office) A person who falls under any of the following subparagraphs shall not be an officer or an employee of the Corporation:

1. A person who is not a citizen of the Republic of Korea; and
2. A person falling under any of the subparagraphs of Article 33 of the State Public Officials Act.

Article 17 (Duty of Prohibition from Side Jobs)

- (1) Except for his duties, an officer shall not engage in a profit-making business without receiving the permission of the Minister of Finance and Economy. <Amended by Act No. 5556, Sep. 16, 1998>
- (2) Except for his duties, an employee shall not engage in a profit-making business without receiving the authorization of the president.
- (3) An officer or an employee of the Corporation, or a person who held such positions in the Corporation, shall not divulge trade secrets learned from his duties.

SECTION 4 Duties

Article 18 (Scope of Duties)

(1) For the purpose of attaining the objectives of this Act, the Corporation shall carry out duties listed in the following subparagraphs: <Amended by Act No. 5492, Dec, 31, 1997>

1. Management and operation of the deposit insurance fund;
2. Receipt of premiums under the provisions of Article 30;
3. Payments of insurance money under the provisions of Articles 31 and 32;
4. Liquidation of insolvent financial institutions under the provisions of Articles 35-2 through 38-2;
5. Duties incidental to the duties of subparagraphs 1 through 4;
6. Duties commissioned or designated by the government for the protection of depositors; and
7. Other business as determined by other Acts and subordinate statutes.

(2) The Corporation may, after deliberation by the Committee, enact provisions necessary for the execution of its duties.

Article 19 Deleted. <by Act No. 5492, Dec, 31, 1997>

Article 20 (Business Agency)

(1) When necessary, the Corporation may allow part of its business to be vicariously executed by another agency (hereinafter referred to as "acting agency"). <Amended by Act No. 5556, Sep. 16, 1998; Act No. 5702, Jan. 29, 1999>

(2) The scope of the acting agency shall be prescribed by the Presidential Decree.

Article 21 (Request to Insured Financial Institutions for Submission of Materials)

(1) With regard to insured financial institutions, the Corporation may request the submission of materials related to the business and property of an insured bank property to the extent necessary for the establishment and receipt of premiums under the provisions of Article 30, the calculation and payment of insurance money under the provisions of Articles 31 and 32, and the liquidation of insolvent financial institutions under the provisions of Articles 35-2 through 38-2. <Amended by Act No. 5492, Dec. 31, 1997>

(2) On the basis of the materials submitted under the provisions of paragraph (1), the Corporation may investigate the business and the state of the property of an insured financial institution about which there is concern related to insolvency, as deemed by the Committee. <Amended by Act No. 5492, Dec. 31, 1997>

(3) The Corporation may ask the Governor of the Financial Supervisory Service (hereinafter referred to as "the Financial Supervisory Service Governor") established under the Act on the Establishment of Financial Supervisory Organizations to conduct an inspection of an insured financial institution and transmit the results of the inspection or have its staff to participate jointly in the inspection of the insured financial institution by setting the specific scope as deemed necessary for the protection of depositors and the maintenance of financial system's stability. In this case, the Financial Supervisory Service Governor shall comply with such a request unless any Special cause exists. <Amended by Act No. 5492, Dec. 31, 1997>

(4) Where it deems necessary for the protection of depositors, the Corporation may ask the Financial Supervisory Service Governor to present data relating to an insured financial institution by setting the specific scope. In this case, the Financial Supervisory Service Governor shall comply with such asking unless any special cause exists. <Newly Inserted by Act No. 5556, Sep. 16, 1998>

SECTION 5 Treasury and Accounting

Article 22 (Accounting) The fiscal year of the Corporation shall be in accordance with the fiscal year of the Government.

Article 23 (Budget and Settlement of Accounts) The budget and settlement of accounts of the Corporation shall be approved by the Minister of Finance and Economy through a resolution of the Committee. <Amended by Act No. 5556, Sep. 16, 1998>

Article 24 (Setting Up of Deposit Insurance Fund)

(1) A deposit insurance fund (hereinafter referred to as "Fund") shall be established in the Corporation for the receipt of premiums under the provisions of Article 30, the payment of insurance money under the provisions of Articles 31 and 32, the purchase of claims such as deposits under Article 35-2, investments under Article 36-3 (4), supporting funds under the provisions of Articles 36-5 (3) and 38, and support for insolvency-threatened financial institutions under Article 38-2. <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

(2) The following subparagraphs shall be the sources of revenue for the Fund: <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

1. Contributions from insured financial institutions;
2. Contributions from the Government;
 - 2-2. Funds created from the issue of deposit insurance fund bonds;
 - 2-3. State property granted by the Government to the Corporation under Article 24-2;
3. Loans under the provisions of Article 26;
4. Premiums received under the provisions of Article 30 (1);
 - 4-2. Funds collected claims such as purchased deposits under Article 35-2;
5. Funds recovered from those funds provided for the liquidation of insolvent financial institutions under the provisions of Article 36-5 (3), 38 or 38-2;
and
6. Operating profits of the Fund and other revenues.

(3) The Fund shall meet its expenses for insurance money, redemption of the principal and interests of deposit insurance fund bonds, payments to depositors, etc. under Article 35-2, investments under Article 36-3 (4), funds for supporting the liquidation, etc. of insolvent financial institutions under Article 36-5 (3), 38 or 38-2, redemption of borrowed money and its interest, and transfer, etc. to accounts managing funds necessary for the operation of the Corporation under Article 24-3 (1). <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

(4) The contributions under the provisions of paragraph (2) 1 shall be

determined separately for each insured financial institution by taking into account the deposit balance of each insured financial institution, within the scope of not exceeding one percent (ten percent for merchant banks and mutual saving and finance companies) of its paid-in capital or contribution. The payment amount, payment time and payment method shall be prescribed by the Presidential Decree. <Amended by Act No. 5492, Dec. 31, 1997>

Article 24-2 (Gratuitous Transfer of State Property)

(1) If the Government deems it necessary to protect depositors and assure the stability of the order concerning credit, it may transfer the miscellaneous property under Article 4 (4) of the State Properties Act to the Corporation gratuitously, notwithstanding the provisions of Article 44 of the same Act.

(2) The transfer under paragraph (1) shall be subject to the prior consent of the National Assembly after the deliberation of the State Council and the approval of the President: Provided, That if it is deemed particularly necessary to protect depositors and assure the stability of the order concerning credit, such transfer shall only be subject to an ex post facto approval of the National Assembly.

[This Article Newly Inserted by Act No. 5421, Dec. 13, 1997]

Article 24-3 (Separate Audit of Accounts)

(1) The Fund shall be audited, independently of other accounts for funds necessary for the operation of the Corporation. <Newly Inserted by Act No. 5556, Sep. 16, 1998>

(2) The Fund shall be established as separate accounts and audited independently of one another by banks, securities companies, and insurers. For insurers, they shall be further separately audited as life insurance and non-life insurance.

(3) The Committee shall determine an overall transfer of assets and liabilities between accounts under paragraph (2), transactions such as loans, transaction between accounts under paragraph (2) and the Corporation, and the methods, etc. of distributing expenses for the operation of the Corporation. <Amended by Act No. 5556, Sep. 16, 1998>

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 25 (Operation of Surplus Cash) When there is a cash surplus, the Corporation may use such surplus in accordance with the methods falling under the following subparagraphs: <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

1. Purchase of government bonds and public loans, or other marketable securities designated by the Committee;

2. Deposit in insured financial institutions designated by the Committee;

3. Other methods prescribed by the Minister of Finance and Economy.

Article 26 (Loan)

(1) When deemed necessary for the execution of its duties stipulated under the provisions of Article 18 (1) 3 and 4, the Corporation, notwithstanding the provisions of Article 79 of the Bank of Korea Act, may borrow funds at the fund's account from the Government, the Bank of Korea, insured financial institutions or other institutions as determined by the Presidential Decree, as prescribed by the Presidential Decree. <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

(2) The Government may guarantee the redemption of the principal and interest of loans from the Bank of Korea under paragraph (1). <Newly Inserted by Act No. 5492, Dec. 31, 1997>

Article 26-2 (Issue of Deposit Insurance Fund Bonds)

(1) The Corporation may issue deposit insurance fund bonds (hereinafter referred to as "bonds") from the account's charge through a decision by the Committee to raise funds necessary for the protection of depositors and the safety of credit system.

(2) Where the Corporation intends to issue bonds, it shall determine the amount, terms and the methods of issue and redemption at every issue and report them to the Minister of Finance and Economy. <Amended by Act No. 5556, Sep. 16, 1998>

(3) The necessary matters for the issue of bonds shall be determined by the Committee.

(4) The extinctive prescription of bonds shall terminate at the lapse of 5 years for principal and two years for interest.

(5) The Government may guarantee the redemption of the principal and interest of bonds.

(6) Bonds shall be deemed bonds under Article 2 (1) 3 of the Securities and Exchange Act.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

SECTION 6 Supervision

Article 27 (Supervision)

(1) The Minister of Finance and Economy shall guide and supervise the duties of the Corporation, and may give necessary orders. <Amended by Act No. 5556, Sep. 16, 1998>

(2) When a disposition of the Corporation under this Act is unlawful, or when

deemed necessary for the protection of depositors, the Minister of Finance and Economy may cancel all or part of such disposition, or suspend the execution of such disposition.

Article 28 (Report and Inspection)

(1) When deemed necessary, the Minister of Finance and Economy may have the Corporation report matters pertaining to its duties, accounting, and properties, or have public officials under his jurisdiction investigate the state of the Corporation's business, books and records, documents, facilities, or other matters. <Amended by Act No. 5556, Sep. 16, 1998>

(2) Where public officials under the jurisdiction of the Minister of Finance and Economy undertake an investigation under the provisions of paragraph (1), such officials shall carry certificates indicating their authority and show the certificates to relevant personnel.

CHAPTER III DEPOSIT INSURANCE

Article 29 (Insurance Relations)

(1) Insurance relations among the Corporation, an insured financial institution, and a depositor shall be formed when a depositor holds a claim such as a deposit against an insured financial institution. <Amended by Act No. 5492, Dec. 31, 1997>

(2) Any insured financial institution shall indicate whether insurance relations have been created and their contents under paragraph (1) on such terms and conditions as the Corporation may determine. <Newly Inserted by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

Article 30 (Payment of Premiums)

(1) Each insured financial institution shall pay to the Corporation as insurance money the amount (one hundred thousand won where the amount is less than one hundred thousand won) calculated by multiplying a balance of deposits (an amount as determined by the Presidential Decree in consideration of liability reserves under Article 98 of the Insurance Act for insurers) by the ratio as determined by the Presidential Decree not exceeding 0.005 percent. In this case, the ratios may be set differently taking into account the management and financial status by insured financial institution and accumulated amounts of accounts under Article 24-3 (2). <Amended by Act No. 5556, Sep. 16, 1998>

(2) Notwithstanding the provisions of paragraph (1), with regard to an insured financial institution falling under any of the following subparagraphs, the Corporation may, through a resolution of the Committee, reduce all or part of the premiums, or defer the payment of the premiums by prescribing a specified period: <Amended by Act No. 5492, Dec. 31, 1997>

1. An insured financial institution which is related to an insured risk; and
 2. An insured financial institution about which, in view of its financial status, there is concern over the possibility of a suspension of payment of deposits, or whose normal business is extremely difficult.
- (3) Where an insured financial institution does not pay the premiums referred to in paragraph (1), by the time limit of payment, such insured financial institution shall pay an arrear in addition to the premiums to the Corporation, as prescribed by the Presidential Decree. <Amended by Act No. 5492, Dec. 31, 1997>
- (4) The method and time of payment and other necessary matters pertaining to the premiums and arrears under the provisions of paragraphs (1) and (3) shall be prescribed by the Presidential Decree.

Article 31 (Payment of Insurance Money)

- (1) When an insurance risk occurs to an insured financial institution, the Corporation shall pay the insurance money, under the request of the depositors of the insured financial institution concerned: Provided, That with respect to a first-class insurance risk, there shall be a payment decision of the insurance money under the provisions of Article 34. <Amended by Act No. 5492, Dec. 31, 1997>
- (2) In case of a first-class insurance risk, part of claims such as deposits of the depositors may be paid in advance at the request of depositors as prescribed by the Presidential Decree. <Amended by Act No. 5492, Dec. 31, 1997>
- (3) The Corporation shall make public notification of the period and method of payment under the provisions of paragraph (1) or (2) and other necessary matters, as prescribed by the Presidential Decree, and the depositors shall request payment within the publicly announced period: Provided, That where it is deemed that there is cause for not requesting payment within such period, this shall not apply.
- (4) Where a financial institution which is newly established due to a merger or conversion, a financial institution which survives after a merger, or a financial institution after a conversion under the Act on the Structural Improvement of the Financial Industry continues to conduct the business of a financial institution which no longer exists due to a merger or conversion or a financial institution before a conversion under Article 9 of the same Act, it shall be deemed to exist as an independent insured financial institution in the application the provisions of paragraph (1) for one year from the date of merger registration or the date of registration of alteration of the articles of incorporation or change in business category. <Newly Inserted by Act No. 5556, Sep. 16, 1998>
- (5) Where a second-class insurance risk occurs after a first-class insurance risk, the second-class insurance risk shall not be deemed as an independent insurance risk in applying the provisions of paragraph (1). <Newly Inserted

by Act No. 5556, Sep. 16, 1998>

Article 32 (Calculation of Insurance Money)

(1) The insurance money paid to each depositor by the Corporation under the provisions of Article 31 shall be the amount obtained by deducting the total amount of debts (excluding security debts) owed by each depositor to his corresponding insured financial institution from the total amount of claims such as deposits of each depositor as of the date of payment announcement of insurance money under Article 31 (3) (hereinafter referred to as "date of payment announcement of insurance money"); Provided, That this shall not apply where it is otherwise determined by the Presidential Decree. <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

(2) The maximum amount of insurance money under paragraph (1) shall be determined by the Presidential Decree.

(3) Where there is an amount received in advance (hereinafter referred to as "provisionally-paid amount") by each depositor under the provisions of

Article 31 (2), the insurance money shall be the amount from which the provisional payment money is deducted under the provisions of paragraphs (1) and (2).

(4) Where the amount of the provisional payment money paid to a depositor exceeds the insurance money under the provisions of paragraphs (1) and (2), the depositor shall return such excess amount to the Corporation.

Article 33 (Notification of Insurance Risk)

(1) When an insurance risk occurs, the insured financial institution shall promptly notify the Corporation. <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5702, Jan. 29, 1999>

(2) Where one of the following events occurs, the Minister of Finance and Economy, the Financial Supervisory Commission or the Financial Supervisory Service Governor shall promptly notify the Corporation under the Presidential Decree: <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

1. When a suspension of payment of claims such as deposits or suspension of business of an insured financial institution is ordered;

2. When the authorization or permission on business of an insured financial institution is cancelled, or the dissolution resolution of an insured financial institution is approved; and

3. When a notification, under the provisions of Article 115 of the Bankruptcy Act, is received from the court.

Article 34 (Payment Decision)

(1) In case of a first-class insurance risk, in accordance with a resolution of the Committee, the Corporation shall make a decision on whether or not to pay the insurance money within 2 month from the date of the receipt of the notification, under the provisions of Article 33. <Amended by Act No. 5492, Dec. 31, 1997>

(2) The Corporation, by obtaining the authorization of the Minister of Finance and Economy, may extend the time limit of paragraph (1) by a period not exceeding one month. <Amended by Act No. 5556, Sep. 16, 1998>

Article 35 (Acquisition of Claims) Where insurance money and suspense payment is paid, the Corporation, within the scope of such payment, shall acquire the rights of the depositors related to the insured financial institution.
<Amended by Act No. 5492, Dec. 31, 1997>

CHAPTER IV LIQUIDATION OF INSOLVENT FINANCIAL INSTITUTIONS

Article 35-2 (Purchase of Claims such as Deposits)

(1) Where the Corporation pays insurance money under Article 31 (1), it may purchase claims such as deposits related to such insurance risk.

(2) The Corporation shall, in purchasing claims such as deposits under paragraph (1), pay an amount obtained by estimating the worth of claims such as deposits (hereinafter referred to as "estimated payment") under paragraph

(3) on the request of depositors. In this case, where an amount which is calculated by deducting actually paid expenses from the realized claims such as deposits which have been purchased by the Corporation exceeds an estimated payment, it shall pay the excess amount additionally to the depositors.

(3) An estimated payment shall be the amount calculated by multiplying the value of claims such as deposits purchased by the Corporation from such depositors based on the date of payment announcement (excluding claims such as deposits equivalent to security obligations of depositors, and claims such as deposits which are the subject of mortgage rights) by estimated payment rates under Article 35-3. <Amended by Act No. 5556, Sep. 16, 1998>

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 35-3 (Estimated Payment Rates) Where the Corporation purchases claims such as deposits under Article 35-2 (1), it shall determine estimated payment rates in the light of an insolvent financial institution's financial status, taking into consideration an estimated amount to be performed for claims such as deposits relating to the insolvent financial institution if bankruptcy proceeding are initiated.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 35-4 (Recognition of Payment of Estimated Payment) Where the Corporation intends to pay an estimated payment under Article 35-2 (2), it shall obtain approval from the Minister of Finance and Economy through a decision by the Committee by determining estimated payment rates, purchase period and method of claims such as deposits referred to in Article 35-3.
<Amended by Act No. 5556, Sep. 16, 1998>

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 35-5 (Purchase Announcement) Where the Corporation obtains approval under Article 35-4, it shall publicly announce it, as prescribed by the Presidential Decree.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 35-6 (Deposit Insurance Corporation's Right of Setoff by Subrogation)
The Corporation may, on behalf of depositors, set off claims such as deposits of respective depositors(excluding claims such as deposits offered to insured financial institutions as security by depositors) and obligations (excluding security obligations) for which depositors are liable to the insured financial institutions as of the date of payment announcement of insurance money.

[This Article Newly Inserted by Act No. 5556, Sep. 16, 1998]

Article 36 (Good Offices for Mergers) The Corporation may offer good offices for mergers, transfer and taking over of business or assumptions by third parties between insured financial institutions and insolvent financial institutions (hereinafter referred to as "mergers between insolvent institutions") as deemed necessary for the protection of depositors and maintenance of financial system's stability. <Amended by Act No. 5492, Dec. 31, 1997>

Article 36-2 (Request for Contract Transfers)

(1) Where deemed necessary for the protection of depositors and where any insolvent financial institution falls below standards as determined by the Presidential Decree, the Corporation may request the Financial Supervisory Commission to take necessary measures against the insolvent financial institution, such as ordering the transfer of contracts and application for bankruptcy.

(2) The Financial Supervisory Commission which has been requested by the Corporation under paragraph (1) shall notify the Corporation of the results.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 36-3 (Establishment of Reorganizing Financial Institution)

(1) The Corporation may establish a financial institution for taking over business or contracts of insolvent financial institutions (hereinafter referred to as "reorganizing financial institution") on approval by the Minister of Finance and Economy as deemed necessary for the protection of depositors and maintenance of the financial system's stability. <Amended by Act No. 5556, Sep. 16, 1998>

(2) Reorganizing financial institutions shall be stock companies.

(3) The Corporation shall prepare the articles of incorporation of any reorganizing financial institution including the following matters: <Newly Inserted by Act No. 5556, Sep. 16, 1998>

1.Purpose;

2.Name;

3.Total amount of capital stock;

4.Total number of stocks issued at its incorporation;

5.Face value per stock;

6.Site of its main office; and

7.Method of public notice.

(4) The capital stock of any reorganizing financial institution shall be invested in full by the Corporation from the fund's charge. <Amended by Act No. 5556, Sep. 16, 1998>

(5) Reorganizing financial institutions may use titles such as banks, securities companies, insurers, merchant banks, mutual saving and finance company or credit cooperatives, and the provisions of Articles 35 through 36, 37 through 39 shall apply as if they are insolvent financial institutions with regard to the reorganization of insolvent financial institutions.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 36-4 (Appointment and Powers of Officers)

(1) Any reorganizing financial institution shall have a president, not more than two directors, and an auditor.

(2) The president, directors, and auditor shall be appointed by the Corporation. In this case, it shall obtain approval from the Minister of Finance and Economy in appointing a president. <Amended by Act No. 5556, Sep. 16, 1998>

(3) The president shall represent the reorganizing financial institution and exercise general control over its business.

(4) The Corporation may dismiss the president, directors, or auditor as deemed necessary. In this case, it shall obtain approval from the Minister of Finance and Economy in dismissing the president. <Amended by Act No. 5556, Sep. 16, 1998>

(5) No person who has interests in the insolvent financial institution shall be appointed as president, director, or auditor.

(6) The provisions of Articles 12 (2) through (4), 14 and 15 shall apply mutatis mutandis to reorganizing financial institutions.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 36-5 (Business Scope of Reorganizing Financial Institutions)

(1) Reorganizing financial institutions shall carry out the payment of claims such as deposits, collection of claims such as loans, or other business necessary for the effective discharge of reorganizing business by reorganizing financial institutions which is approved by the Minister of Finance and Economy. <Amended by Act No. 5556, Sep. 16, 1998>

(2) An amount of claims such as deposits paid by a reorganizing financial institution to depositors under paragraph (1) shall be limited to insurance money and an estimated payment, and the payment shall be deducted from insurance money referred to in Article 32. <Amended by Act No. 5556, Sep. 16, 1998>

(3) The Corporation may provide funds within the scope necessary for the operation of reorganizing financial institutions in accordance with a decision by the Committee.

(4) The Corporation shall direct and supervise the affairs of reorganizing financial institutions as prescribed by the Presidential Decree.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 36-6 (Incorporation Registration and Announcement)

(1) Where the Corporation establishes a reorganizing financial institution under Article 36-3, it shall register with the court having jurisdiction over the seat of the reorganizing financial institution's main office.

(2) Where the Corporation establishes a reorganizing financial institution, it shall announce the establishment.

(3) The necessary matters for the registration under paragraph (1) and announcement listed in paragraph (2) shall be determined by the Presidential Decree.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 36-7 (Business Periods of Reorganizing Financial Institutions)

(1) The business period of reorganizing financial institutions shall be up to three years: Provided, That the business period may be extended within the scope of one year on approval by the Minister of Finance and Economy.

<Amended by Act No. 5556, Sep. 16, 1998>

(2) The Corporation shall dissolve a reorganizing financial institution on approval in case of a termination of business period of the reorganizing financial institution, merger, or transfer or taking over of business between the reorganizing financial institution and an insured financial institution or the assumption of a reorganizing financial institution by a third party.

<Amended by Act No. 5556, Sep. 16, 1998>

(3) Where the Corporation deems that any reorganizing financial institution's continuance of doing business is likely to damage the interests of depositors, it may dissolve the reorganizing financial institution on approval by the Minister of Finance and Economy. <Amended by Act No. 5556, Sep. 16, 1998>

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 36-8 (Relation with Other Acts)

(1) Except as otherwise provided for in this Act, the Bank of Korea Act, the Banking Act, the Securities and Exchange Act, the Insurance Act, the Merchant Banks Act, the Mutual Saving and Finance Company Act, the Credit Cooperatives Act and the provisions of Articles 288, 289 (1) and (2), 295, 297 through 299, 299-2, 300, 317, 3282 through 385, 389 (1), 393, 409 through 410, and 517 through 520 of the Commercial Act shall not apply to reorganizing financial institutions. <Amended by Act No. 5556, Sep. 16, 1998>

(2) With regard to reorganizing financial institutions, except as otherwise provided for in this Act, this Act shall prevail over the Commercial Act.

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 37 (Application for Funding Support) Any person who intends to take over or merge an insolvent financial institution or insolvency-threatened financial institution or take over its business or contracts may apply to the Corporation for funding support. <Amended by Act No. 5556, Sep. 16, 1998>

[This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 38 (Decision on Funding Support)

(1) Where an application for funding support under Article 37 is made or where it is deemed necessary to ensure that a merger of insolvent financial institutions goes smoothly, the Corporation may provide funding support in accordance with a decision by the Committee. <Amended by Act No. 5556, Sep.

16, 1998>

(2) The standards, methods, and conditions for financial support under paragraph (1) and other necessary matters shall be determined by the Committee. <Newly Inserted by Act No. 5492, Dec. 31, 1997>

Article 38-2 (Support for Insolvent-Threatened Financial Institutions)

(1) Where the Corporation deems it necessary to improve an insolvency-threatened financial institution's financial status for the protection of depositors and stabilization of the credit system, it may invest in or contribute to the insolvency-threatened financial institution or buy securities as designated by the Minister of Finance and Economy in accordance with a decision by the Committee. <Amended by Act No. 5556, Sep. 16, 1998>

(2) Where a request is made by the Financial Supervisory Commission under Article 12 (1) of the Act on the Structural Improvement of the Financial Industry, the Corporation may invest in the insolvent financial institution. [This Article Newly Inserted by Act No. 5492, Dec. 31, 1997]

Article 39 (Special Case of Continuation of Business) With regard to the business of an insured financial institution which has taken over all of the business of an insolvent financial institution under the provisions of Article 37, the provisions of Article 9 (1) of the Act on the Structural Improvement of the Financial Industry shall apply mutatis mutandis. <Amended by Act No. 5257, Jan. 13, 1997; Act No. 5492, Dec. 31, 1997>

CHAPTER V PENAL PROVISIONS

Article 40 (Penal Provisions) A person who violates the provisions of Article 17 (3) shall be sentenced to imprisonment for not more than 2 years, or by a fine not exceeding 10 million won.

Article 41 (Penal Provisions) A person who either does not respond to a request for the submission of materials under the provisions of Article 21 (1) or submits false materials, or a person who refuses, obstructs, or avoids an investigation under the provisions of Article 21 (2) shall be sentenced to imprisonment for not more than 1 year or a fine not exceeding 5 million won.

Article 42 (Presumption as Public Officials in Application of Criminal Act)

(1) The officers and employees of the Corporation, and the officers and employees of an acting institution under the provisions Article 20 shall be regarded as public officials in the application of Articles 129 through 132 of the Criminal Act.

(2) The scope of the employees under the provisions of paragraph (1) shall be prescribed by the Presidential Decree.

Article 43 (Joint Penal Provisions) When a representative or an agent, an employee or other employed person of an insured financial institution commits an offense under Article 41 with respect to the business of the insured financial institution, the insured financial institution shall be sentenced to a fine as stated in the same Article, in addition to punishing the offender. <Amended by Act No. 5492, Dec. 31, 1997>

Article 44 (Fine for Negligence)

(1) A person who violates the provisions of Articles 7, 29 (2) and 33 (1) shall be sentenced to a fine for negligence not exceeding 2 million won. <Amended by Act No. 5556, Sep. 16, 1998>

(2) The fine for negligence under the provisions of paragraph (1) shall be levied and collected by the Minister of Finance and Economy as prescribed by the Presidential Decree. <Amended by Act No. 5556, Sep. 16, 1998>

(3) A person who is dissatisfied with the disposition of a fine for negligence under the provisions of paragraph (2) may file an objection with the Minister of Finance and Economy within thirty days from the date of having received the notice of such disposition. <Amended by Act No. 5556, Sep. 16, 1998>

(4) When a person who received a disposition of a fine for negligence under the provisions of paragraph (2) files an objection under the provisions of paragraph (3), the Minister of Finance and Economy shall, without delay, inform the competent court, and the competent court which has received such information shall render a judgement on the disposition of a fine for negligence under the Non-Contentious Case Litigation Procedure Act. <Amended by Act No. 5556, Sep. 16, 1998>

(5) When an objection is not filed within the period under the provisions of paragraph (3), nor is the fine for negligence paid, the Minister of Finance and Economy shall collect the fine for negligence following the example of a disposition of national taxes in arrears. <Amended by Act No. 5556, Sep. 16, 1998>

ADDENDA

Article 1 (Enforcement Date) This Act shall enter into force on January 1, 1996: Provided, That the provisions of Sections 3 and 4 shall enter into force on January 1, 1997.

Article 2 (Incorporation Committee)

(1) The Minister of Finance and Economy shall, within three months from the date of the promulgation of this Act, organize an incorporation committee by

entrusting not more than ten incorporation commissioners, and have such incorporation commissioners handle business matters pertaining to the preparation for the incorporation of the Corporation.

(2) The incorporation committee shall draw up the articles of incorporation of the Corporation and receive the authorization of the Minister of Finance and Economy.

(3) When the incorporation committee receives the authorization under the provisions of paragraph (2), it shall make a registration of incorporation of the Corporation.

(4) When the incorporation committee completes the registration of incorporation under the provisions of paragraph (3), it shall transfer its duties and property to the president of the Corporation, and when the transfer is completed, the incorporation commissioners shall be regarded as decommissioned thereupon.

(5) When necessary, the incorporation committee may execute its duties with the dispatched service of officers or employees of the concerned insured banks or institutions with the consent of said insured banks or institutions.

(6) The Government may, within the limit of its budget, make contributions to the incorporation committee to defray the expenditure required in the preparation for the incorporation of the Corporation.

Article 3 Omitted.

ADDENDA <Act No. 5257, Jan. 13, 1997>

Article 1 (Enforcement Date) This Act shall enter into force on March 1, 1997.

Articles 2 through 5 Omitted.

ADDENDA <Act No. 5403, Aug. 30, 1997>

Article 1 (Enforcement Date) This Act shall enter into force on the date of its promulgation.

Articles 2 through 8 Omitted.

ADDENDUM <Act No. 5421, Dec. 13, 1997>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 5492, Dec. 31, 1997>

Article 1 (Enforcement Date)

(1) This Act shall enter into force on April 1, 1998: Provided, That the amendments to subparagraphs 1, 5 and 5-2 of Article 2, and Articles 26 (2), 26-2 and 37 through 38-2, and the amendments to Articles 5, 6 (1) and (3), and 7 of the Addenda shall enter into force on the date of its promulgation, and the provisions of Article 7 of the Addenda shall remain in force until March 31, 1998.

(2) Until March 31, 1998, with regard to the enforcement of the provisions enumerated in the proviso of paragraph (1): for the powers of the Financial Supervisory Commission, the Monetary Board shall exercise them over insured financial institutions listed in subparagraph 1 (a) and (i) of Article 2, the Minister of Finance and Economy over insured financial institutions listed in (b) through (h) and (k) through (m) of the same subparagraph, and the Securities and Exchange Commission over insured financial institutions listed in (j) of the same subparagraph, respectively; for the powers and operations of the Korea Deposit Insurance Corporation, the Korea Deposit Insurance Corporation shall exercise them over insured financial institutions listed in subparagraph 1 (a) through (i) of Article 2, the Securities and Exchange Commission over insured financial institutions listed in (j) (a fund management company under Article 69-2 (1) of the Securities and Exchange Act over the business of bond issue under Article 26-2), the Insurance Supervisory Board over insured financial institutions listed in (k) of the same paragraph, and the Credit Management Fund over insured financial institutions listed in (l) and (m) of the same subparagraph, respectively; for the powers and operations of the Operating Committee, the Operating Committee of the Korea Deposit Insurance Corporation shall exercise them over insured financial institutions listed in subparagraph 1 (a) through (i) of Article 2, the Securities and Exchange Commission over insured financial institutions listed in (j) of the same subparagraph, the Management Committee of the Insurance Guarantee Fund over insured financial institutions listed in (k) of the same subparagraph, and the Operating Committee of the Credit Management Fund over insured financial institutions listed in (l) and (m) of the same subparagraph, respectively; and for the deposit insurance fund, insured financial institutions listed in subparagraph 1 (a) through (i) of Article 2 shall be deemed the deposit insurance fund, insured financial institutions listed in subparagraph (j) of the same subparagraph, the Securities Investors Protection Fund, insured financial institutions listed in (k) of the same subparagraph, the Insurance Guarantee Fund, and insured financial institutions listed in (l) and (m) of the same subparagraph, the Credit Management Fund, respectively.

Article 2 (General Transitional Measures)

(1) Any authorization, permission or other acts done by the Insurance Supervisory Board in relation to the Insurance Management Fund, by the Credit Management Fund in relation to contribution operation business accounts, or by the Credit Cooperative Federations in relation to the Credit Cooperatives

Stabilization Fund under the previous provisions at the time of the entry into force of this Act shall be deemed acts done by the Korea Deposit Insurance Corporation under this Act.

(2) Any registration, report or other acts done to the Insurance Supervisory Board in relation to the Insurance Guarantee Fund, to the Credit Management Fund in relation to contribution operation business accounts, or to the Credit Cooperatives Federation in relation to the Credit Cooperatives Stabilization Fund under the Previous provisions at the time of the entry into force of this Act shall be deemed acts done to the Korea Deposit Insurance Corporation under this Act.

Article 3 (Transitional Measures on Contributions)

(1) Contributions which merchant banks and mutual savings and finance companies paid to the Credit Management Fund on business authorization under Article 5, and contributions which the Credit Cooperatives Stabilization Fund received under Article 83-22 of the Credit Cooperatives Act prior to the entry into force of this Act shall be contributions made to the deposit insurance fund under this Act.

(2) Contributions which insurers paid to the Credit Guarantee Fund under Article 197-10 of the Insurance Business Act, contributions which merchant banks and mutual savings and finance companies paid to the Credit Management Fund after the closing of each business year under Article 5 of the Credit Management Fund Act, and contributions which credit cooperatives paid to the Credit Cooperatives Stabilization Fund under Article 83-22 of the Credit Cooperatives Act prior to the entry into force of this Act shall be deemed premiums under this Act.

(3) Where the Korea Deposit Insurance Corporation extends loans to the Securities Investors Protection Fund under the amendment to Article 6 of the Addenda, the rights and duties of the Securities Investors Protection Fund over the loaned money shall be succeeded to by universal title by the Korea Deposit Insurance Corporation on April 1, 1998.

Article 4 (Transitional Measures on Operating Committee Members and Officers of the Korea Deposit Insurance Corporation) Members commissioned under Article 9

(1) 6 of the previous provisions and officers of the Korea Deposit Insurance Corporation prior to the entry into force of this Act shall discharge their functions until members or officers under this Act are commissioned or appointed.

Article 5 (Dispatch of Related Personnel)

(1) Where deemed necessary to prepare for the integration of the Securities Investors Protection Fund, the Insurance Guarantee Fund, contribution operation business accounts of the Credit Management Fund and the Credit Cooperatives Stabilization Fund, the Korea Deposit Insurance Corporation may receive a dispatch of related personnel in charge of the business and have them carry out its necessary functions.

(2) The Korea Deposit Insurance Corporation shall prepare data on business,

an inventory of property, and financial status of each Fund and report them to the Minister of Finance and Economy through a decision by the Operating Committee within one month after the entry into force of this Act.

Article 6 (Special Case for Operation of Funds Created through Bond Issue)

(1) Funds which the Korea Deposit Insurance Corporation raised through the issue of bonds under Article 26-2 prior to March 31, 1998, may be extended loans to the Securities Investors Protection Fund, the Insurance Guarantee Fund, the Credit Management Fund or the Credit Cooperatives Stabilization Fund, notwithstanding the provisions of Article 25.

(2) Funds raised under paragraph (1) shall be deemed to have been issued at the relevant account of the deposit insurance fund under Article 24-3 (1) after April 1, 1998.

(3) Notwithstanding the provisions of Article 31 of the Credit Management Fund Act, funds borrowed from the Korea Deposit Insurance Corporation shall be audited separately as special accounts.

Article 7 Omitted.

Article 8 (Support for Budget of Credit Management Fund) The Korea Deposit Insurance Corporation may contribute to the Credit Management Fund expenses required for the budget of the Credit Management Fund set under Article 4 (2) of the Addenda of the Act on the Establishment of Financial Supervisory Organizations until the Financial Supervisory Service is established after the entry into force of this Act.

ADDENDA <Act No. 5556, Sep. 16, 1998>

Article 1 (Enforcement Date) This Act shall enter into force on the date of its promulgation: Provided, That amendments to subparagraph 2 (d) of Article 2 shall enter into force on October 1, 1998.

Article 2 (Examples of Application on Premiums) The amendment to Article 30 (1) shall apply to the portion of premiums for which obligation for payment is first created after the entry into force of this Act.

Article 3 (Examples of Application on Premium Rate Ceiling) With regard to the amendment to Article 30 (1), where the rate ceiling on the balance of deposits on which each insured financial institution must pay annual premiums is not altered through a review of the Regulatory Reform Committee, the previous provisions of Article 30 (1) 1 through 6 shall apply until August 31, 2003.

Article 4 (Examples of Application on Calculation of Premiums)

(1) The amendment to Article 32 (1) shall apply to premiums announced and paid under Article 31 (3) first after the entry into force of this Act.

(2) The amendment to Article 32-2 (3) shall apply to an estimated payment announced and paid under Article 35-5 first after the entry into force of this Act.

Article 5 (Transitional Measures on Bills Guaranteed by Merchant Banks) Money raised by draft guarantees by merchant banks under the previous provisions at the time of entry into force of this Act shall be deemed deposits under the amendment to subparagraph 2 (d) of Article 2.

Article 6 (Special Cases on Reorganizing Financial Institutions)

(1) Financial institutions established with authorization from the Minister of Finance and Economy under Article 3 (1) of the Merchant Banks Act in order to carry out the business of reorganizing insolvent financial institutions at the time of the entry into force of this Act (hereinafter referred to as "bridge financial institutions") shall be deemed reorganizing financial institutions established on approval by the Minister of Finance and Economy under the amendment to Article 36-3.

(2) Any authorization, permission or other acts done by bridge financial institutions and any registration, report or other acts done to bridge financial institutions prior to the entry into force of this Act shall be deemed done by or to bridge financial institutions.

(3) Any establishment registration and announcement of a bridge financial institution at the time of the entry into force of this Act shall be deemed an establishment registration and announcement of a reorganizing financial institution.

ADDENDUM <Act No. 5702, Jan. 29, 1999>

This Act shall enter into force on the date of its promulgation.

LAW TITLE: ENFORCEMENT DECREE OF THE DEPOSITOR PROTECTION ACT

Law: 2 of 2

Last Article: 26

Article 1 (Purpose) The purpose of this Decree is to provide for the matters delegated by the Depositor Protection Act and matters necessary for its enforcement.

Article 2 (Insurers Excluded from Insured Financial Institutions) Insurers which shall be excluded from insured financial institutions under

subparagraph 1 (k) of Article 2 of the Depositor Protection Act (hereinafter referred to as the "Act") are insurers which are stock companies mainly engaged in reinsurance or guarantee insurance. <<Enforcement Date; Jan. 1, 2001. Excluding the portion of insurers which are stock companies mainly engaged in reinsurance>>

Article 3 (Scope of Deposits)

(1) Money raised by insured financial institutions under subparagraph 1 of Article 2 of the Act (hereinafter referred to as "insured financial institutions") which has been raised from any of the following sources shall not be included in the scope of deposits under subparagraph 2 of Article 2 (hereinafter referred to as "deposits"): <<Enforcement Date; Jan. 1, 2001>>

1. The national government or a local government;
2. The Bank of Korea, the Financial Supervisory Service established under the Act on the Establishment of Financial Supervisory Organization, or the Korea Deposit Insurance Corporation established under the Act (hereinafter referred to as "the Corporation"); and
3. Other insured financial institutions.

(2) Money raised by insured financial institutions listed in subparagraph 1 (a) through (i) of Article 2 of the Act (hereinafter referred to as "banks") which has been raised by any of the following methods shall not be included in the scope of deposits under subparagraph 2 (a) of Article 2 of the Act:

1. Deposits expressed in terms of foreign currency under the Foreign Exchange Control Act; <<Enforcement Date; Jan. 1, 2001>>
2. Certificates of deposit; <<Enforcement Date; Jan. 1, 2001>>
3. Development trust; <<Enforcement Date; Jan. 1, 2001>>
4. Issue of bonds; and <<Enforcement Date; Jan. 1, 2001>>
5. Sale of repurchase agreements.

(3) Money which insured financial institutions listed in subparagraph 1 (j) of Article 2 of the Act (hereinafter referred to as "securities companies") receive as deposits from their customers and which falls under any of the following subparagraphs shall not be included in the scope of deposits under subparagraph 2 of Article 2 of the Act (hereinafter in this paragraph referred to as "customer deposit money"):

1. Money in deposit for the payment of taxes incurred to customer deposit money;
2. Money raised by selling repurchase agreements;
3. Money in deposit for the acquisition of, or subscription for the purchase

of, securities subscribed or sold under the Securities and Exchange Act; and <<Enforcement Date; Jan. 1, 2001>>

4. Money trusted in securities finance companies permitted under the Securities and Exchange Act (hereinafter referred to as "securities finance companies") from among the money in deposit for the guarantee of securities loaned to customer under the same Act. <<Enforcement Date; Jan. 1, 2001>>

(4) Premiums which insured financial institutions listed in subparagraph 1 (k) of Article 2 of the Act (hereinafter referred to as "insurers") have received and which fall under any of the following subparagraphs shall not be included in the scope of deposits under subparagraph 2 (c) of Article 2 of the Act:

1. Premiums received under insurance contracts (limited to contracts whose policyholders and premium payers are legal persons) other than retirement insurance contracts under the Labor Standards Act (hereinafter referred to as "retirement insurance"); <<Enforcement Date; Jan. 1, 2001: Excluding the portion of premiums received under guarantee insurance contracts and reinsurance contracts among insurance contracts in which legal persons are policyholders and insurance payers>>

2. Premiums received under guarantee insurance contracts; and

3. Premiums received under reinsurance contracts.

(5) and (6) Deleted. <by Presidential Decree No. 15911, Oct. 10, 1998>

Article 4 (Establishment Registration)

(1) The establishment of the Corporation shall be registered at the site of its main office within two weeks from the date on which the Corporation obtains authorization of the articles of association from the Minister of Finance and Economy.

(2) The matters to be registered for establishment by the Corporation shall be:

1. Purpose;

2. Name;

3. Site of its main office;

4. Names and addresses of officers; and

5. Methods of announcement.

Article 5 (Removal Registration)

(1) Where the Corporation moves its main office to the jurisdiction of another registry office, it shall register the purport of such removal within

two weeks at the former registry office, and the matters listed in any subparagraph of Article 4 (2) within three weeks at the new registry office.

(2) Where the Corporation moves its main office within the jurisdiction of the same registry office, it shall register only the purport of the move.

Article 6 (Alteration Registration) Where the Corporation alters matters listed in any subparagraph of Article 4 (2), it shall register the altered matters at the site of its main office within two weeks.

Article 7 (Registration of Agent's Appointment) Where the president of the Corporation appoints an agent, he shall register the following matters at the site of its main office within two weeks. This shall also apply where registered matters are altered.

1. Name and address of the agent;
2. Seat and name of the main office in which the agent is appointed; and
3. Contents of restriction where the agent's powers are restricted.

Article 8 (Reckoning of Registration Period) Where the Corporation's matters to be registered under the provisions of this Decree shall be authorized or approved by the Minister of Finance and Economy, the registration period shall begin from the date on which the documents on its authorization or approval have arrived.

Article 9 (Applications for Registration)

- (1) An establishment registration under Article 4 shall be made by joint application of incorporators, and a registration under Articles 5 through 7 shall be made by the application of the president of the Corporation.
- (2) Registration applications under Articles 4 through 7 shall be accompanied by documents proving their causes.

Article 10 (Operation of Operating Committee)

- (1) Meetings of the Operating Committee under Article 8 of the Act (hereinafter referred to as "the Committee") or subcommittees under Article 10 (5) of the Act (hereinafter referred to as "subcommittees") shall be convened by the competent chairman on such terms and conditions as the articles of incorporation may determine.
- (2) The directors and auditors of the Corporation may attend meetings of the Committee or subcommittees and state their opinions.
- (3) The members who attend meetings of the Committee or subcommittees may be granted an allowance within the scope of the Corporation's budget: Provided, That this shall not apply where public officials attend the Committee in

connection with their duties.

(4) The matters necessary for the operation of the Corporation or subcommittees other than matters provided for in this Decree shall be determined by the chairman through a decision by the Committee or subcommittees.

Article 11 (Qualifications for Commissioned Members of Operating Committee)
Members commissioned by the Minister of Finance and Economy under Article 9 of the Act shall be those who are not disqualified as officers and employees under Article 16 of the Act, and who have extensive knowledge and experience in finance, economy, or law.

Article 12 (Business Agency)

(1) Acting agencies under Article 20 of the Act (hereinafter referred to as "acting agencies") shall be:

1. The Korea Asset Management Corporation established under the Act on the Effective Management of Insolvent Assets of Financial Institutions and the Establishment of Korea Asset Management Corporation;

2. Insured financial institutions;

3. Mutual Savings and Finance Companies Federation established under the Mutual Savings and Finance Company Act (hereinafter referred to as "the Mutual Savings and Finance Companies Federation"); and

4. Credit Cooperatives Federation established under the Credit Cooperatives Federation.

(2) Where the Corporation has an acting agency execute business by proxy under Article 20 of the Act, it may pay commission to the acting agency on such terms and conditions as the Committee or subcommittees may determine.

Article 13 (Budget and Settlement of Accounts) The budget of the Corporation shall be subject to approval by the Minister of Finance and Economy prior to the commencement of the fiscal year under Article 23 of the Act, and the settlement of accounts of the Corporation shall be subject to approval by the Minister of Finance and Economy within two months after the closing of the fiscal year.

Article 14 (Contributions)

(1) Where any financial institution obtains authorization or permission of business or establishment, it shall pay the Corporation an amount calculated by multiplying its paid-in capital stock or contributions by relevant rates for the following insured financial institutions from the date of commencing business under Article 24 (4) of the Act:

1. Banks: 1/100;
2. Securities companies: 1/100;
3. Insurers: 1/100;
4. Merchant banks: 5/100;
5. Insured financial institutions under subparagraph 1 (m) of Article 2 of the Act (hereinafter referred to as "mutual savings and finance companies"): 5/100; and
6. Insured financial institutions under subparagraph 1 (n) of Article 2 of the Act (hereinafter referred to as "credit cooperatives"); 1/100

(2) Where the accumulated amount of accounts by insured financial institutions of the Deposit Insurance Fund established under Article 24 (1) of the Act (hereinafter referred to as "the Fund") falls short of the amount to be paid as insurance money to holders of claims such as deposits under subparagraph 4 of Article 2 of the Act (hereinafter referred to as "depositors"), the Corporation may have insured financial institutions concerned contribute additionally an amount approved by the Minister of Finance and Economy through a decision by the Committee or subcommittees within the scope of the difference within one month from the date on which the Corporation has decided to pay insurance money. In this case, additional contributions shall not exceed the payment limit for contributions under Article 24 (4) of the Act.

(3) Notwithstanding the provisions of paragraphs (1) and (2), where an insured financial institution obtains authorization or permission for business or establishment by a merger or partition, it shall not pay contributions to the Corporation.

(4) Notwithstanding the provisions of paragraphs (1) and (2), where insured financial institutions are faced with extreme difficulty, such as being threatened with the suspension of the payment of claims such as deposits, the Corporation may allow the institutions to delay the payment of contributions for a fixed period in light of the financial status of the institutions through a decision by the Committee or subcommittees.

Article 15 (Methods of Borrowing)

(1) The Corporation may borrow funds at the accounts' expense by insured financial institutions under Article 26 (1) of the Act.

(2) Where the Corporation intends to borrow funds under paragraph (1), it shall prepare documents in which the following matters are entered, and obtain approval from the Minister of Finance and Economy:

1. Reasons for borrowing;
2. Borrowed amount;

3. Interest rate of loan, method and time limit for the payment of interest;
and

4. Method and time limit for the redemption of borrowed money.

(3) The term "other institutions as determined by the Presidential Decree" listed in Article 26 (1) of the Act means: <Amended by Presidential Decree No. 15911, Dec. 10>

1. Mutual Savings and Finance Companies Federation;

2. Securities finance companies;

3. The Export and Import Bank of Korea established under the Export and Import Bank of Korea Act;

4. Credit Cooperative Federation under the Credit Cooperatives Act; and

5. Reorganizing financial institutions under Article 36-3 of the Act.

Article 16 (Time for Payment of Premiums)

(1) Insured financial institutions shall pay premiums calculated by the formula in Table 1 to the Corporation within three months after the closing of each business year under Article 30 (1) of the Act: Provided, That banks shall pay premiums within one month after the closing of each quarter.

(2) Where insured financial institutions fail to pay premiums under paragraph (1) by the time limit for payment, they shall pay additional arrears calculated by multiplying the number of days past the payment deadline by interest rates set by the Committee or subcommittees based on overdue interest rates at the time of the loaning of general funds by the insured financial institutions.

(3) The term "an amount as determined by the Presidential Decree" in the former sentence of Article 30 (1) of the Act means the total of the following amounts: <Amended by Presidential Decree No. 15911, Dec. 10>

1. Contracts which cause the payment of insurance money (meaning an agreed amount or dividend to be paid to a policyholder where a cause for payment of insurance money occurs as of the closing of the settlement of accounts under an insurance contract or when a policyholder asks for cancellation; hereinafter in this paragraph the same shall apply): the accumulation of premiums and prepaid premiums to be paid at the cancellation or termination of the contract period of insurance, calculated according to the specifications for calculating premiums and liability reserves under Article 7 (1) 1 of the Insurance Business Act;

2. Contracts under which the cause of payment of premiums occurs as of the closing of the settlement of accounts:

(a) An amount determined to be paid but not yet paid;

(b) An estimated premium not yet paid where the amount to be paid is not determined; and

(c) A litigation value still pending in court in connection with an amount of premiums to be paid.

3. An amount which is accumulated by an insurer to pay dividends to policyholders and approved by the Financial Supervisory Commission.

Article 17 (Suspense Payment)

(1) The Corporation may pay in advance depositors an amount as set by the Committee or subcommittees within the limit of paying insurance money under

Article 32 (2) of the Act (hereinafter referred to as "suspense payment") under Article 31 (2) of the Act: Provided, That where suspense payment exceeds insurance money, insurance money shall be the maximum amount for payment.

(2) The Corporation shall announce the period and methods for payment under the main sentence of Article 31 (3) of the Act in not less than one daily newspaper published in Seoul Special Metropolitan City and not less than one daily newspaper published in the district in which its main office is located at least once: Provided, That where the Corporation pays insurance money or suspense payment to the depositors of mutual savings and finance companies and credit cooperatives, it shall make a public announcement in not less than 2 daily newspapers including one daily newspaper published in the district in which their main offices are located at least once.

Article 18 (Exception to Calculating Methods of Insurance Money)

(1) Where depositors have claims such as deposits offered as security (hereinafter in this Article referred to as "claims on security") or bear security obligations against such insured financial institutions for other persons in calculating insurance money under Article 32 (1) of the Act, the Corporation may suspend the payment of insurance money to the extent equivalent to claims on security or security obligations until such secured claims or obligations are extinguished. <Amended by Presidential Decree No. 15911, Dec. 10>

(2) Where the Corporation suspends the payment of insurance money under paragraph (1), it shall issue depositors who have requested the payment of such insurance money with a document in which the following matters are entered: <Amended by Presidential Decree No. 15911, Dec. 10>

1. The amount of insurance money for which pay is suspended;
2. The amount of claims on security and the name of the claimant;
3. The amount of security obligations and the name of such creditor; and
4. The procedures and methods for depositors to request the payment of suspended insurance money upon the extinction of claims on security or

security obligation.

(3) Notwithstanding the provisions of Article 32 (1) of the Act, with regard to the insurance money paid by the Corporation to the insured or the beneficiaries of a retirement insurance contract or retirement lump sum trust entered into by enterprises or organizations which have workers as the insured or the beneficiaries under the Labor Standards Act, the total amount of obligations to such insured financial institutions shall not be deducted from the total amount of claims such as deposits which the insured or beneficiaries have in the insured financial institutions as of the date of the announcement of the payment of insurance money (hereinafter in this Article, referred to as "date of payment announcement of insurance money") under Article 31 (3) of the Act: Provided, That this shall not apply where such insured financial institutions obtain consent in writing from the workers. <Amended by Presidential Decree No. 15911, Dec. 10>

(4) Where the price is settled with a securities company after the date of payment announcement of insurance money as securities are bought and sold by depositors prior to the date of payment of insurance money under Article 32 (1) of the Act (including the final settlement of securities futures transactions by securities stock index under the Securities and Exchange Act and the exercise of securities stock options under the Enforcement Decree of the Securities and Exchange Act), the Corporation shall calculate insurance money, including the settled price, and it may suspend the payment of insurance money until the price is settled. <Amended by Presidential Decree No. 15911, Dec. 10>

(5) The amount of claims such as deposits, in calculating insurance money under Article 32 (10), shall be limited to the amount calculated by adding amount of deposits to the amount calculated by multiplying that amount by the interest rate as determined by the Committee or subcommittees, taking into account the average interest rates of one-year maturity term deposits in nationwide banks: Provided, That this shall not apply to insurance money (excluding insurance money paid due to the termination of the insurance period) of claims such as deposits against insurers.

(6) The ceiling on the payment of insurance money under Article 32 (2) of the Act shall be twenty million won.

Article 19 (Announcement of Insurance Risk Occurrence) The provisions of Article 17 (2) shall apply mutatis mutandis to the announcement of insurance risk occurrence under Article 33 (1) of the Act and the announcement of estimated payment rates under Article 35-5 of the Act.

Article 20 (Standards for Request for Contract Transfers)

(1) Where liabilities borne by an insolvent financial institution under subparagraphs of Article 2 of the Act (hereinafter in this Article, referred to as "insolvent financial institution") exceed its property under Article 36-2 of the Act, and it falls under any of the following subparagraphs, the Corporation may request that Financial Supervisory Commission take necessary measures against the insolvent financial institution through a decision by

the Committee or subcommittees, such as ordering the transfer of contracts or the application for bankruptcy:

1. Where it damages depositors' interests or the fund's liabilities are increased due to any delay in mergers or transfers and taking over of business between insured financial institutions and insolvent financial institutions by a third party (hereinafter referred to as "mergers of insolvent financial institutions"); and

2. Where it damages depositors' interests or the fund's liabilities are increased due to extreme difficulty in mergers of insolvent financial institutions.

(2) Where the Corporation establishes a reorganizing financial institution to take over the business or contracts of an insolvent financial institution (hereinafter referred to as "reorganizing financial institution") under

Article 36-3 of the Act, it shall request that the Financial Supervisory Commission order the transfer of the contracts of the insolvent financial institution under Article 36-2 of the Act.

Article 21 (Supervision over Reorganizing Financial Institutions) The Corporation may direct and supervise the business of reorganizing financial institutions or take necessary measures against them under Article 36-5 (4) of the Act.

Article 22 (Establishment Registration of Reorganizing Financial Institutions)

(1) The establishment of a reorganizing financial institution shall be registered at the site of its main office within two weeks from the date of approval by the Minister of Finance and Economy.

(2) Matters to be registered for establishment by a reorganizing financial institution shall be:

1. Purpose;
2. Name
3. Total amount of capital;
4. Total number of issued stocks;
5. Face value per stock;
6. Names and addresses of officers;
7. Sites of a main office and branches; and
8. Method of public notice.

Article 23 (Removal Registration of Reorganizing Financial Institutions) The provisions of Articles 5 through 8 and 17 (2) shall apply mutatis mutandis to the removal registration, alteration registration, registration of agent's appointment, calculation of registration period, and establishment announcement of reorganizing financial institutions.

Article 24 (Applicants for Registration in Reorganizing Financial Institutions)

(1) An establishment registration under Article 22 shall be made by the application of the Corporation's President, and a registration under Article 23 shall be made by the application of a reorganizing financial institution's president.

(2) Applications for registration under Articles 22 and 23 shall be accompanied by documents proving their causes.

Article 25 (Scope of Staff Deemed as Public Officials in Application of the Criminal Act) The scope of the staff under Article 42 (2) of the Act shall be:

1. Staff of agents or higher rank in the Corporation;

2. Staff of agents or higher rank in an acting agency who are engaged in agency business referred to in Article 20 (1) of the Act: Provided, That they shall be limited to those who are under the application of penalties under the Criminal Act in connection with their businesses.

Article 26 (Imposition and Collection Procedures for Fine for Negligence)

(1) Where the Minister of Finance and Economy imposes a fine for negligence pursuant to Article 44 (2) of the Act, he shall, after investigating and confirming an offense in question, specify in writing the conduct of offense, an amount of fine for negligence, etc. and notify the person subject to a fine for negligence.

(2) Where the Minister of Finance and Economy intends to impose a fine for negligence pursuant to paragraph (1), he shall give the person subject to a fine for negligence an opportunity to state his opinions orally or in writing. In this case, if no statement is made by the designated date, he shall be deemed to have no his opinion.

(3) The Minister of Finance and Economy shall take into account the motives and consequences of the offense in determining an amount of fine for negligence.

(4) A fine for negligence shall be collected by revenue collectors' procedures for management of business. In this case, the methods and period for objection shall be entered in a notice for payment together.

ADDENDA

Article 1 (Enforcement Date) This Decree shall enter into force on the date of its promulgation: Provided, That amendments to Article 1 (4) 1 (limited to premiums received under any guarantee insurance contract) and 2 and Article 18 (5), and Article 4 of the Addenda shall enter into force on August 1, 1998, and amendments to Article 2 (excluding the portion for insurers who are stock companies mainly engaged in reinsurance) and Article 3 (1), (2) 1 through 4, (3) 3 and 4, and (4) 1 (excluding the portion of relating to premiums received under guarantee any insurance contract or reinsurance contract of insurance contracts in which legal persons are policyholders and insurance money payers) shall enter into force on January 1, 2001.

Articles 2 (Special Cases on Scope of Deposits, etc.) Money falling under any of the following subparagraphs at the time of entry into force of this Decree shall be included in the scope of deposits, etc. from the date of entry into force of this Decree to December 31, 2000:

1. Money which banks raised by selling repurchase agreements pursuant to Article 2 of the Addenda of the previous Presidential Decree No. 15525 (Amendment to the Enforcement Decree of the Depositor Protection Act);
2. Money which securities companies raised by selling repurchase agreements; and
3. Received premiums which insurers who are stock companies engaged mainly in guarantee insurance received under any guarantee insurance contract.

Article 3 (Special Cases for Payment of Premiums by Insurers and Merchant Banks) Insurers and merchant banks shall, notwithstanding the amendment to the main sentence of Article 16 (1), pay premiums to be paid in 1998 to the Corporation within two months after the entry into force of this Decree.

Article 4 (Special Cases on Calculating Methods of Insurance Money)

(1) Where an insurance risk referred to in subparagraph 7 of Article 2 of the Act occurs during the period from August 1, 1998 to December 31, 2000, the amount of deposits, etc. in calculating insurance money referred to in Article 32 (1) of the Act shall be calculated by the following subparagraphs: Provided, That this shall not apply to insurance money (excluding insurance money paid due to the termination of insurance period) of claims such as deposits against insurers:

1. Where the total amount of deposits, etc. by respective depositors, etc. is not more than twenty million won: an amount of claims such as deposits under the amendment to Article 18 (5): Provided, That where the total amount of deposits, etc. by respective depositors, etc. exceeds twenty million won, twenty million won shall be the maximum limit; and
2. Where the total amount of deposits, etc. by respective depositors, etc. exceeds twenty million won: an amount of deposits, etc.: Provided, That if an amount of claims such as deposits against insurers is smaller than an amount

of deposits, etc., it shall be an amount of claims such as deposits.

(2) The provisions of paragraph (1) shall apply to only money raised by insured financial institutions from depositors, etc. after August 1, 1998: Provided, That for deposits, etc. in which periods are set and specified amounts set in advance within the period are paid in from among deposits, etc. paid in by accumulating them, they shall apply to only the amount insured first after the entry into force of this Decree.

Article 5 (Special Cases for Ceiling on Payment of Insurance Money)

(1) The ceiling on insurance money paid by the Corporation to depositors, etc. who have claims such as deposits against insurers at the time of entry into force of this Decree shall, notwithstanding the amendment to Article 18 (6), be fifty million won.

(2) Where an insurance risk referred to subparagraph 7 of Article 2 of the Act occurs during the period from the date of promulgation of this Decree to December 31, 2000, the amendments to paragraph (1) and Article 18 (6) shall not apply to the ceiling on the payment of insurance money.

Article 6 (Transitional Measures on Premiums)

(1) In calculating banks' premiums of a quarter in which this Decree is promulgated, the portion prior to the date of its promulgation shall be calculated by daily pro-rata pursuant to the previous Article 14 (1) and the portion starting from the date of its promulgation of this Decree shall be calculated by daily pro-rata pursuant to the amendments to Article 16 (1).

(2) In calculating securities companies', insurers' and merchant banks' premiums of a business year in which this Decree is promulgated, the portion from April 1, 1998 to the date prior to the date of its promulgation shall be calculated by daily pro-rata according to a formula of Table 2, and the portion from the date of its promulgation to March 31, 1999 shall be calculated by daily pro-rata pursuant to the amendments to Article 16 (1).

(3) In calculating premiums to be paid by mutual saving and finance companies in 1998, the portion from July 1, 1997 to March 31, 1998 shall be calculated by daily pro-rata pursuant to Article 5 (2) of the Credit Management Fund Act prior to its repeal under Article 2 of the Addenda of Act No. 5501 (Amendment to the Mutual Savings and Finance Company Act), and the portion from April 1, 1998 to June 3, 1998 shall be calculated by daily pro-rata according to a formula of Table 2.

(4) In calculating mutual saving and finance companies' premiums of a business year in which this Decree is promulgated, the portion from July 1, 1998 to the date prior to the date of its promulgation of this Decree shall be calculated by daily pro-rata according to a formula of Table 2, and the portion from the date of its promulgation to June 30, 1998 shall be calculated by daily pro-rata pursuant to the amendment to Article 16 (1).

(5) In calculating mutual saving and finance companies' premiums for the year 1998, the portion to March 31, 1998 shall be calculated by daily pro-rata pursuant to Article 83-22 of the Credit Cooperatives Act prior its amendment under Act No. 5506 (Amendment to the Credit Cooperatives Act), the portion from April 1 to the date prior to the promulgation of this Decree shall be calculated by daily pro-rata according to a formula of Table 2, the portion from the date of promulgation of this Decree shall be calculated by daily pro-rata pursuant to the amendment to Article 16 (1) and premiums for 1998 paid by credit cooperatives to the former Credit Cooperatives Safety Fund pursuant to Article 83-22 of the same Credit Cooperatives Act shall be deducted.

ADDENDUM <Presidential Decree No. 15911, Oct. 10, 1998>

This Decree shall enter into force on the date of its promulgation.

LAW TITLE: BANKRUPTCY ACT

Law: 1 of 1
Last Article: 374

PART I SUBSTANTIVE PROVISIONS
CHAPTER I GENERAL PROVISIONS

Article 1 (Effective Date of Bankruptcy) The bankruptcy shall take effect when it is declared.

Article 2 (Status of Foreigner) Any foreigner or foreign juristic person shall have the same status as the Korean or Korean juristic person with respect to the bankruptcy, only when the Korean or Korean juristic person has the same legal status as the foreigner or foreign juristic person.

Article 3 (Territoriality Principle)

(1) The bankruptcy shall be effective only to the bankrupt's property in Korea.

(2) Any bankruptcy which is declared in a foreign country, shall be ineffective to the property in Korea.

(3) Any credit entitled to be claimed judicially under the Civil Procedure Act, shall be considered to exist in Korea.

Article 4 (Dissolved Juristic Person) Any dissolved juristic person shall be considered to still exist for the purpose of the bankruptcy.

Article 5 (Bankruptcy, Qualified Acceptance and Separation of Property) Any

declaration of bankruptcy to an inheritor or inherited property shall not affect the qualified acceptance or separation of property: Provided, That the proceedings shall be suspended until a ruling on the revocation or discontinuation of the bankruptcy proceedings becomes final or a ruling on the closing of the bankruptcy proceedings is made.

CHAPTER II BANKRUPT ESTATE

Article 6 (Legal Estate)

(1) All property owned by the bankrupt at the time of the declaration of bankruptcy shall be considered the bankrupt estate.

(2) Any claim to be exercised by the bankrupt in the future for any cause originated prior to the declaration of bankruptcy shall be included in the bankrupt estate.

(3) Any unseizable property shall not be included in the bankrupt estate: Provided, That this shall not apply to the goods and claims prescribed in subparagraphs 4 through 6 of Article 532 and subparagraphs of Article 579 of the Civil Procedure Act. <Amended by Act No. 5454, Dec. 13, 1997>

Article 7 (Administration and Disposal) The right to the administration and disposal of the bankrupt estate shall belong to the bankruptcy trustee.

Article 8 (Absolute Acceptance after Declaration of Bankruptcy) In case where a succession is commenced for the inheritor before the declaration of bankruptcy, any absolute acceptance made by the bankrupt after the declaration of bankruptcy shall have the effect of qualified acceptance with respect to the bankrupt estate.

Article 9 (Renunciation of Succession)

(1) In case where a succession is commenced for the bankrupt before the declaration of bankruptcy, even if the bankrupt renounces the succession after the declaration of bankruptcy, it shall have the effect of qualified acceptance with respect to the bankrupt estate.

(2) Notwithstanding the provisions of the preceding paragraph the bankruptcy trustee may recognize the effect of the renunciation of succession. In this case, the trustee shall report it to the court within three months after attaining knowledge of the renunciation.

Article 10 (Bankruptcy and Testamentary Gift by Universal Title) The provisions of preceding two Articles shall apply mutatis mutandis to the testamentary gift by universal title.

Article 11 (Bankruptcy and Testamentary Gift by Specific Title)

(1) In case where a testamentary gift by specific title is made for the bankrupt before the declaration of bankruptcy and the bankrupt fails to accept or renounce it when the bankruptcy is declared, the bankruptcy trustee may make the acceptance or renunciation in lieu of the bankrupt.

(2) The provisions of Article 1077 of the Civil Act shall apply mutatis mutandis to the preceding paragraph.

Article 12 (Bankruptcy of Inherited Property)

(1) If the bankruptcy is declared against any inherited property, it shall constitute the bankrupt estate.

(2) Any right of the deceased to the inheritor or right of the inheritor to the deceased shall not be extinguished.

Article 13 (Disposal of Inheritor's Property)

(1) If the bankruptcy is declared against the inherited property after the inheritor disposes of the whole or part of it, the right of the inheritor to any consideration thereof shall be included in the bankrupt estate.

(2) In the case as referred to in the preceding paragraph, if the inheritor has already received the consideration, he shall return it to the bankrupt estate: Provided, That the inheritor is not aware of the existence of the cause of bankruptcy or of the filing of a bankruptcy petition when he receives the consideration, he shall be enough to return it to the extent that the benefit exists.

CHAPTER III BANKRUPTCY CLAIMS

Article 14 (Definition of Bankruptcy Claims) Any claim on property against the bankrupt arising by causes which occurred prior to the declaration of bankruptcy shall be a bankruptcy claim.

Article 15 (Exercise of Bankruptcy Claim) No bankruptcy claim may be exercised without going through bankruptcy proceedings.

Article 16 (Arrival of Maturity Date of Claim with Time Limit) Any claim with a time limit shall be considered to have arrived the maturity date at the time of the declaration of bankruptcy.

Article 17 (Amount of Bankruptcy Claim in case of Non-Monetary Claim, etc.)

(1) If the object of claim is not monetary, the amount of the claim is not definite, or the claims are payable by a foreign currency, the appraised value the bankruptcy is declared shall be the amount of the bankruptcy claim.

(2) The provisions of paragraph (1) shall also apply in cases where the amount or duration of a regular allowance claim is not determined.

Article 18 (Amount of Bankruptcy Claim in case of Conditional Claim, etc.)

(1) In case of a conditional claim, the total amount or the appraised amount as prescribed in the preceding Article, shall be the amount of the bankruptcy claim.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to any future claim against the bankrupt.

Article 19 (Amount of Bankruptcy Claim in case of Bankruptcy of Those Liable in Full) In cases where several debtors are severally liable for the whole amount of obligation, and if all or any of them are/is declared bankrupt, the creditor may exercise his right as bankruptcy creditor against each bankrupt estate, with respect to the whole amount of claim that exists when the bankruptcy is declared.

Article 20 (Amount of Bankruptcy Claim in case of Guarantor's Bankruptcy) If a guarantor is declared bankrupt, the creditor may exercise his right as a bankruptcy creditor with respect to the whole amount of the claim that exists when the bankruptcy is declared.

Article 21 (Right to Reimbursement in Future)

(1) In cases where several persons are severally liable for the whole amount of obligation, and if all or any of them are/is declared bankrupt, any person holding the right to reimbursement which might be exercised against the bankrupt in the future may exercise his right as bankruptcy creditor against each bankrupt estate with respect to the whole amount of the claim for reimbursement: Provided, That this shall not apply where the creditor has already exercised his right as bankruptcy creditor with respect to the whole amount of the claim.

(2) In the case of the proviso as referred to in the preceding paragraph, where a person who holds the right to reimbursement has performed the obligation, he shall assume the right of the creditor in proportion to such performance.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to a right to reimbursement which might exercise in the future against the bankrupt by.

Article 22 (Amount of Bankruptcy Claim in case of Partial Guarantee by Several Persons) The provisions of Articles 19, 20 and 21 (1) and (2) shall apply mutatis mutandis to the guaranteed portion in cases where each of several guarantors guarantees part of the obligation.

Article 23 (Bankruptcy of Member with Unlimited Liability) If a member with an unlimited liability for any obligation of the corporation, is declared bankrupt, the creditor of the corporation may exercise his right, as bankruptcy creditor against the bankrupt estate with respect to the whole amount of the claim that exists when the bankruptcy is declared.

Article 24 (Bankruptcy of Member with Limited Liability) If a member with limited liability for any obligation of the corporation, or the corporation, is declared bankrupt, the creditor of the corporation may not exercise his right against the member with limited liability: Provided, That the corporation may exercise a claim for contribution as a bankruptcy claim.

Article 25 (Bankruptcy of Inheritor) In the case where an inheritor is declared bankrupt, even though the property is separated, any obligee of the person succeeded to creditor and testamentary donee may exercise their rights as bankruptcy creditor against the bankrupt estate with respect to the whole amount of the claim.

Article 26 (Bankruptcy of Inherited Property and Inheritor) If a bankruptcy is declared against any inherited property and the inheritor, the obligee of the person succeeded to creditor and testamentary donee may exercise their rights against the bankrupt estate with respect to the whole amount of the claim.

Article 27 (Qualified Acceptance of Inheritor)

(1) In the case as referred to in the preceding two Articles, if the inheritor who is declared bankrupt, has made a qualified acceptance, the obligee of the person succeeded to creditor and testamentary donee may not exercise their rights as bankruptcy creditor against the inheritor's proper property.

(2) The provisions of the preceding paragraph shall also apply in cases where the qualified acceptance is effective under Article 8 or 9 (1).

Article 28 (Bankruptcy of Inherited Property) If a bankruptcy is declared against any inherited property, the inheritor shall have the same rights as the obligee of the person succeeded to creditor with regard to any claim against the deceased, and any contribution made to discharge the obligation of the deceased.

Article 29 (idem) If a bankruptcy is declared against any inherited property, any creditor of the inheritor may not exercise his rights as bankruptcy

creditor against the bankrupt estate.

Article 30 (Expenses for Intervention in Bankruptcy Proceedings) The expenses for intervention in the bankruptcy proceedings shall be a bankruptcy claim.

Article 31 (Equal Performance to Persons in Same Order) Any claim to be satisfied in the same order shall be satisfied in proportion to the amount of the claim.

Article 32 (Claim with Priority in Bankruptcy) Any bankruptcy claim, having a general priority to the property belonging to the bankrupt estate, shall have a preference to other claims.

Article 33 (Calculation of Period of Priority) If the priority exists for any claim within a specified period, the period shall be calculated retroactively from the time the bankruptcy is declared.

Article 34 (Priority of Creditor of Deceased) If a bankruptcy is declared against any inherited property, the claim of the obligee of the person succeeded to creditor shall have a preference to the claim of any testamentary donee.

Article 35 (Priority among Creditors in case of Bankruptcy of Inheritor) If a bankruptcy is declared against an inheritor upon a petition filed within the period for filing bankruptcy petition against any inherited property, the claim of the creditor of the inheritor shall have a preference to any claim of the obligee of the person succeeded to creditor and the testamentary donee with respect to his proper property, and any claim of the obligee of the person succeeded to creditor and the testamentary donee shall have a preference to any claim of the creditor of the inheritor with respect to the inherited property.

Article 36 (Order in Bankrupt Estate of Inherited Property and Inheritor) If a bankruptcy is declared against any inherited property and an inheritor, the claim of the creditor of the inheritor shall have a preference to the claim of any obligee of the person succeeded to creditor and the testamentary donee with respect to the bankrupt estate of the inheritor.

Article 37 (Junior Claim) The following claims shall be in the order subsequent to any bankruptcy claim:

1. Interest accruing after the declaration of bankruptcy;
2. Compensation for damages and any penalty for a nonperformance after the declaration of bankruptcy;

3. Expenses for intervention in the bankruptcy proceedings;
4. Fines, minor fines, expenses for any criminal proceedings, additional collection amount, and fines for negligence;
5. In case where the term of any claim bearing no interest is to arrive after the declaration of bankruptcy, the portion equivalent to the amount of the interest if the total amount of the principal and interest calculated by the legal interest rate from the time of declaration of bankruptcy to the end of such term is the amount of the claim;
6. In case where the term of any claim bearing no interest is not determined, the portion equivalent to the difference between the amount of the claim and the appraised value at the time of declaration of bankruptcy; and
7. In case of a claim for the money payable by periodical installment, of which the amount and duration are fixed, the portion equivalent to the sum of interests calculated according to the provisions of subparagraph 5 with respect to each installment, and if the sum of the amounts of principal calculated according to the provisions of the said subparagraph exceeds the amount of the principal from which accrues the interest equivalent to the installment by the legal interest rate, the portion equivalent to the excess amount.

CHAPTER IV CLAIM ESTATE

Article 38 (Scope of Estate Claim) The following claims shall be regarded as estate claims:

1. Judicial expenses for the common interests of bankruptcy creditors;
2. Claims collectable pursuant to the National Tax Collection Act or the examples of collection of the national taxes: Provided, That any claim created for any cause after the declaration of bankruptcy shall be limited to those as to the bankrupt estate;
3. Expenses for management, realization and distribution of the bankrupt estate;
4. Claims caused by an act of the bankruptcy trustee with respect to the bankrupt estate;
5. Claims against the bankrupt estate due to any management of affairs or unjust enrichment;
6. Claims against the bankrupt estate caused by any act performed by an urgent necessity after the mandate is terminated or the power of representation is extinguished;
7. Claims held by the other party, in cases where the bankruptcy trustee performs any obligation under Article 50 (1);

8. Claims created by the time a bilateral contract is terminated, in cases where such a contract is terminated by the declaration of bankruptcy; and

9. Aid allowance for the bankrupt and the persons supported by the bankrupt.

Article 39 (Claim of Charge in case of Testamentary Gift Subject to Charge) If the bankruptcy trustee receives a performance of a testamentary gift subject to a charge, the claim to get any benefit of the charge shall be the estate claim to the extent not exceeding the value of the testamentary gift.

Article 40 (Satisfaction of Estate Claim) The estate claim shall be satisfied at any time without going through the bankruptcy proceedings.

Article 41 (Priority of Estate Claim) The estate claim shall be satisfied in preference to the bankruptcy claim.

Article 42 (Method of Performance in case of Shortage in Bankrupt Estate)

(1) If it becomes obvious that the bankrupt estate is insufficient to satisfy the total estate claim, the satisfaction of the estate claim shall be made in proportion to the amount of claim not paid, regardless of the priority prescribed by the Acts and subordinate statutes: Provided, That it shall not affect any lien, pledge, mortgage or lease on deposit basis, which exists with regard to the estate claim.

(2) The estate claim prescribed in subparagraphs 1 through 7 of Article 38 shall have preference to other ones.

Article 43 (Application of Provisions concerning Bankruptcy Claim)

(1) The provisions of Articles 16, 17 and 18 (1) shall be apply mutatis mutandis to the estate claim prescribed in subparagraph 7 of Articles 38 and 39.

(2) If the estate claim is a claim bearing no interest or is a claim for the money payable by periodic installment, the amount of the claim shall be the amount calculated by deducting the amount equivalent to the portion which is in the order subsequent to other bankruptcy claims under subparagraphs 5 through 7 of Article 37, on the assumption that such claim is a bankruptcy claim.

CHAPTER V EFFECT OF BANKRUPTCY ON JURISTIC ACT

Article 44 (Juristic Act of Bankrupt after Declaration of Bankruptcy)

(1) Any juristic act taken by a bankrupt to any property belonging to the bankrupt estate after the declaration of bankruptcy shall not be set up

against any bankruptcy creditor.

(2) Any juristic act taken by a bankrupt at the date of the declaration of bankruptcy, shall be presumed to have taken place after the declaration of bankruptcy.

Article 45 (Acquisition of Right after Declaration of Bankruptcy)

(1) Even though any right to the property belonging to the bankrupt estate is acquired not by the juristic act of the bankrupt, but after the bankruptcy is declared, the acquisition shall not be set up against any bankruptcy creditor.

(2) The provisions of subparagraph 2 of preceding Article shall apply mutatis mutandis to the acquisition prescribed in the preceding paragraph.

Article 46 (Registration, Record etc. after Declaration of Bankruptcy)

(1) Any registration or provisional registration as prescribed in Article 3 of the Registration of Real Estate Act, made after the declaration of bankruptcy, as a performance of any obligation created prior to the declaration of bankruptcy on any real estate or vessel, shall not be set up against any bankruptcy creditor: Provided, That in cases where a registration or provisional registration is made by a person having the right to the registration not knowing the fact that a bankruptcy has been declared, this shall not apply.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to any record or provisional record on the establishment, transfer or change of the right.

Article 47 (Performance to Bankrupt after Declaration of Bankruptcy)

(1) Any performance made to a bankrupt without knowing the fact after a bankruptcy is declared, may be set up against any bankruptcy creditor.

(2) Any performance made to a bankrupt after declaration of bankruptcy with knowing the fact, may be set up against any bankruptcy creditor, only to the extent that the benefit obtained by the bankrupt estate exists.

Article 48 (Acceptance or Payment of Bills after Declaration of Bankruptcy)

(1) In cases where a drawer or endorser of a bill of exchange is declared bankrupt, and if the drawee or referee in case of need accepts or pays them without knowing the fact, he may exercise his right as a bankruptcy creditor, with respect to any claim created by it.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to checks and any other instruments for the purpose of paying, money, other things or instruments.

Article 49 (Presumption of Good or Bad Faith) In application of the preceding three Articles, good faith shall be presumed with regard to bankruptcy before the public notice of declaration of bankruptcy is given, and bad faith shall be presumed after the public notice thereof is given.

Article 50 (Rescission or Performance of Bilateral Contract)

(1) If a bankrupt party and the other party fail to complete the performance of a bilateral contract when the bankruptcy is declared, the bankruptcy trustee may, selectively, rescind the contract, or claim for the performance of the other party after first performing the obligation of the bankrupt.

(2) In the case as referred to in the preceding paragraph, the other party may demand the bankruptcy trustee to reply definitely whether he intends to rescind the contract, or claim a performance of obligation, with a reasonable period fixed. If the bankruptcy trustee fails to reply definitely within such period, the contract shall be considered to have been rescinded.

Article 51 (Rescission by Trustee and Right of Other Party)

(1) If a contract is rescinded under the provisions of the preceding Article, the other party may exercise as bankruptcy creditor the right to damages.

(2) If any consideration received by the bankrupt exists in the bankrupt estate, the other party may claim the return thereof and, if not, he may exercise as bankruptcy creditor, his right to the value thereof.

Article 52 (Time Transaction of Goods with Exchange Quotation)

(1) In cases of the sale and purchase of goods with prices quoted by exchange and where the purpose of the contract cannot be achieved without fulfilling the contract on a specified date or within a specified period, and if the time arrives after the declaration of bankruptcy, the contract shall be considered to have been rescinded. In this case, the amount of the damages shall be the difference between the quotation of goods to be fulfilled on the same date in the same kind of transaction at the place of performance, and the cost of transaction.

(2) The provisions of paragraph (1) of the preceding Article shall apply mutatis mutandis to the compensation for damage as referred to in paragraph (1).

(3) If the exchange provides otherwise as to the cases referred to in paragraph (1), that provision shall prevail.

Article 53 (Case where Right to Rescission is provided by Civil Act) The provisions of Article 50 (2) shall apply mutatis mutandis to an exercise of the right to rescission or termination which the other party or bankruptcy trustee has under Articles 637, 663 or 674 (1) of the Civil Act.

Article 54 (Lease)

- (1) If a lessor is declared bankrupt, any advance of rent or disposal of the claim for rent shall not be set up against any bankruptcy creditor except one on the current or the following term of the time of declaration of bankruptcy.
- (2) Any person who has sustained any loss due to inability to set up against the bankruptcy creditor pursuant to the provisions of the preceding paragraph, may exercise as bankruptcy creditor his right to compensation for damage.
- (3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to the superficies.

Article 55 (Contract for Work)

- (1) If the bankrupt party is liable for fulfilling any work contractual, the bankruptcy trustee may have the bankrupt carry out the work by furnishing the necessary materials. If it is not required that the bankrupt himself carries out the work, the trustee may have any third person finish the work.
- (2) In the case as referred to in the preceding paragraph, any remuneration to be paid by the other party to the bankrupt, shall be reverted to the bankrupt estate.

Article 56 (Mandate) In cases where the mandator is declared bankrupt, and if the mandatory manages the entrusted affairs without being notified of, or having prior knowledge of, the declaration of bankruptcy, the mandatory may exercise as bankruptcy creditor his right to any claim created by it.

Article 57 (Mutual Accounts)

- (1) The mutual accounts shall be closed when one of the parties is declared bankrupt. In this case, each party may close the accounts and claim a payment of the balance.
- (2) The claim, as referred to in the preceding paragraph, shall belong to the bankrupt estate if the bankrupt party has it, or it shall be the bankruptcy claim, if the other party has it.

Article 58 (Bankruptcy of Co-owner)

- (1) In cases where several persons jointly own any property, if one of the co-owners is declared bankrupt, the property may be divided without going through bankruptcy proceedings, even if there is a stipulation of non-division.
- (2) In the cases as referred to in the preceding paragraph, a co-owner may

acquire the share of the bankrupt by paying the consideration equivalent to it.

Article 59 (Management of Spouse's Property) The provisions of Article 829 (3) and (5) of the Civil Act shall apply mutatis mutandis to cases where a person who manages the property of his spouse is declared bankrupt, and the provisions of Article 924 of the said Act shall apply mutatis mutandis, to cases where a person exercising the parental authority is declared bankrupt, as the case may be.

Article 60 (Taking Over of Lawsuit on Property belonging to Bankrupt Estate)

(1) Any lawsuit on any property belonging to the bankrupt estate, which is pending at the time of the declaration of bankruptcy, may be taken over by the bankruptcy trustee or by the other party. This provision shall also apply to the lawsuit on the claim as provided in subparagraph 7 of Article 38.

(2) In the cases as referred to in the preceding paragraph, the expenses for the lawsuit shall be an estate claim.

Article 61 (Effect on Compulsory Execution and Provisional Measure)

(1) Any compulsory execution, provisional attachment or provisional disposition against any property belonging to the bankrupt estate in connection with the bankruptcy claim, shall lose its effect with respect to the bankrupt estate: Provided, That in cases of compulsory execution, the bankruptcy trustee may proceed with the procedure in the interests of the bankrupt estate.

(2) If the bankruptcy trustee proceeds with the procedure of compulsory execution under the proviso of the preceding paragraph, the expenses shall be an estate claim, and in a lawsuit instituted by a person who has an objection against the compulsory execution, the bankruptcy trustee shall be the defendant.

Article 62 (Effect to Disposition for Arrears) If a disposition for arrears is made to any property belonging to the bankrupt estate under the National Tax Collection Act or according to the examples of the collection of national taxes, the declaration of bankruptcy shall not prevent the disposition from proceeding.

Article 63 (Effect to Administrative Case)

(1) If there is any case pending before the administrative agency with respect to any property belonging to the bankrupt estate at the time of the declaration of bankruptcy, the procedure shall be suspended until the case is taken over, or the bankruptcy proceeding is terminated.

(2) The provisions of Article 60 shall apply mutatis mutandis to the case

referred to in the preceding paragraph.

CHAPTER VI AVOIDING POWER

Article 64 (Avoidable Act) The following act may be avoided for the bankrupt estate:

1. Act performed by the bankrupt knowingly that it is prejudicial to the bankruptcy creditor: Provided, That in cases where a person has obtained any benefit from such act not knowingly the fact that it is prejudicial to the bankruptcy creditor at the time of the act, this shall not apply;

2. Offer of any security, act extinguishing any obligation, and other acts prejudicial to bankruptcy creditors, which is performed by the bankrupt after the payment has been suspended, or a petition for bankruptcy has been filed: Provided, That in cases where a person obtained any benefit from such an act not knowingly the fact that the payment has been suspended, or the petition for bankruptcy has been filed at the time of the act this shall not apply;

3. Act referred to in the preceding subparagraph, in which the other party is a relative of the bankrupt or a person living with him: Provided, That in cases where the other party does not know the fact that the payment has been suspended, or a petition for bankruptcy has been filed, at the time of the act, this shall not apply;

4. Act related to the furnishing of any security, or the extinguishment of any obligation, which is performed by the bankrupt after the payment has been suspended, or a petition for bankruptcy has been filed, or within thirty days before it, and which does not belong to the liability of the bankrupt, or the method or time of which does not belong to the liability of the bankrupt: Provided, That in cases where the creditor does not know the fact that the payment has been suspended or a petition for bankruptcy has been filed, or it is prejudicial to the bankruptcy creditor, at the time of the act, this shall not apply; and

5. Gratuitous act or other equivalent act performed by the bankrupt after the payment has been suspended or a petition for bankruptcy has been filed, or within six months before it.

Article 65 (Exception to Payment of Bill)

(1) The provisions of the preceding Article shall not be applicable in cases where, the person to whom any bill has been paid by the bankrupt would have lost the right to the bills against one or more debtors, if he, did not receive the payment.

(2) In the case referred to in the preceding paragraph, if the last person liable for recourse or if the person who has entrusted the drawing of bills, knows, or fails to know by negligence, that the payment has been suspended or

a petition for bankruptcy has been filed at the time of the act, the bankruptcy trustee may have the person redeem the amount paid by the bankrupt.

Article 66 (Avoidance of Act Required for or Necessary to Set up Change in Right)

(1) In case where any registration making effective any establishment, transfer, or change of a right is made after a payment has been suspended or a petition for bankruptcy has been filed, it may be avoided, if such a registration is made in bad faith fifteen days after the act bearing the obligation, which was the cause of the registration, has expired: Provided, That where such registration is made based upon a provisional registration, this shall not apply.

(2) The provisions of the preceding paragraph shall also be applicable to a case where an act necessary to set up any establishment, transfer, or change of a right to a third person is done after the payment has been suspended or a petition for bankruptcy has been filed, and if the act is done in bad faith after the expiration of fifteen days after the right is established, transferred or changed.

Article 67 (Act of Enforcement) Even though any enforceable title of debt is attached to the act to be avoided, or such an act is based on an act of enforcement, the avoiding power may be exercised.

Article 68 (Method of Exercise of Avoiding Power) The avoiding power shall be exercised by the bankruptcy trustee by means of a lawsuit or affirmative defense.

Article 69 (Effect of Exercise of Avoiding Power)

(1) The exercise of the avoiding power right shall restore the bankrupt estate to its original state.

(2) In case where the act falling under subparagraph 5 of Article 64 is avoided, and if the other party is in good faith at the time of the act, it shall be sufficient to redeem to the extent that the benefit exists.

Article 70 (Status of Other Party)

(1) In case where any act of the bankrupt is avoided, and if the consideration paid to him exists in the bankrupt estate, the other party may claim the return of it, and if any benefit obtained from the consideration exists, he may exercise his right as estate creditor, to the limit of such benefit.

(2) If any benefit obtained from the consideration does not exist, the other party may exercise his right as bankruptcy creditor with respect to the

return of the value thereof. This provision shall also apply to the difference in a case where the value of the consideration is larger than the existing benefit.

Article 71 (Restoration of Other Party's Claim) In case where any act of the bankrupt is avoided, and, if the other party returns the payment he received or redeems the value thereof, his claim shall be restored to its original state.

Article 72 (Avoiding Power in case of Bankruptcy of Inherited Property) The provisions of Articles 64, 65, 70 and 71 shall apply mutatis mutandis to any act performed by the deceased, inheritor, administrator of inherited property, and testamentary executor with respect to the inherited property, in cases where a bankruptcy is declared against any inherited property.

Article 73 (Avoidance of Performance to Testamentary Donee) In a case where a bankruptcy is declared against any inherited property, and if a performance or act extinguishing any obligation to the testamentary donee is prejudicial to the bankruptcy creditor holding claim preferential to such obligation, it may be avoided.

Article 74 (Performance to Other Party of Avoidance) In a case where a bankruptcy is declared against any inherited property, and if the act as prescribed in Article 72 is avoided, the remaining property shall be distributed, in proportion to the value of their rights, to the other party of the avoided act after rendering the performance to the obligees of the persons succeeded to creditors.

Article 75 (Avoiding Power against Subsequent Purchaser)

(1) The avoiding power may be exercised against to any subsequent purchaser, in the following cases:

1. Where the subsequent purchaser knows that there is a cause of avoidance to the preceding person, at the time of the subsequent purchase;
2. Where the subsequent purchaser is a relative of the bankrupt, or a person living together with the bankrupt: Provided, That in case where he does not know that there is a cause for avoidance to the preceding person at the time of the subsequent purchase, this shall not apply; and
3. Where the subsequent purchase is made by a gratuitous or similar onerous act of the subsequent purchaser, and there is a cause for avoidance to the preceding person.

(2) The provisions of Article 69 (2) shall apply mutatis mutandis to cases where the avoiding power is exercised under subparagraph 3 of the preceding paragraph.

Article 76 (Restriction on Avoidance Due to Knowledge of Payment Suspension) Any act performed before one year from when the bankruptcy is declared, may not be avoided by the reason that the fact of payment suspension is known.

Article 77 (Extinctive Prescription of Avoiding Power) The avoiding power shall be extinguished unless it is exercised for two years after the bankruptcy is declared. This provision shall also apply in cases where twenty years have passed since the performance of the act.

Article 78 (Interruption of Lawsuit for Revocation)

(1) If a lawsuit instituted by a bankruptcy creditor under Article 406 of the Civil Act is pending at the time of the declaration of bankruptcy, the proceedings shall be interrupted until it is succeeded, or the bankruptcy proceedings is cancelled.

(2) The provisions of Article 60 shall apply mutatis mutandis to the cases referred to in the preceding paragraph.

CHAPTER VII RIGHT OF REPOSSESSION

Article 79 (Repossession of Property not belonging to Bankrupt) The declaration of bankruptcy shall not affect the right to repossess any property not belonging to the bankrupt from the bankrupt estate.

Article 80 (Prohibition of Repossession of Security for Transfer) Any person who has transferred any property to the bankrupt before the declaration of bankruptcy, may not repossess the property because it is the object of the security.

Article 81 (Right of Repossession of Sold Goods by Seller)

(1) In case where a seller has shipped to a purchaser goods which are the object of a transaction, he may repossess the goods if the purchaser is declared bankrupt while he does not pay in full the price, and does not receive the goods at the place of destination: Provided, That where the bankruptcy trustee pays in full, and claims a delivery of goods, this shall not apply.

(2) The provisions of the preceding paragraph shall not exclude the application of Article 50.

Article 82 (Right of Repossession of Commission Agent) The provisions of the preceding Article shall apply mutatis mutandis to cases where a commission agent who is entrusted with the purchase of goods, dispatches the goods to the principal.

Article 83 (Right of Substitute Repossession)

(1) If the bankrupt transfers any property which is the object of the right of repossession before the declaration of bankruptcy, the person having the right of repossession may request the transfer of the claim for the consideration. This provision shall also apply in a case where the bankruptcy trustee transfers the property which is the object of the right of repossession.

(2) In the cases as referred to in the preceding paragraph, where the bankruptcy trustee receives any consideration, the person having the right of repossession may claim a delivery of the property received by the trustee as a consideration.

CHAPTER VIII RIGHT TO FORECLOSE OUTSIDE BANKRUPTCY

Article 84 (Person Having Right To Foreclose Outside Bankruptcy) Any person holding a lien, pledge, mortgage or chonsewon lease on deposit basis which exists on any property belonging to the bankrupt estate, shall have a right to foreclose outside bankruptcy on such property.

Article 85 (Right to Foreclose Outside Bankruptcy of Co-owners) In case where several persons hold jointly the right of a property, and if one of them is declared bankrupt, the other co-owner who holds a claim to the other co-owner with respect to the co-ownership, shall have a right to foreclose outside bankruptcy to the portion of the common property to be reverted to the bankrupt by a division.

Article 86 (Exercise of Right to Foreclose Outside Bankruptcy) The right to foreclose outside bankruptcy shall be exercised without going through the bankruptcy proceedings.

Article 87 (Exercise of Bankruptcy Claim by Person Holding Right to Foreclose Outside Bankruptcy) Any person holding the right to foreclose outside bankruptcy may exercise the right as bankruptcy creditor only for the amount of the claim that is not to be repaid by the exercise of the right to foreclose outside bankruptcy: Provided, That it shall not prevent him from exercising his right as bankruptcy creditor to any amount of the claim for which he has waived the right to foreclose outside bankruptcy.

Article 88 (Person holding Quasi-Right to Foreclose outside Bankruptcy)

(1) Any person holding a right of pledge or a mortgage on any of the bankrupt's property that does not belong to the bankrupt estate, may exercise his right as bankruptcy creditor only for the amount of the claim that is not

to be satisfied by the exercise of the right.

(2) The provisions of Part II concerning the right to foreclose outside bankruptcy shall apply mutatis mutandis to the person holding the right as referred to in the preceding paragraph.

CHAPTER IX RIGHT OF SET-OFF

Article 89 (Right of Set-off) If a bankruptcy creditor bears an obligation to the bankrupt at the time of the declaration of bankruptcy, it may be offset without going through the bankruptcy proceedings.

Article 90 (Set-off of Claims with Time Limit and Condition Subsequent) Even though the claim of the bankruptcy creditor is subject to a time limit or a condition subsequent, or the one as prescribed in Article 17, it may be offset. This provision shall also apply in case where the obligation is subject to a time limit, a condition subsequent, or is related to future claim.

Article 91 (Set-off of Claim under Condition Precedent and Future Claim) If a person who holds a claim under the condition precedent or a future claim performs the obligation, he may claim a deposition for the amount of the performance within the limits of the amount of the claim, for set-off in the future.

Article 92 (Set-off of Claim under Condition Subsequent) If a person who holds a claim under condition subsequent makes a set-off, he shall furnish security for the set-off or make a deposition for the amount of the set-off.

Article 93 (Amount of Set-off of Claim)

(1) If the claim of the bankruptcy creditor is a claim bearing no interest or is a claim payable by periodic installment, the set-off shall be permitted to the extent of the amount calculated after deducting the portion falling under subparagraphs 5 through 7 of Article 37.

(2) The provisions of Articles 17 and 18 shall apply mutatis mutandis to the claim of the creditor of bankruptcy.

Article 94 (Set-off of Rent, Deposit and Rent for Land)

(1) If the bankruptcy creditor is a lessee, an set-off may be made for the rent of the current and following term of the time of the declaration of bankruptcy. If there is any deposit, this provision shall also apply to the subsequent rent.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to the rent for land.

Article 95 (Prohibition against Set-off) No set-off may be made in the following cases: <Amended by Act No. 5519, Feb. 24, 1998>

1. Where a bankruptcy creditor bears any obligation to the bankrupt estate after the declaration of bankruptcy;

2. Where a bankruptcy creditor bears any obligation to the bankrupt, knowing the fact that the payment has been suspended or a petition for bankruptcy has been filed: Provided, That this shall not apply where the obligation is based on any cause provided by law, a cause which has taken place before the bankruptcy creditor knows the fact that the payment has been suspended or a petition for bankruptcy has been filed, or a case which has taken place one year before the bankruptcy is declared;

3. Where a debtor of the bankrupt acquires another person's bankruptcy claim after the declaration of bankruptcy; and

4. Where a debtor of the bankrupt acquires a bankruptcy claim, knowing the fact that the payment has been suspended or a petition for bankruptcy has been filed: Provided, That this shall not apply where the acquisition is based on any petition cause provided by law, or a cause which has taken place before the debtor knows that the payment has been suspended or a petition for bankruptcy has been filed, or a cause has taken place one year before the bankruptcy is declared.

PART II PROCEDURAL PROVISIONS

CHAPTER I GENERAL PROVISIONS

Article 96 (Jurisdiction over Bankruptcy Case)

(1) Any bankruptcy case in which the debtor is a businessman shall fall under the exclusive jurisdiction of a collegiate division of the district court which has jurisdiction in the location of the principal business office (where he has the principal business office in a foreign country, the location of the principal business office in the Republic of Korea).

(2) Any bankruptcy case in which the debtor is not a businessman or has no business office shall fall under the exclusive jurisdiction of the district court which has jurisdiction in location of its general forum.

[This Article Wholly Amended by Act No. 5519, Feb. 24, 1998]

Article 97 (Jurisdiction over Bankruptcy of Inherited Property) The bankruptcy case on any inherited property shall be subject to the exclusive jurisdiction of the district court that has jurisdiction over the location where the inheritance is commenced.

Article 98 (Jurisdiction over Place where Property is Located)

- (1) If there is no competent court as prescribed in Articles 96 and 97, it shall be subject to the exclusive jurisdiction of the district court that has jurisdiction over the place where the property is located.
- (2) In the case of a claim, the place where it can be judicially claimed shall be considered its location.
- (3) If two or more courts have the jurisdiction over the location at the same time under the preceding two paragraphs, it shall be subject to the exclusive jurisdiction of the court to which the petition for bankruptcy is first filed.

Article 98-2 (Removal of Cases) Where it is deemed necessary to avoid serious damage or delay in case under Articles 96 through 98, the court may remove ex officio a case to another court which has jurisdiction over the location of a businessman's other business office or the location of his property.

[This Article Newly Inserted by Act No. 5519, Feb. 24, 1998]

Article 99 (Application of Civil Procedure Act) Except as otherwise provided in this Act, the Civil Procedure Act shall apply mutatis mutandis to the bankruptcy proceedings.

Article 100 (Cooperation between Courts) In the bankruptcy cases, the courts may seek legal assistance from each other.

Article 101 (Voluntary Argument and ex officio Investigation)

- (1) Any trial on bankruptcy proceedings may be conducted without any argument.
- (2) The court may conduct ex officio any necessary investigation of a bankruptcy case.

Article 101-2 (Duties and Powers of Administrative Committee)

(1) Where an Administrative Committee is established under Article 93-2 of the Company Reorganization Act (hereinafter referred to as the "Administrative Committee"), the Administrative Committee shall carry out the duties as determined by Acts and subordinate statutes or by the court of the following, on bankruptcy proceedings under the court's supervision:

1. Presentation of opinion on the appointment of trustees in bankruptcy;
2. Supervision and evaluation of the execution of business by bankruptcy

trustees;

3. Operations related to the meeting of creditors; and

4. Other businesses related to bankruptcy proceedings.

(2) The Administrative Committee may delegate part of the duties to the members of the Administrative Committee (hereinafter referred to as "administrators") to carry out efficiently the duties referred to in any of subparagraphs of paragraph (1).

(3) Where it is not deemed appropriate that any administrator doing duties pursuant to paragraph (2) carries out such duties, the court may order the Administrative Committee to delegate his duties to any other administrator.

(4) The court may delegate part of permitted business on bankruptcy proceedings to any administrator. In this case, the scope of and procedures, etc. for delegation shall be determined by the Supreme Court Regulations.

(5) The provisions of Article 54-3 of the Company Reorganization Act shall apply mutatis mutandis to the business conducted by an administrator pursuant to paragraph (4).

(6) Where an Administrative Committee has not been established, the matters on the Administrative Committee of the provisions of Article 147 shall not apply.

[This Article Newly Inserted by Act No. 5519, Feb. 24, 1998]

Article 102 (ex officio Service on Trial) In a trial on bankruptcy proceedings, the service shall be made ex officio.

Article 103 (Appeal of Dissatisfaction)

(1) Except as otherwise provided in this Part, any interested party in a trial on the bankruptcy proceedings, may make an immediate appeal against the trial.

(2) The period of the immediate appeal as referred to in the preceding paragraph, shall be fourteen days counting from the day on which the public notice is made, if the trial is notified publicly.

Article 104 (Method of Request, Statement and Appeal) Any request, statement and appeal related to the bankruptcy proceedings, shall be made in writing or orally.

Article 105 (Method and Effectuation of Public Notice)

(1) Any public notice given pursuant to this Part, shall be reported in the Gazette or a daily newspaper as designated by the court. <Amended by Act No.

5519, Feb. 24, 1998>

(2) The public notice shall take effect on the day following the day on which the last insertion is made.

Article 106 Deleted. <by Act No. 5519, Feb. 24, 1998>

Article 107 (Public Notice Substituting for Service) If a service is required under this Part, a public notice may substitute for it.

Article 108 (Service in Addition to Public Notice)

(1) If a service is required in addition to the public notice under this Part, the service may be made by mail.

(2) In the case as referred to in the preceding paragraph, the public notice shall have the effect of a service to all interested parties.

Article 109 (Registration of Bankruptcy of Juristic Person) In case where a bankruptcy is declared against a juristic person, the court shall without delay, ex officio, entrust the registry office at the each business office or place of business of the bankrupt juristic person with the registration of bankruptcy by sending a written entrustment together with a copy of the ruling on the bankruptcy.

Article 110 (Entrustment with Registration of Bankruptcy) If the court becomes aware of the fact that the registration of bankruptcy has been made, it shall entrust without delay, ex officio, the registry office with a registration of bankruptcy, by sending a written entrustment together with a copy of the ruling on the bankruptcy. This provision shall also apply to cases where the court knows that any right belonging to the bankrupt estate is registered.

Article 111 (Application to Other Registration on Bankruptcy) The provisions of the preceding two Articles shall apply mutatis mutandis in cases where a ruling on the revocation or discontinuation of bankruptcy, or revocation of a compulsory composition becomes final, and the ruling on the closing of bankruptcy has been made. This provision shall also apply in cases where the bankruptcy trustee has waived any right which is included in the registration of bankruptcy from the bankrupt estate, and the registration thereof is entrusted.

Article 112 (Duty of Registry and Exemption from Registration Tax)

(1) The registry shall, upon receiving an entrustment of registration under the preceding three Articles, make the registration without delay.

(2) No registration tax shall be imposed on the registration as referred to

in the preceding paragraph.

Article 113 (Registration of Avoidance)

(1) If the act which is the cause of the registration is avoided, the bankruptcy trustee shall make a registration of avoidance. This provision shall also apply to a case where the registration is avoided.

(2) The provisions of Articles 111 and 112 (2) shall apply mutatis mutandis to the case as referred to in the preceding paragraph.

Article 114 (Application to Registration) The provisions of four preceding Articles shall apply to any registered right belonging to the bankrupt estate.

Article 115 (Notification of Corporation's Bankruptcy)

(1) In cases where a bankruptcy is declared against a juristic person whose incorporation or objective of business has been permitted by an administrative agency, the court shall notify the agency of the declaration of bankruptcy.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to a case where the ruling on the revocation or discontinuation of bankruptcy, or revocation of compulsory composition becomes final, or a ruling on the closing of bankruptcy has been made.

Article 115-2 (Suspension of Bankruptcy Proceedings until Ruling on Discontinuation of Liability Limitation Procedure) If a ruling on the discontinuation of the liability limitation procedure commenced for the bankrupt is made, the bankruptcy proceedings shall be suspended until such ruling becomes final.

[This Article Newly Inserted by Act No. 4472, Dec. 31, 1991]

CHAPTER II DECLARATION OF BANKRUPTCY

Article 116 (Cause of Ordinary Bankruptcy)

(1) If a debtor is unable to make the payment, the court shall, upon petition, declare bankruptcy by a ruling.

(2) If a debtor suspends the payment, it shall be presumed that he is unable to make the payment.

Article 117 (Cause of Juristic Person's Bankruptcy)

(1) Where a juristic person's total debts exceed its total assets, it may be declared bankrupt. <Amended by Act No. 5519, Feb. 24, 1998>

(2) The provisions of the preceding paragraph shall not apply when a partnership company or a limited partnership company exists.

Article 118 (Petition for Bankruptcy after Dissolution of Juristic Person) In the case of a juristic person, a petition for bankruptcy may be filed even after its dissolution, as long as the delivery or distribution of the remaining property has not been completed.

Article 119 (Cause of Bankruptcy of Inherited Property) If it is impossible to repay in full any obligation to the obligees of the persons succeeded to creditors and testamentary donees with the inherited property, the court shall, upon petition, declare bankruptcy by a ruling.

Article 120 (Inheritance after Petition for or Declaration of Bankruptcy) If the inheritance is commenced after a petition for or declaration of bankruptcy has been filed or made, the bankruptcy proceedings shall be proceeded against the inherited property.

Article 121 (Filing Period of Petition for Bankruptcy of Inherited Property) The petition for bankruptcy may be only filed against any inherited property during the period in which it is permitted to claim a separation of property under Article 1045 of the Civil Act. This provision shall also apply in case where a qualified acceptance is made or the property has been separated within such period, but the performance to the obligee of the person succeeded to creditor and the testamentary donee is not yet completed.

Article 122 (Person Entitled to File Petition for Bankruptcy)

(1) Any creditor or debtor may file a petition for bankruptcy.

(2) If a creditor files a petition for bankruptcy, he shall show prima facie proof of the existence of the claim and the cause of bankruptcy.

Article 123 (Person Entitled to Request Bankruptcy of Juristic Person)

(1) In the case of a corporation established under the Civil Act, a director may request the bankruptcy; in the case of a partnership company or limited partnership company, a member with unlimited liability; and in the case of a stock company, a director; as the case may be.

(2) In the case of a juristic person as referred to in the preceding paragraph, the liquidator may also file a petition for bankruptcy.

Article 124 (Petition by Some of Directors, etc.) If some of the directors, members with unlimited liability, or liquidators, file a petition for bankruptcy, they shall show prima facie proof of the existence of the cause of bankruptcy.

Article 125 (Application to Other Corporations) The provisions of the preceding two Articles shall apply mutatis mutandis to any juristic person other than those as provided in Article 123, and any associations or foundations that are not juristic persons but do have a representative or manager.

Article 126 (Person Entitled to File Petition for Bankruptcy of Inherited Property)

(1) In addition to the obligees of the persons succeeded to creditors and testamentary donees, the inheritor, administrator of inherited property and testamentary executor may also file a petition for bankruptcy on the inherited property.

(2) If the administrator of inherited property, testamentary executor or inheritor in a case where a qualified acceptance has been made or the property has been separated, finds that it is impossible to repay in full the obligation to the obligees of the persons succeeded to creditors and testamentary donees with the inherited property, he shall file, without delay, a petition for bankruptcy.

(3) When the inheritor, administrator of inherited property or testamentary executor files the petition for bankruptcy, he shall show prima facie proof of the cause of the bankruptcy.

Article 127 (Case where Bankruptcy is Declared in Foreign Country) If the bankruptcy has been already declared in a foreign country when a petition for bankruptcy is filed, the person filing a petition for bankruptcy shall not be required to show prima facie proof of the cause of the bankruptcy.

Article 128 (Case of Petition by Person Other than Creditor) If the person filing a petition for bankruptcy is not a creditor, he shall present, at the same time as the filing, a document indicating the outline of the status of property and a list of the creditors and debtors. If it is impossible to present them at the same time as the filing, they shall be presented thereafter without delay.

Article 129 (Prepayment of Expenses for Bankruptcy Proceedings)

(1) If a creditor files a petition for bankruptcy, he shall prepay the amount as deemed reasonable by the court as the expenses for the bankruptcy proceedings. If the prepayment is not made, the court may dismiss the petition.

(2) An appeal of dissatisfaction cannot be made against a ruling on the

prepayment of expenses.

Article 130 (Provisional Payment of Expenses for Bankruptcy Proceedings by National Treasury) If the person filing a petition for bankruptcy is not a creditor, the expenses for the bankruptcy proceedings shall be paid provisionally by the National Treasury. This provision shall also apply in the case where the person filing a petition for bankruptcy is a creditor, but the court declares the bankruptcy without prepayment of the expenses, the prepayment is insufficient, or the court declares the bankruptcy ex officio.

Article 131 (Entry of Date of Declaration in Written Ruling on Bankruptcy) The date and time of the declaration of bankruptcy shall be entered in the written ruling on bankruptcy.

Article 132 (Matters to be Settled at Same Time as Declaration of Bankruptcy)

(1) The court shall appoint the bankruptcy trustee, and determine the following matters at the same time as declaration of bankruptcy:

1. Period for report on the claim: Provided, That the period shall be two weeks to four months from the day on which the bankruptcy is declared;

2. Date of the first meeting of creditors: Provided, That the date shall be within one month after the bankruptcy is declared; and

3. Date of the investigation on the claim: Provided, That the interval between such date and the end of the report period of the claim, shall be at least one week to one month.

(2) The dates referred to in subparagraphs 2 and 3 of the preceding paragraph may be combined.

Article 133 (Public Notice and Notification on Declaration of Bankruptcy)

(1) When the court declares a bankruptcy, it shall notify publicly the following matters:

1. Text of the ruling on bankruptcy;

2. Name and address of the bankruptcy trustee;

3. Period and date as determined pursuant to the provisions of the preceding Article; and

4. Order of the effect that any debtor of the bankrupt and any owner of the property belonging to the bankrupt estate, shall not make any performance or deliver any property to the bankrupt, and shall report to the bankruptcy trustee the fact that he bears any obligation, he owns any property, and he holds any right to foreclose outside bankruptcy, if any, within a specified period.

(2) The document stating the matters referred to in paragraph (1) 2 through 4, shall be served to the identified creditors, debtors and owners of the property.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis in cases where any of the matters referred to in paragraph (1) 2 through 4 are changed.

(4) Any person who neglects the report referred to in paragraph (1) 4, shall compensate any loss of the bankrupt estate caused by the negligence.

Article 134 (Notification to Public Prosecutor) When the court declares a bankruptcy, it shall immediately notify it to the public prosecutor.

Article 135 (Discontinuation of Bankruptcy at Same Time as Declaration of Bankruptcy)

(1) If the court deems that it is insufficient to pay the expenses for the bankruptcy proceedings with the bankrupt estate, it shall decide the discontinuation of bankruptcy at the same time as the declaration of bankruptcy. In this case, the court shall publicly notify the texts of the rulings on the bankruptcy and its ensuing discontinuation, and the summary of reasons thereof.

(2) In the case referred to in the preceding paragraph, if the revocation of the discontinuation of bankruptcy becomes final, the provisions of the preceding three Articles shall apply mutatis mutandis.

Article 136 (Exception to Simultaneous Discontinuation of Bankruptcy) If the amount sufficient to pay expenses of the bankruptcy proceedings is prepaid, the provisions of the preceding Article shall not apply.

Article 137 (Restriction of Residence of Bankrupt) The bankrupt may not leave his residence without obtaining the permission of the court.

Article 138 (Compulsory Appearance of Bankrupt)

(1) If it is deemed necessary, the court may order the compulsory appearance of a bankrupt.

(2) The compulsory appearance shall be made according to the issuance of a warrant of compulsory appearance.

(3) The provisions of the Criminal Procedure Act concerning the compulsory appearance shall apply mutatis mutandis to the compulsory appearance.

Article 139 (Guard over Bankrupt)

(1) If the bankrupt is likely to flee, or conceal or damage any property, the court may order a guard over him.

(2) In the case referred to in the preceding paragraph, the court shall send the authentic copy of the ruling to the public prosecutor. The public prosecutor shall order the police officials at the police station which has the jurisdiction over the residence of the bankrupt to execute the guard.

Article 140 (Restriction on Meeting or Communication) Any bankrupt who has been ordered to be under guard, may not meet or communicate with another person without obtaining the permission of the court.

Article 141 (Revocation of Guard)

(1) If the guard is not required, the court shall revoke the ruling on the guard ex officio or upon the request of the bankrupt or bankruptcy trustee.

(2) In the case referred to in the preceding paragraph, the court shall send the authentic copy of the ruling to the public prosecutor, who shall order the police official to terminate the guard.

Article 142 (Application to Quasi-Bankrupt) The provisions of the preceding five Articles shall apply mutatis mutandis to the legal representative, director or any other person equivalent to the director and manager of the bankrupt. The same shall also apply to the inheritor, his legal representative and manager, in the case of a bankruptcy on the inherited property.

Article 143 (Liability of Bankrupt, etc. for Explanation)

(1) The bankrupt, his representative or director or any other person equivalent to the director shall give a necessary explanation on the bankruptcy upon a request of the bankruptcy trustee, member of the inspection committee, or creditors meeting. This provision shall also apply to the inheritor, his agent, administrator of inherited property and testamentary executor, in the case of a bankruptcy on any inherited property.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to any person who used to occupy the position referred to in the preceding paragraph.

Article 144 (Compulsory Appearance and Guard prior to Declaration) If a petition for bankruptcy is filed, the court may order the compulsory appearance or guard over the debtor and others provided for in Article 142 even before the declaration of bankruptcy.

Article 145 (Disposition for Preservation of Bankrupt Estate prior to

Declaration)

- (1) If a petition for bankruptcy is filed, the court may order ex officio or upon the request of the interested party, a provisional seizure, provisional disposition, and other necessary preservative measures against the bankrupt estate, even before the declaration of bankruptcy.
- (2) The court may change or revoke the disposition referred to in the preceding paragraph.
- (3) The judgment under the preceding two paragraphs shall be made in the form of a ruling.
- (4) An immediate appeal against the judgement under paragraph (1) or (2) shall not have force on suspension of execution. <Newly Inserted by Act No. 5519, Feb. 24, 1998>

Article 145-2 (Order of Suspension of Liability Limitation Procedure)

- (1) In the case where a petition for bankruptcy is filed, if it is deemed necessary, the court may order ex officio or upon the request of interested parties, a suspension of the liability limitation procedure, until a ruling on the bankruptcy petition has been made: Provided, That this shall not apply where a ruling to commence the liability limitation procedure is rendered.
- (2) The court may revoke the ruling of the suspension as referred to in paragraph (1).
- (3) No objection shall be permitted against the rulings referred to in paragraphs (1) and (2).

[This Article Newly Inserted by Act No. 4472, Dec. 31, 1991]

Article 146 (Public Notice and Service on Revocation of Bankruptcy)

- (1) If a ruling on the revocation of bankruptcy becomes final, the court shall publicly notify the text.
- (2) The provisions of Articles 133 (2), 134, 141 (2), 142 and 327 shall apply mutatis mutandis to the case referred to in the preceding paragraph.

Article 146-2 (Measures in case of Discontinuation of Liability Limitation Procedure)

- (1) If a ruling on the discontinuation of the liability limitation procedure commenced for the bankrupt becomes final, the court shall determine the following matters for the limited creditor:
 1. Period of the report on the claim: Provided, That the period shall be one week to two months from the date on which the ruling on the abolition of liability limitation procedure becomes final; and

2.Date of the investigation on the claim: Provided, That the interval between such date and the last date of the report period shall be at least one week to one month.

(2) The court shall make public notification of the periods and dates referred to in paragraph (1).

(3) The document stating the matters as provided in Article 133 (1) 1 and 2 and (2), shall be served to any known creditors.

(4) The document stating the matters referred to in paragraph (2) shall be served to the bankruptcy trustee, the bankrupt and the reported bankruptcy creditors: Provided, That where the dates determined under paragraph (1) 2 and Article 132 (1) 2 are the same, it shall not be required that the document be served to any reported bankruptcy creditor.

(5) The provisions of paragraphs (2) and (3) and the text of paragraph (4) shall apply mutatis mutandis in cases where there is any change in the matters referred to in paragraph (2).

[This Article Newly Inserted by Act No. 4472, Dec. 31, 1991]

CHAPTER III BANKRUPTCY TRUSTEE

Article 147 (Appointment of Bankruptcy Trustee) The bankruptcy trustee shall be appointed by the court after seeking the Administrative Committee's opinion.
[This Article Wholly Amended by Act No. 5519, Feb. 24, 1998]

Article 148 (Number of Trustee) The bankruptcy trustee shall be one: Provided, That if it is deemed necessary, the court may appoint several persons.

Article 149 (Certificate of Qualification)

(1) The court shall deliver a document attesting to the appointment to the bankruptcy trustee.

(2) The bankruptcy trustee shall present the document referred to in the preceding paragraph, upon demand by any interested party, in the discharge of his duties.

Article 150 (Resignation of Bankruptcy Trustee)

(1) No bankruptcy trustee may resign from his office without justifiable reason.

(2) If the bankruptcy trustee desires to resign from his office, he shall make a request to the court.

Article 151 (Supervision by Court) The bankruptcy trustee shall be placed under the supervision of the court.

Article 152 (Eligibility for Parties in Lawsuit) In a lawsuit on the bankrupt estate, the bankruptcy trustee shall be the plaintiff or defendant.

Article 153 (Performance of Duties by Several Bankruptcy Trustees)

(1) If there are several bankruptcy trustees, they shall jointly perform their duties: Provided, That they may divide the duties upon the permission of the court.

(2) If there are several bankruptcy trustees, a declaration of intention by a third person made only to one of them shall be effective.

Article 154 (Duty of Care)

(1) The bankruptcy trustee shall carry out his duties with the care of a good manager.

(2) If the bankruptcy trustee neglects his duties referred to the preceding paragraph, he shall be jointly and severally liable to the interested parties.

Article 155 (Appointment of Agent)

(1) The bankruptcy trustee may, upon his own responsibility, appoint in advance an agent to perform his duties in his temporary absence.

(2) The appointment of the agent referred to in the preceding paragraph shall be authorized by the court.

Article 156 (Advance of Expenses for Bankruptcy) The bankruptcy trustee may receive an advance of the expenses and the remuneration. The amount thereof shall be determined by the court.

Article 157 (Dismissal of Bankruptcy Trustee) The court may dismiss the bankruptcy trustee by a resolution of the creditors meeting, at the request of the inspection committee, or ex officio. In this case, a hearing shall be given to the bankruptcy trustee.

Article 158 (Liability for Report on Accounts)

(1) When the duties of the bankruptcy trustee are terminated, he and his inheritor shall report, without delay, the accounts to the creditors meeting.

(2) If the bankrupt, the bankruptcy creditor, or the successor bankruptcy

trustee does not raise any objection to the accounts at the creditors meeting, the accounts shall be considered approved.

(3) The bankruptcy trustee shall file the report on the accounts and written opinion of the inspection committee with the court three days before the creditors meeting is held, in order to offer them to the inspection of the interested parties.

Article 159 (Urgent Disposition upon Termination of Duties) In case where the duties of the bankruptcy trustee are terminated, and if there occur any urgent circumstances, the bankruptcy trustee or his inheritor shall take any necessary disposition, until the successor bankruptcy trustee or the bankrupt manages the property.

CHAPTER IV CREDITORS MEETING

Article 160 (Convocation) The creditors meeting shall be convened by the court ex officio or upon the request of the bankruptcy trustee or a member of the inspection committee. This provision shall also apply to cases where the bankruptcy creditors, having claim to the amount equivalent to one fifth of the total amount of the reported claim appraised by the court, requests it.

Article 161 (Public Notice on Time, Date and Subject-Matter)

(1) The date of the creditors meeting and subject-matter of the meeting, shall be notified publicly by the court.

(2) If a postponement or continuation of the creditors meeting is declared, a service or public notice shall not be required.

Article 162 (Direction by Court) The creditors meeting shall be directed by the court.

Article 163 (Quorum)

(1) The resolution of the creditors meeting shall require an affirmative vote of a majority of the bankruptcy creditors present who are entitled to exercise the right to vote, and whose amount of claims exceeds a half of the total amount of claims the bankruptcy creditors present thereat.

(2) A person who has any special interest in the resolution of the creditors meeting, may not exercise the right to vote.

Article 164 (Case Considered as Resolution by Judgment)

(1) In case where the creditors meeting is unable to adopt a resolution in

accordance with the provisions of the preceding Article, and if the amount of the claims of those who have given their consent to the subject-matter of the resolution, exceeds a half of the total amount of the claims of the bankruptcy creditors who are present and entitled to exercise the right to vote, the court may take it, by ruling, as a resolution.

(2) The ruling referred to in the preceding paragraph shall be notified publicly by the court. No objection may be raised against the ruling.

Article 165 (Exercise of Vote by Proxy) Any bankruptcy creditor may exercise his right to vote by proxy. In this case, the proxy shall present a document attesting his proxy.

Article 166 (Amount of Claim according to which Right to Vote is Exercisable)

(1) The bankruptcy creditor may exercise his right to vote in accordance with the amount of confirmed claim.

(2) If the trustee or bankruptcy creditor raises an objection as to any unconfirmed claim, claim with condition precedent, future claim or any amount of claim unable to be paid by exercise of the right to foreclose outside bankruptcy, the court shall determine whether to permit the exercise of the right to vote and to which amount it is permitted.

(3) The court may change at any time the ruling as referred to in the preceding paragraph, upon the request of the interested party.

(4) If the ruling as referred to in the preceding two paragraphs is pronounced, it shall not require to be served. No objection may be raised against the ruling.

(5) Any bankruptcy creditor may not exercise the right to vote as to the claim as prescribed in Article 38.

Article 167 (Substituting for Consent of Inspection Committee)

(1) The resolution of the creditors meeting may be substituted for the consent of the inspection committee.

(2) If the resolution of the creditors meeting is different from the opinion of the inspection committee, the resolution of the former shall prevail.

Article 168 (Prohibition of Execution of Resolution)

(1) If the resolution of the creditors meeting is contrary to the general interest of the bankruptcy creditors, the court may prohibit the execution of the resolution ex officio, or upon the request of the bankruptcy trustee, inspection committee, or bankruptcy creditors.

(2) If a bankruptcy creditor having no right to vote, makes a request as

referred to in the preceding paragraph, he shall show prima facie proof that he is a bankruptcy creditor.

(3) When the ruling on prohibition as referred to in paragraph (1) is pronounced, the service thereof shall not be required.

CHAPTER V INSPECTION COMMITTEE

Article 169 (Resolution on Whether Inspection Committee is Established) Whether the inspection committee is established or not, shall be decided at the first creditors meeting: Provided, That the resolution may be changed at the subsequent creditors meeting.

Article 170 (Appointment of Inspection Committee Members)

(1) The inspection committee shall be composed of three or more persons appointed at the creditors meeting.

(2) The resolution on the appointment of the inspection committee members shall be authorized by the court.

Article 171 (Method of Performance of Duties)

(1) The inspection committee shall perform its duties by an affirmative vote of a majority of all the members.

(2) Any person having a special interest may not participate in the vote.

Article 172 (Right of Investigation of Bankrupt Estate) Each inspection committee member may demand at any time that the bankruptcy trustee make a report on the bankrupt estate, or investigate the situation of the bankrupt estate.

Article 173 (Dismissal of Inspection Committee Member)

(1) An inspection committee member may be dismissed at any time by a resolution of the creditors meeting.

(2) If there is any important reason, the court may dismiss any inspection committee member upon the request of the interested parties.

Article 174 (Applicable Provisions) The provisions of Articles 154 and 156 shall apply mutatis mutandis to the inspection committee.

CHAPTER VI MANAGEMENT AND REALIZATION OF BANKRUPT ESTATE

Article 175 (Possession and Management of Bankrupt Estate) The bankruptcy trustee shall undertake the possession and administration of the property belonging to the bankrupt estate immediately after he assumes office.

Article 176 (Sealing)

(1) If it is deemed necessary, the bankruptcy trustee may have the court administrative officer or junior officer, bailiff or notary public affix the seal to the property belonging to the bankrupt estate. In this case, the person who has sealed it, shall prepare a protocol.

(2) The provisions of the preceding paragraph shall apply mutatis mutandis to a case of removal of the seal.

Article 177 (Closure of Books on Property) The court administrative officer or junior officer shall close the books concerning the bankrupt's property, immediately after the bankruptcy is declared, and prepare the protocol after affixing his signature and seal to the books, and enter the situation of the books in the protocol.

Article 178 (Appraisal of Value of Property) The bankruptcy trustee shall appraise without delay the value of all property belonging to the bankrupt estate in the presence of the court administrative officer or junior officer, bailiff or notary public. The bankrupt shall be allowed to attend, unless it might delay such appraisal. <Amended by Act No. 5454, Dec. 13, 1997>

Article 179 (Preparation of Inventory of Property and Balance Sheet)

(1) The bankruptcy trustee shall prepare an inventory of property and a balance sheet.

(2) The bankruptcy trustee shall affix his signature and seal to the copies of the inventory of property and the balance sheet, and present them to the court. This provision shall also apply to the protocol on the sealing.

(3) The interested party may request an inspection of the documents referred to in the preceding paragraph.

Article 180 (Control over Mail)

(1) The court shall entrust a postal service organization or public communication exchange with the effect of delivery of any mails or telegrams sent to the bankrupt, to the care of the bankruptcy trustee.

(2) The bankruptcy trustee may open any mail or telegram as referred to in the preceding paragraph, which he receives.

(3) The bankrupt may demand an inspection of the mail or telegram as referred to in the preceding paragraph, and delivery of those not related to the bankrupt estate.

Article 181 (Cancellation of Control over Mail)

(1) The court may revoke or restrict the entrustment as prescribed in Article 180 (1) after hearing the opinion of the bankruptcy trustee, upon the request by the bankrupt.

(2) If a ruling on the revocation or discontinuation of the bankruptcy becomes final, or a ruling on the closing of the bankruptcy is entered, the court shall revoke the entrustment as prescribed in Article 180 (1).

Article 182 (Payment, etc. of Support Allowance)

(1) The bankruptcy trustee may pay the support allowance to the bankrupt and his dependents, or continue the bankrupt's business, with the permission of the court, before the first creditors meeting is held.

(2) The safekeeping method of any currency, securities and other valuables articles shall be determined by the court.

Article 183 (Report on Progress of Bankruptcy) The bankruptcy trustee shall report the circumstances which resulted in the bankruptcy and the progress and present state of the bankrupt and bankrupt estate, to the first creditors meeting.

Article 184 (Necessary Matters to be Resolved at First Meeting) The first creditors meeting shall make a resolution on the payment of the support allowance, discontinuance or continuation of the business, and the safekeeping method of high-priced Articles.

Article 185 (Presentation of Object of Right to Foreclose Outside Bankruptcy)

(1) The bankruptcy trustee may demand persons having the right to foreclose outside bankruptcy to present the property subject to such right.

(2) If the bankruptcy trustee desires to appraise the property referred to in the preceding paragraph, the person having the right to foreclose outside bankruptcy may not refuse the appraisal.

Article 186 (Restriction on Time of Realization)

(1) The bankruptcy trustee may not realize the bankrupt estate before the

investigation on the general claim is completed. This provision shall also apply to cases where a compulsory composition is proposed before the investigation on the general claim is completed, but the compulsory composition is not terminated.

(2) Notwithstanding the provisions of the preceding paragraph, if there is any property belonging to the bankrupt estate which might inflict any loss on the bankrupt estate if it is not realized without delay, the bankruptcy trustee may realize it with the consent of the inspection committee, and if there is no inspection committee, with the permission of the court.

Article 187 (Act Requiring Consent of Inspection Committee) If the bankruptcy trustee desires to perform the following act, he shall obtain the consent of the inspection committee: Provided, That this shall not apply in cases of the act falling under subparagraphs 7 through 14, and the value of which is under five hundred thousand hwan:

1. Voluntary selling of any right to real estate, domestic and foreign vessels which require registration;
2. Voluntary selling of the mining right, fishery right, patents, design right, utility model right and copyright;
3. Transfer of business;
4. Blanket sale of goods;
5. Loan;
6. Approval on a refusal of succession as prescribed in Article 9 (2), approval on a renunciation of a testamentary gift by universal title as prescribed in Article 10, and renunciation of a testamentary gift by universal title as prescribed in Article 11 (1);
7. Voluntary selling of movables;
8. Transfer of claim and valuable instruments;
9. Claim for performance as prescribed in Article 50 (1);
10. Institution of a lawsuit;
11. Settlement;
12. Waiver of rights;
13. Approval on any estate claim, the right of repossession, and the right to foreclose outside bankruptcy; and
14. Redemption of the object of the exclusion right.

Article 188 (Permission of Court in lieu of Consent)

(1) If it is required to perform any act which requires a consent of the inspection committee pursuant to the provisions of the preceding Article, before the first creditors meeting is held, the bankruptcy trustee shall obtain the permission of the court.

(2) If no inspection committee is appointed, the bankruptcy trustee shall go through a resolution of the creditors meeting: Provided, That if it requires urgency, he may obtain the permission of the court.

Article 189 (Hearing of Bankrupt's Opinion) In the case as prescribed in the preceding two Articles, the bankruptcy trustee shall hear the opinion of the bankrupt, except in cases where it might delay the bankruptcy proceedings.

Article 190 (Order of Court to suspend Execution) Even when the bankruptcy trustee performs the act falling under subparagraphs of Article 187 with the consent of the inspection committee, the court may order the suspension of such act upon the request by the bankrupt, or convene the creditors meeting to have a resolution put to it.

Article 191 (Protection of Third Person in Good Faith) Even though the bankruptcy trustee violates the provisions of Articles 186 through 188 or the order to suspend the execution as prescribed in the preceding Article, it shall not be set up against a third person acting in good faith.

Article 192 (Method of Realization) The realization of the right falling under subparagraphs 1 and 2 of Article 187, shall be subject to the provisions of the Civil Procedure Act.

Article 193 (Realization of Object of Right to Foreclose Outside Bankruptcy)

(1) The bankruptcy trustee may realize any property which is the object of the right to foreclose outside bankruptcy under the Civil Procedure Act. In this case, the person having the right to foreclose outside bankruptcy may not refuse to allow it.

(2) In the case as referred to in the preceding paragraph, if the amount to be paid to the person having the right to foreclose outside bankruptcy has not yet been determined, the bankruptcy trustee shall deposit it separately. In this case, the right to foreclose outside bankruptcy shall exist on such deposit.

Article 194 (Designation of Period of Disposition by Person Having Right to Foreclose outside Bankruptcy)

(1) If the person having the right to foreclose outside bankruptcy is authorized to dispose of the object of the right to foreclose outside bankruptcy, without following such method as prescribed by Act, the court shall determine upon the request by the bankruptcy trustee, the period in

which the person having the right to foreclose outside bankruptcy may exercise it.

(2) If the person having the right to foreclose outside bankruptcy fails to take the disposition in the period as referred to in the preceding paragraph, he shall lose the right.

Article 195 (Report on Situation by Bankruptcy Trustee) The bankruptcy trustee shall report the situation of the bankrupt estate to the creditors meeting or the inspection committee as prescribed by the creditors meeting.

Article 196 (Request for Return of Deposited Object)

(1) If the bankruptcy trustee desires to demand a return of any deposited currency, securities or other valuables, he shall obtain the consent of the inspection committee, and if there is no inspection committee, the permission of the court: Provided, That If the creditors meeting makes a different resolution, he shall be subject to it.

(2) In a case where the trustee in bankruptcy violates the provisions of the preceding paragraph, if the depositor acts in good faith, and is not at fault, the performance shall be effective.

(3) The provisions of the preceding two paragraphs shall apply mutatis mutandis to cases where the bankruptcy trustee issues any instruments to have the depositor make a payment or other performance.

Article 197 (Realization of Bankrupt Estate of Juristic Person) The provisions of Article 258 of the Commercial Act shall apply mutatis mutandis to cases where a juristic person is declared bankrupt.

Article 198 (Request for Contribution to Anonymous Partner) If an secret partnership contract is terminated due to a bankruptcy of the businessman, the bankruptcy trustee may have the secret partner make a contribution to the extent of the loss to be borne by the partner.

Article 199 (Bankruptcy of Inheritor and Disposal of Inherited Property)

(1) If the inheritor makes a qualified acceptance, or the property is separated, after the inheritor is declared bankrupt, the inherited property shall be disposed of by the bankruptcy trustee. This provision shall also apply to cases where the inheritor is declared bankrupt after the qualified acceptance or separation of property is made.

(2) When the bankruptcy trustee has completed the disposal as referred to in the preceding paragraph, the inventory of property and balance sheet of the bankrupt estate shall be supplemented with respect to the remaining property.

(3) The provisions of the preceding two paragraphs shall apply mutatis

mutandis to cases where the testamentary donee by general title is declared bankrupt.

Article 200 (Applicable Provisions) The provisions of the preceding Article shall apply mutatis mutandis to cases where the qualified acceptance is effective under Article 8 or 9 (1).

CHAPTER VII REPORT AND INVESTIGATION ON BANKRUPTCY CLAIM

Article 201 (Method of Report on Claim)

(1) Any bankruptcy creditor shall report to the court the amount and the cause of the claim, if there is any priority right, such right, if there is the right falling under any subparagraphs of Article 37, the category of such right, within the period as determined by the court, and submit the documentary evidence or copy or abstract thereof.

(2) Any person having a right to foreclose outside bankruptcy shall report, in addition to the matters as referred to in the preceding paragraph, the object of the right, and the amount of claim unable to be repaid by the exercise of the exclusion right.

(3) If any litigation is pending with respect to the bankruptcy claim at the time the bankruptcy is declared, the court concerned, the title and number of the case, shall be reported in addition to those referred to in paragraph (1).

Article 202 (Preparation of Claim List)

(1) The court administrative officer or junior officer shall prepare the claim list and enter the following matters:

1. Names and addresses of creditors;
2. Amount of claim and the cause thereof;
3. If there is any priority right, such right, and if there is any claim falling under any subparagraphs of Article 37, the category of such right; and
4. Amount of claim reported by the person having the right to foreclose outside bankruptcy, under paragraph (2) of the preceding Article.

(2) The court administrative officer or junior officer shall deliver a copy of the creditors list to the bankruptcy trustee.

Article 203 (Keeping of Claim List and Documents for Report of Claim) The claim list and documents concerning the report of obligation shall be kept in the court for inspection by the interested parties.

Article 204 (Object of Investigation on Claim) On the date of investigation on the claim, the matters prescribed in Article 202 (1) shall be investigated with respect to each reported claim.

Article 205 (Attendance of Persons Concerned)

(1) The bankrupt shall attend on the date of the investigation on claim, and state his opinion: Provided, That if there is any justifiable reason, he may have his representative attend.

(2) Any reported bankruptcy creditor or his representative may attend on the date of investigation on the claim, and state his opinion.

(3) The representative shall present the document attesting to his authority as a representative.

Article 206 (Attendance of Bankruptcy Trustee) The investigation on the claim may not be conducted without the attendance of the bankruptcy trustee.

Article 207 (Investigation on Claim Reported after Expiration of Period)

(1) The investigation of any claim reported after the expiration of period may be conducted on the general date of the investigation on the claims, unless the trustee or any bankruptcy creditor raises an objection against it.

(2) If the trustee or bankruptcy creditor raises an objection, the court shall determine a special date to conduct the investigation on the claim as referred to in the preceding paragraph. In this case, the expenses shall be borne by the bankruptcy creditor who has made the report after the expiration of period.

Article 208 (Applicable Provisions) The provisions of the preceding Article shall apply mutatis mutandis to cases where a bankruptcy creditor makes any change in the reported matters, which might be prejudicial to the interests of the other bankruptcy creditors after the expiration of period.

Article 209 (idem) The provisions of Article 207 (2) shall apply mutatis mutandis to cases where any bankruptcy creditor reports the claim after the general date of the investigation of the claim.

Article 210 (Public Notice and Service on Special Date) Any ruling determining the special date for investigation of the claim, shall be notified publicly, and served on the bankruptcy trustee, and reported to the bankruptcy creditors.

Article 211 (Change of Date for, and Postponement and Continuation of,

Investigation on Claim) The provisions of the preceding Article shall apply mutatis mutandis to a change of the date for investigation of the claim, and the postponement and continuation of the investigation of the claim: Provided, That if a ruling is pronounced, the public notice and service shall not be required.

Article 212 (Prohibition of Appeal of Dissatisfaction) No appeal may be made against the ruling made under the preceding two Articles.

Article 213 (Confirmation of Claim)

(1) If the bankruptcy trustee or bankruptcy creditors raises no objection on the date of the investigation of the claim, the amount of claim, priority right, and the category of claim falling under any subparagraphs of Article 37, shall thereby be confirmed.

(2) If a litigation is pending with respect to any claim against which the bankrupt has raised an objection, at the time the bankruptcy is declared, the creditor may take over it against the bankrupt.

Article 214 (Entry of Result of Investigation in Claim List)

(1) The court shall enter the result of the investigation of the claim, and the objection stated by the bankrupt in the claim list.

(2) The court administrative officer or junior officer shall enter the fact of confirmation in the deed of the confirmed claim, and affix the official court seal to it.

Article 215 (Effect of Entry of Claim Confirmed in Claim List) The entry of the confirmed claim in the claim list shall have the same effect as a final and conclusive judgment to all the bankruptcy creditors.

Article 216 (Notification of Objection against Bankruptcy Claim)

(1) In case where a bankruptcy creditor fails to attend the date of the investigation of the claim, if an objection is raised against the claim, the court shall notify it to the creditor.

(2) The provisions of Article 108 (1) shall apply mutatis mutandis to the notification as referred to in the preceding paragraph.

Article 217 (Action for Confirmation of Claim)

(1) With respect to any claim against which an objection is raised, the creditor may demand the confirmation of the claim by lawsuit against the demurrant.

(2) If there are more than one demurrant, they shall be joint defendants. This provision shall also apply to cases where the bankrupt is one of the demurrants.

(3) The court shall deliver to the creditor an abstract of the claim list as to his claims.

Article 218 (Jurisdiction over Action for Confirmation of Claim) The action for confirmation of the claim shall fall under the exclusive jurisdiction of the court of bankruptcy.

Article 219 (Taking Over of Lawsuit on Claim against which Objection is Raised)

(1) In case where a lawsuit on any claim, against which an objection is raised, is pending at the time of the bankruptcy declaration, if the creditor desires to demand a confirmation of his claim, he shall take over to the lawsuit against the demurrant.

(2) The provisions of Article 217 (2) shall apply mutatis mutandis in cases as referred to in the preceding paragraph.

Article 220 (Restriction on Cause of Claim) The bankruptcy creditor may institute an action for confirmation of a claim or take over the action under

Article 213 (2) or the preceding Article, only for the matters entered in the claim list under Article 214 (1).

Article 221 (Method of Objection against Claim with Title of Debt)

(1) The demurrant may raise any objection against a claim on which an enforceable title of debt or final judgment is already rendered, only through the proceedings which the bankrupt is entitled to take.

(2) The provisions of Articles 217 (2) and (3), 219 and 220 shall apply mutatis mutandis in cases as referred to in the preceding paragraph.

Article 222 (Entry of Results of Action for Confirmation of Claim) The court shall enter the results of the action for confirmation of claim in the claim list upon a request of the bankruptcy trustee or bankruptcy creditor.

Article 223 (Effect of Judgment on Action for Confirmation of Claim) The judgment made in an action for confirmation of claim shall be binding on all bankruptcy creditors.

Article 224 (Redemption of Expenses for Lawsuit) If the bankrupt estate has obtained any benefit from an action for confirmation of claim, the bankruptcy

creditor who has raised the objection, may claim a redemption of the expenses for the lawsuit as the estate creditor to the extent of the benefit.

Article 225 (Value of Action for Confirmation of Claim) The value of the object of an action for confirmation of claim shall be determined by the court of the suit on the basis of the estimated amount of distribution.

Article 226 (Report on Fine, etc.)

(1) With respect to a claim as prescribed in subparagraph 4 of Article 37, the State or the public organization shall report without delay to the court, the amount and cause thereof.

(2) The provisions of Article 214 (1) shall apply mutatis mutandis to the claim reported under the preceding paragraph.

Article 227 (Case of Petition or Administrative Litigation)

(1) If the cause of the claim reported under paragraph (1) of the preceding Article is a disposition against which a petition or administrative litigation may be instituted, the court shall notify without delay the amount and cause of the claim to the bankruptcy trustee.

(2) The provisions of Articles 221 through 223 shall apply mutatis mutandis in to case where the bankruptcy trustee raises an objection.

CHAPTER VIII DISTRIBUTION

Article 228 (Time of Distribution) After the investigation on the claim in general is finished, the bankruptcy trustee shall make without delay the distribution, whenever he deems that there are funds sufficient to distribute.

Article 229 (Consent and Permission Required for Distribution) Upon making a distribution, the bankruptcy trustee shall obtain the consent of the inspection committee, and if there is no inspection committee, obtain the permission of the court.

Article 230 (Preparation of Distribution Table)

(1) The bankruptcy trustee shall prepare a distribution table and enter therein the following matters:

1. Names and addresses of the creditors to participate in the distribution;
2. Amount of the claim to be participated in the distribution; and

3.Amount eligible for distribution.

(2) The claims to be participated in the distribution shall be classified by the priority, and those having the priority shall be entered in the order, and those having no priority, shall be classified into junior claims under Article 37 and others and entered.

Article 231 (Presentation of Distribution Table) The bankruptcy trustee shall present the distribution table to the court for inspection by the interested parties.

Article 232 (Public Notice on Amount of Distribution) The bankruptcy trustee shall notify publicly the total claim to be participated in the distribution, and the amount to be distributed.

Article 233 (Exclusion of Claim against which Objection is Raised) In case where an objection is raised against a claim, and if any creditor fails to prove, that a lawsuit for confirmation of the claim is instituted, or such lawsuit has been taken over, to the bankruptcy trustee, within fourteen days counting from the day the public notice on distribution is made, such claim shall be excluded from the distribution.

Article 234 (Exclusion of Person Having to Foreclose outside Bankruptcy Right) If the person having a right to foreclose outside bankruptcy fails to prove that he undertakes a disposal of the object of the right, and to show prima facie proof about the amount of the claim unable to be paid by such disposal, to the bankruptcy trustee within the period of exclusion provided for in the preceding Article, he shall be excluded from the distribution.

Article 235 (Rectification of Distribution Table) The bankruptcy trustee shall rectify the distribution table as soon as possible, in the following cases:

1. Where the cause to rectify the claim list occurs in the period of exclusion;
2. Where the matters as referred to in the preceding two Articles are proved and prima facie proof is shown with regard to the matters; and
3. Where the person having the right to foreclose outside bankruptcy expresses his intention to waive his right to the bankruptcy trustee, or proves the amount of claim which is unable to be repaid by the exercise of his right, in the period of exclusion.

Article 236 (Objection against Distribution Table)

(1) The creditor may raise an objection against the distribution table to the court, only within seven days after the expiration of the exclusion period.

(2) When the court orders a rectification of the distribution table, the written ruling shall be kept for inspection by interested parties. In this case, the period of appeal shall be counted from the date on which the written ruling is kept for inspection.

Article 237 (Notification of Ruling on Ratio of Distribution)

(1) If an objection is raised after the period as prescribed in paragraph (1) of the preceding Article elapses, the bankruptcy trustee shall determine without delay the ratio of distribution, and notify each creditor entitled to participate in the distribution.

(2) In determining the ratio of distribution, it shall be required to obtain the consent of the inspection committee, and if there is no inspection committee, the permission of the court.

Article 238 (Distribution to Creditor holding Claim with Condition Subsequent)

Any person holding a claim with condition subsequent may not receive the distribution unless he provides a reasonable security.

Article 239 (Compulsory Composition and Suspension of Distribution) If there is an offer of a compulsory composition, the court may order suspension of the distribution upon the request of the offerer, only if the bankruptcy trustee has not yet dispatched the notice of the distribution ratio. In this case, it shall be notified publicly.

Article 240 (Continuation of Distribution Procedure) In cases where a suspension of distribution is ordered under the preceding Article, if the offer of compulsory composition is dismissed, or a ruling of nonauthorization thereof becomes final, or the creditors meeting votes against the compulsory composition, the court shall order to continue the procedure of distribution. In this case, it shall be notified publicly.

Article 241 (Method of Distribution)

(1) The creditors shall receive the distribution from the bankruptcy trustee.

(2) The bankruptcy trustee shall, upon making the distribution, enter the amount of distribution in the claim list and the deed of claim, and writes his name and affixes his seal to it.

Article 242 (Priority of Parties Excluded from previous Distribution) If a creditor who is excluded from the distribution because he fails to prove or show prima facie proof of the matters as prescribed in Article 233 or 234, makes the proof or shows prima facie proof within the exclusion period on the subsequent distribution, he may receive the distribution in preference to other creditors in the same rank, with respect to the amount payable by the

previous distribution.

Article 243 (Deposit of Distributed Amount) The amount of distribution for the following claims shall be deposited by the bankruptcy trustee:

1. Claim against which an objection is raised under Article 217, 219 or 221, and a lawsuit is instituted or has been taken over;
2. Claim for which a petition or administrative litigation is not brought to an end before the notice on the ratio of distribution is dispatched;
3. Amount of the claim for which is prima facie evidence is shown by the person having the right to foreclose outside bankruptcy under Article 234;
4. Claim under a condition precedent, and any future claims; and
5. Claim under a condition subsequent, for which any security is not provided under Article 238.

Article 244 (Permission on Last Distribution) For a last distribution, the bankruptcy trustee shall obtain permission of the court even after he obtains the consent of the inspection committee.

Article 245 (Exclusion Period of Last Distribution) The exclusion period for the last distribution shall be determined by the court and shall be fourteen to thirty days counting from the date on which the public notice on the distribution is made. No objection may be raised against such ruling.

Article 246 (Determination and Notice of Last Distribution Amount) The bankruptcy trustee shall determine the last distribution amount of each claim, and notify it to each creditor, without delay after the objection procedure against the distribution table is completed.

Article 247 (Exclusion of Creditor with Claim under Condition Precedent) If a claim under condition precedent or future claim is unable to be exercised during the exclusion period for the last distribution, the creditor shall be excluded from the distribution.

Article 248 (Unconditional Payment to Creditor with Claim under Condition Subsequent) If the condition of the claim under condition subsequent is not satisfied during the period of exclusion for the last distribution, the security provided under Article 238 shall lose its effect, and the amount deposited under subparagraph 5 of Article 243 shall be paid to the creditor. This provision shall also apply to any security provided or amount deposited under Article 92.

Article 249 (Exclusion of Person Having Right to Foreclose Outside Bankruptcy)

If a person having a right to foreclose outside bankruptcy fails during the exclusion period for the last distribution to express his intention to waive his right to the bankruptcy trustee, or to prove the amount of the claim which is unable to be repaid by the exercise of the right, he shall be excluded from the distribution.

Article 250 (Distribution of Deposit) The amount deposited in the interest of the creditor excluded under Article 247 or the preceding Article, shall be distributed to other creditors. This provision shall also apply to the amount deposited under Article 91.

Article 251 (Rectification of Distribution Table) If a property to be distributed is newly found before the dispatch of a distribution table, the bankruptcy trustee shall rectify the distribution table without delay.

Article 252 (Deposit of Distributed Amount) The bankruptcy trustee shall deposit for the creditor the following distributed amount:

1. Distributed amount deposited under subparagraph 1 or 2 of Article 243;
2. Distributed amount for the claim against which a lawsuit or petition is not concluded before the notice on the distributed amount is sent; and
3. Distributed amount not collected by creditors.

Article 253 (Creditors Meeting for Report on Accounts) The creditors meeting convened for a report on accounts shall make a resolution on the disposal of property which is not realized by the bankruptcy trustee who deems it valueless.

Article 254 (Ruling of and Public Notice on Closing of Bankruptcy)

- (1) If the creditors meeting is closed, the court shall enter a ruling of closing of the bankruptcy, and notify publicly the text and the summary of the reasons thereof.
- (2) No objection may be raised against the ruling referred to in the preceding paragraph.

Article 255 (Public Notice on Additional Distribution and Notification of Distributed Amount)

- (1) If a property to be distributed is newly found after the notice of the distributed amount, the bankruptcy trustee shall make an additional distribution with the permission of the court. This provision shall also apply even after the closing of bankruptcy is ruled.
- (2) The bankruptcy trustee shall, upon obtaining the permission on the

additional distribution, notify without delay publicly the amount to be distributed additionally, and determine and notify the amount to be distributed to each creditor.

Article 256 (Criteria for Additional Distribution) The additional distribution shall be made on the basis of the distribution table prepared for the last distribution.

Article 257 (Report on Accounts) The bankruptcy trustee shall, upon making an additional distribution, prepare without delay the report on accounts, and submit it to the court for authorization.

Article 258 (Creditor having Estate Claim unknown to Bankruptcy Trustee) Any creditor of estate claim who is not known to the bankruptcy trustee before the ratio or amount of the distribution is notified, may not be repaid for the claim in by the amount to be distributed in each distribution.

Article 259 (Effect of Entry of Confirmed Claim in Claim List)

(1) In case of a confirmed claim, if the bankrupt does not raise any objection against the claim on the date of investigation of the claim, the entry in the claim list shall have the same effect to the bankrupt as the final and conclusive judgment.

(2) Any creditor may make a compulsory enforcement on the basis of the entry in the claim list, after the bankruptcy is closed. In this case, the provisions of Articles 478 through 517 of the Civil Procedure Act shall apply mutatis mutandis. <Amended by Act No. 5454, Dec. 13, 1997>

Article 260 (Request for Restoration to Original State)

(1) If the bankrupt is unable to attend on the date of the investigation of claims by any cause unattributable to him, he may make a request for restoration to original state to the court to raise the objection subsequently, within seven days after the cause disappears.

(2) The court shall serve ex officio the written request for restoration to the original state on the creditor of the claim against which the bankrupt makes an objection.

(3) When the court grants restoration to the original state, it shall have the same effect as the bankrupt makes an objection on the date of the investigation of the claim. In this case, the court shall enter the objection in the claim list.

Article 261 (Remaining Assets of Inherited Property) In case where bankruptcy is declared to inherited property, any obligee of the person succeeded to creditor and testamentary donee excluded from the last distribution, may exercise his rights to the remaining assets.

CHAPTER IX COMPULSORY COMPOSITION

Article 262 (Right to Offer of Compulsory Composition) The bankrupt may offer at any time compulsory composition.

Article 263 (Offer of Compulsory Composition by Juristic Person) In the case of a juristic person, the offer of compulsory composition shall require an agreement of directors or other persons equivalent to them.

Article 264 (Offer of Compulsory Composition in case of Inherited Property) In the case of an inherited property, compulsory composition shall be offered by the inheritor, but if there are several inheritors, it shall require an agreement among them.

Article 265 (Compulsory Composition and Person having General Priority) Any person having general priority shall be considered as a bankruptcy creditor in the compulsory composition.

Article 266 (Report on Condition of Compulsory Composition) In offering compulsory composition, the offerer shall report to the court the method of performance, the nature of security if he is to provide it, and other conditions of the composition.

Article 267 (Case of Impossibility of Reconciliation) If the whereabouts of the offerer of compulsory composition is not known, or a public prosecution on a fraudulent bankruptcy is pending, compulsory composition may not be made. This provision shall also apply to cases where the judgment of guilt of a fraudulent bankruptcy becomes final.

Article 268 (Dismissal of Offer of Compulsory Composition) The court may dismiss any offer of compulsory composition, after hearing the opinions of the bankruptcy trustee and the inspection committee, in the following cases:

1. Where the creditors meeting have ever denied compulsory composition;
2. Where the offer is withdrawn after the date of creditors meeting for compulsory composition is notified publicly;
3. Where a ruling of nonauthorization of the compulsory composition has ever been entered; and
4. Where a ruling of revocation of the compulsory composition has ever been entered.

Article 269 (Presentation of Written Opinion by Inspection Committee) In case where the court does not dismiss an offer of a compulsory composition, if there is an inspection committee, the court shall have the inspection committee present its opinion.

Article 270 (Keeping of Documents and Written Opinion) The documents concerning the offer of compulsory composition and the written opinion of the inspection committee shall be kept in the court for inspection by interested parties.

Article 271 (Convocation of Creditors Meeting for Compulsory Composition and Designation of Date)

(1) The date of the creditors meeting for compulsory composition shall be determined within thirty days after the ruling is notified publicly.

(2) The reported bankruptcy creditors, offerer of compulsory composition, any person who becomes a guarantor for compulsory composition, or who bears the obligation together with the bankrupt, or who provides any security for the bankruptcy creditors, the bankruptcy trustee and the inspection committee, shall be summoned at the date.

(3) The document stating the conditions of the compulsory composition and the summary of the inspection committee's opinion, shall be served on those who are prescribed in the preceding paragraph.

Article 272 (Concurrence of Dates) The court may concur the date of the creditors meeting for compulsory composition with the general date of the investigation of claims, upon the request of the offerer of the compulsory composition and the inspection committee.

Article 273 (Application for Compulsory Composition at Date)

(1) The offerer shall attend on the appointed date and apply for compulsory composition: Provided, That if there is any justifiable reason, he may have any representative be present.

(2) The representative shall present any document attesting to his authority as a representative.

(3) If the offerer of compulsory composition or his representative fails to attend on the appointed date and file the application for compulsory composition, he shall be considered to have withdrawn the offer.

Article 274 (Change in Condition of Compulsory Composition) The offerer of compulsory composition may change the conditions thereof at the creditors meeting only in cases where it is favorable for the bankruptcy creditors.

Article 275 (Time of Resolution of Compulsory Composition) Compulsory composition may not be resolved before the investigation of claims is completed, or after the permission for the last distribution is made.

Article 276 (Equality of Conditions of Compulsory Composition) The conditions of compulsory composition shall be on equal terms among bankruptcy creditors: Provided, That this shall not apply where a person who is in an unfavorable position agrees to it.

Article 277 (Nullity of Act offering Special Benefit) Any act of an offerer of compulsory composition or a third person offering any special benefit to any bankruptcy creditor without observing the conditions of the compulsory composition, shall become null and void.

Article 278 (Requirements for Resolution on Compulsory Composition)

(1) The resolution on compulsory composition shall require an affirmative vote of a majority of the bankruptcy creditors present who are entitled to exercise the right to vote, and whose amount of claims is more than three-fourths of the total amount of claims of the reported bankruptcy creditors.

(2) The calculation of the amount of claims and the total amount of claims referred to in the preceding paragraph, shall be based on the amount in the case of the confirmed claims, and the amount determined by the court under Article 166 (2), in the case of other claims, as the case may be.

Article 279 (Designation of Continuation Date) If one of the requirements as prescribed in the preceding Article is satisfied, or the creditors who are a majority of the bankruptcy creditors present who are entitled to exercise the right to vote, and whose amount of claims exceeds one-half of the total amount of claims of the bankruptcy creditors present, agree to the continuation of the meeting, the court determine and declare the date of continuation upon the request of the offerer of compulsory composition or ex officio.

Article 280 (Ruling on Whether to Authorize Compulsory Composition)

(1) If a compulsory composition is resolved, the court shall make a ruling on whether to authorize it or not, on the date of trial or on the date declared immediately at the trial.

(2) Any person as prescribed in Article 271 (2) may state his opinion on whether compulsory composition should be authorized or not.

Article 281 (Applicable Provisions) The provisions of the proviso of Article 211 and Article 212 shall apply mutatis mutandis to the ruling to determine

the date under the provisions of the preceding two Articles.

Article 282 (Ruling of Nonauthorization of Compulsory Composition)

(1) The court may make a ruling of a nonauthorization of compulsory composition upon a request by a bankruptcy creditor or ex officio, only in the following cases:

1. In cases where the procedure of, or resolution on the compulsory composition is contrary to the provisions of Acts, and if it is impossible to rectify such defect;

2. Where the cause as prescribed in Article 267 takes place after the resolution of the compulsory composition;

3. Where the resolution on the compulsory composition is made in an unlawful way; and

4. Where the resolution on the compulsory composition is contrary to the general interest of the bankruptcy creditors.

(2) If a bankruptcy creditor who has no the right to vote, makes the request referred to in the preceding paragraph, he shall show prima facie proof of the fact that he is a bankruptcy creditor.

(3) The person making the request shall show prima facie proof of the cause of the request.

Article 283 (Ruling on Compulsory Composition and Continuous Existence of Juristic Person) In a case where a juristic person is declared bankrupt, if a resolution on the compulsory composition is made, the juristic person may continue its existence pursuant to the provisions concerning the modification of the Articles of Incorporation in cases of a incorporated association, and with the authorization of the competent agency in cases of a incorporated foundation.

Article 284 (Authorization or Nonauthorization of Compulsory Composition of Juristic Person)

(1) If it is decided whether a juristic person continue its existence or not, or if a juristic person fails to take the procedure thereof, the court shall determine and notify publicly the date for deciding on whether to authorize compulsory composition or not, upon a request by a director or a person equivalent to him in the corporation, or ex officio.

(2) No objection may be raised against the ruling designating the date as referred to in the preceding paragraph.

(3) If the juristic person discontinues, or the procedure for it is not taken without delay, the court shall enter a ruling of a nonauthorization of the compulsory composition.

Article 285 (Person Entitled to Vote on Compulsory Composition of Inheritor Property) In case where the bankruptcy is declared against any inherited property, only the obligees of the persons succeeded to creditors may participate in a resolution on the compulsory composition.

Article 286 (Person Entitled to Vote on Compulsory Composition of Inheritor) In case where a bankruptcy is declared against an inheritor, if a qualified acceptance or separation of property is made, only creditors of the inheritor may participate in a resolution on compulsory composition.

Article 287 (Person Entitled to vote on Compulsory Composition of Inheritor in case of Bankruptcy of Inherited Property and Inheritor) In case where a bankruptcy is declared against the inherited property and the inheritor, only creditors of the inheritor may participate in a resolution on compulsory composition of the inheritor.

Article 288 (Deduction of Claim Amount of Those not Participating in Resolution) In the cases as prescribed in the preceding three Articles, the claim of bankruptcy creditors who can not participate in a resolution on compulsory composition, shall not be counted in the total amount of claims as prescribed in Article 278 (1).

Article 289 (Protection of Creditors not Participating in Resolution)

(1) If compulsory composition is prejudicial to the just interest of the bankruptcy creditors as prescribed in the preceding Article, the court shall render a ruling of nonauthorization of the compulsory composition upon their request.

(2) The provisions of Article 282 (2) and (3) shall apply mutatis mutandis to the request as referred to in the preceding paragraph.

Article 290 (Pronouncement and Public Notice on Ruling of Authorization or Nonauthorization Compulsory Composition) The ruling on whether compulsory composition is authorized or not, shall be pronounced and notified publicly: Provided, That it is not required to be served.

Article 291 (Appeal of Dissatisfaction by Creditor Having No Voting Right to Vote) In making an appeal of dissatisfaction against a ruling on whether the compulsory composition is authorized or not, a creditor having no the right to vote shall show prima facie proof that he is a bankruptcy creditor.

Article 292 (Restriction on Those Appealing Nonauthorization) Any bankruptcy creditor who is not entitled to participate in the resolution on compulsory composition, may not make an appeal of dissatisfaction against a ruling of nonauthorization of compulsory composition.

Article 293 (Effectuation of Compulsory Composition) Compulsory composition shall take effect when a ruling of authorization thereof becomes final.

Article 294 (Entry in Claim List) When the ruling of the authorization on the compulsory composition becomes final, the court administrative office or junior officer shall enter the conditions of compulsory composition in the claim list.

Article 295 (Satisfaction of Estate Claim and Confirmed Claim with Priority)

(1) When the ruling of authorization of compulsory composition becomes final, the bankruptcy trustee shall perform the confirmed claims of the creditors of estate claim and those having general priority.

(2) With respect to any estate claim and claim with general priority, against which an objection is raised, the bankruptcy trustee shall make a deposit in the interest of the creditors. This provision shall also apply to the claim with general priority as to which prime facie proof is shown to the bankruptcy trustee.

Article 296 (Applicable Provisions) The provisions of Article 254 shall apply mutatis mutandis to cases where a ruling the authorization of compulsory composition becomes final.

Article 297 (Restriction on Administration and Disposal of Bankrupt Estate) With respect to the administration and disposal of the bankrupt estate, the bankrupt shall be subject to the restrictions set forth in compulsory composition.

Article 298 (Scope of Effect of Compulsory Composition)

(1) Compulsory composition shall be binding upon all the bankruptcy creditors.

(2) Compulsory composition shall not affect any right which the bankruptcy creditor has to the guarantor of the bankrupt and other person who bears the obligation together with the bankrupt, and any security provided for the bankruptcy creditor.

Article 299 (Compulsory Composition and Liability of Member) Any member who is liable for any obligation of a juristic person, shall be liable to the bankruptcy creditors up to the limit as stipulated by compulsory composition: Provided, That if otherwise stipulated by compulsory composition it shall prevail.

Article 300 (Compulsory Execution by Claim List)

(1) Any bankruptcy creditor with a confirmed claim may enforce compulsory execution by the claim list against a bankrupt and a person who becomes a guarantor for compulsory composition, who bears the obligation together with the bankrupt or who provides security for the bankruptcy creditors, after the bankruptcy case is closed, only when the bankrupt fails to make any objection against the obligation on the date of investigation of obligation: Provided, That it shall not affect the application of Article 437 of the Civil Act.

(2) The provisions of Articles 478 through 517 of the Civil Procedure Act shall apply mutatis mutandis in cases as referred to in the preceding paragraph. <Amended by Act No. 5454, Dec. 13, 1997>

Article 301 (Revocation of Concession by Unlawful Compulsory Composition)

(1) If a compulsory composition is made in any unlawful way, each bankruptcy creditor may revoke the concession as stipulated by the compulsory composition: Provided, That this shall not apply to except in case of a bankruptcy creditor who fails by negligence to request a nonauthorization of compulsory composition.

(2) The right to revoke the concession shall be extinguished, if the bankruptcy creditor fails to exercise it within thirty days after he becomes aware of the cause of revocation. This provision shall also apply to cases where two years have passed after a ruling of authorization of the compulsory composition is made.

Article 302 (Revocation of Concession by Non-Fulfillment) If the bankrupt neglects to fulfill compulsory composition, the bankruptcy creditor who does not receive the fulfillment thereof, may revoke the concession as stipulated by compulsory composition.

Article 303 (Effect of Revocation of Concession)

(1) The revocation of concession shall not affect any right which a bankruptcy creditor has acquired by compulsory composition.

(2) With respect to the amount of claim recovered by revocation of the concession, the bankruptcy creditor may not exercise his right, unless compulsory composition is fulfilled fully.

Article 304 (Revocation of Compulsory Composition due to Non-Fulfillment)

(1) In case where a bankrupt neglects to fulfill compulsory composition, if a majority of the reported bankruptcy creditors, whose amount of claims is more than three fourths of the total amount of claims, makes a request for a revocation of compulsory composition the court shall decide.

(2) Any bankruptcy creditors who are repaid in full under the conditions as

stipulated by compulsory composition, shall not be counted in the number of persons necessary for the request as referred to in the preceding paragraph. With respect to those who are repaid in full or in part, the amount calculated by deducting the received amount from the previous amount of the bankruptcy claim, shall be the amount of the claim.

(3) The provisions of Article 278 (2) shall apply mutatis mutandis to the calculation of the amount of the claim and the total claim as referred to in paragraph (1).

Article 305 (Revocation of Compulsory Composition by Fraudulent Bankruptcy)

(1) If a conviction on a fraudulent bankruptcy becomes final, the court may enter a ruling of revocation of compulsory composition upon the request of bankruptcy creditor or ex officio.

(2) The court may order the disposition as prescribed in Articles 144 and 145, even before the conviction becomes final.

Article 306 (Applicable Provisions) The provisions of Article 303 (1) shall apply mutatis mutandis to the revocation of compulsory composition.

Article 307 (Continuation of Bankruptcy Proceedings by Revocation of Compulsory Composition) When the ruling of the revocation of compulsory composition becomes final, the bankruptcy proceedings shall be continued.

Article 308 (Revocation of Compulsory Composition and Declaration of Bankruptcy) In application of the provisions of Part I, a revocation of compulsory composition shall be considered as declaration of bankruptcy, and in the cases as prescribed in Article 304, a request for revocation of compulsory composition, or in cases as prescribed in Article 305, an institution of public prosecution, shall be deemed as a request for suspension of payment or a petition for bankruptcy, if such request or petition is not made before that time.

Article 309 (Applicable Provisions)

(1) The provisions of Articles 131 through 136, 144 through 146 shall apply mutatis mutandis to the revocation of compulsory composition.

(2) The expenses for a continuation of the bankruptcy proceedings shall be paid provisionally by the National Treasury.

Article 310 (Amount of Claim in Reopened Bankruptcy) With respect to any creditor who has been subject to compulsory composition, the amount calculated by deducting the amount received under the conditions as stipulated by compulsory composition, from the amount of the previous claim, shall be the amount of his bankruptcy claim.

Article 311 (Scope of Investigation on Claim) With respect to any previously confirmed claim, the investigation shall be conducted only as to the amount received by the bankruptcy creditor under the conditions as stipulated by compulsory composition.

Article 312 (Amount Received under Conditions as Stipulated by Compulsory Composition) If a creditor, who has been subject to compulsory composition, received any amount of money under the conditions as stipulated by compulsory composition, the amount of the previous bankruptcy claim shall be considered as the amount of the claim to be participated in the distribution, and the standards of the distribution ratio shall be determined by adding the amount received by such creditor to the bankrupt estate: Provided, That such creditors may not receive the distribution until other bankruptcy creditor receive the distribution of the same ratio as his distribution.

Article 313 (Invalidation of Security) The provision of security by a bankrupt after the closing of bankruptcy, for a creditor who has been subject to of compulsory composition, shall become invalid if compulsory composition is revoked.

Article 314 (Prohibition of Petition for New Bankruptcy by Creditor in Composition) Any creditor who has been subject to compulsory composition, may not file a petition for bankruptcy based upon the previous claim.

Article 315 (Concurrence of Revocation of Compulsory Composition with New Bankruptcy)

(1) In case where a request for revocation of compulsory composition and a petition for bankruptcy are filed, if the court makes a ruling of revocation of compulsory composition, or declares the bankruptcy, the other request or petition shall be dismissed.

(2) No appeal of dissatisfaction may be made against the ruling of dismissal as referred to in the preceding paragraph.

Article 316 (New Bankruptcy prior to Fulfillment of Compulsory Composition) The provisions of Articles 303 (1) and 310 through 313 shall apply mutatis mutandis in cases where the bankruptcy is declared before compulsory composition is fulfilled fully. This provision shall also apply to cases where a revocation of compulsory composition may be decided under Article 305, and the bankruptcy is declared.

Article 317 (Compulsory Composition on Inherited Property and Liability of Inheritor for Administration)

(1) If a bankruptcy is declared against any inherited property, the inheritor

shall continue the administration of the inherited property with the same care as for his own property, before the compulsory composition is fulfilled: Provided, That if otherwise provided by compulsory composition, it shall apply.

(2) The provisions of Articles 683, 684 and 688 (1) and (2) of the Civil Act shall apply mutatis mutandis in the cases as referred to in the preceding paragraph.

Article 318 (Applicable provisions) The provisions of Article 121 shall apply mutatis mutandis to requests for revocation of compulsory composition on any inherited property.

CHAPTER X DISCONTINUATION OF BANKRUPTCY

Article 319 (Request for Discontinuation of Bankruptcy by Consent)

(1) In case where a bankrupt obtains a consent by all the reported bankruptcy creditors within the period of report on claim, or if he provides any security from the bankrupt estate for the bankruptcy creditors who refuse to give consent to with a consent of other bankruptcy creditors, he may request discontinuation of the bankruptcy.

(2) Whether it is required to obtain the consent of the creditors of unconfirmed claims, shall be determined by the court. This provision shall also apply to whether the security to be provided to the bankruptcy creditors is reasonable or not.

(3) No appeal of dissatisfaction may be raised against the ruling as referred to in the preceding paragraph.

Article 320 (Request for Discontinuation of Bankruptcy and Continuation of Juristic Person) In requesting an discontinuation of bankruptcy in cases where a juristic person is declared bankrupt, it shall be required to take the procedure of continuation of the juristic person. In this case the provisions of Article 283 shall be applicable.

Article 321 (Presentation of Evidential Documents) In requesting a discontinuation of bankruptcy, the documents attesting to the conditions necessary for such request shall be presented.

Article 322 (Public Notice on Request for Discontinuation of Bankruptcy and Keeping Documents) The court shall notify publicly the fact that an discontinuation of bankruptcy is requested, and keep the documents pertaining to the request for inspection by interested parties.

Article 323 (Objection of Creditor)

- (1) Any bankruptcy creditor may make an objection to the court against a request for discontinuation of bankruptcy, within fourteen days from the date on which the public notice as referred to in the preceding Article is made.
- (2) Any bankruptcy creditor who has made a report before the period as referred to in the preceding paragraph, may make an objection.

Article 324 (Hearing of Opinion of Interested Parties) The court shall hear the opinions of the bankrupt, bankruptcy trustee, and bankruptcy creditor who has made an objection, on whether the conditions necessary for deciding an discontinuation of bankruptcy are satisfied or not, after the period as prescribed in paragraph (1) of the preceding Article elapses.

Article 325 (Discontinuation of Bankruptcy due to Shortage of Expenses)

- (1) If it is deemed insufficient to pay the expenses for the bankruptcy proceedings from the bankrupt estate after a declaration of the bankruptcy, the court shall make a ruling of discontinuation of the bankruptcy, ex officio or upon a request by the bankruptcy trustee.
- (2) The provisions of the preceding paragraph shall not apply to cases where the amount sufficient to pay the expenses for the bankruptcy proceedings is prepaid.

Article 326 (Public Notice on Ruling of Discontinuation) When the ruling of discontinuation of a bankruptcy is entered, it shall notify publicly the text and summary of the reasons thereof.

Article 327 (Satisfaction of and Deposit for Estate Claim) When the ruling of discontinuation of a bankruptcy becomes final, the bankruptcy trustee shall pay for the estate claim, and if there is any objection, he shall make a deposit for such creditors.

Article 328 (Applicable Provisions) The provisions of Articles 263 and 264 shall apply mutatis mutandis to a request for discontinuation of a bankruptcy.

Article 329 (idem) The provisions of Article 259 shall apply mutatis mutandis in to cases where the ruling of discontinuation of a bankruptcy becomes final.

CHAPTER XI SMALL BANKRUPTCY

Article 330 (Requirements for Small Bankruptcy)

(1) If it is deemed that the amount of the property belonging to the bankrupt estate is under five million hwan, the court shall make a ruling of a small bankruptcy at the same time as the declaration of bankruptcy.

(2) In cases as referred to in the preceding paragraph, the court shall notify publicly the text of the ruling of a small bankruptcy, in addition to the matters as prescribed in subparagraphs of Article 133 (1), and enter it in the document as prescribed in paragraph (2) of the said Article.

Article 331 (Ruling of Small Bankruptcy during Bankruptcy Proceedings)

(1) If the court finds during a bankruptcy proceedings, that the amount of the property belonging to the bankrupt estate is under five million hwan, it may enter a ruling of a small bankruptcy.

(2) If the court has entered a ruling of a small bankruptcy under the provisions of the preceding paragraph, it shall notify publicly the text of such ruling, and serve the document stating the contents thereof to the bankruptcy trustee, inspection committee, and known creditors and debtors.

Article 332 (Revocation of Small Bankruptcy) If the court finds during the bankruptcy proceedings, that the amount of the property belonging to the bankrupt estate is over five million hwan, it may enter a ruling of a revocation of the small bankruptcy. In this case, the provisions of paragraph (2) of the preceding Article shall be applicable.

Article 333 (Prohibition of Appeal of Dissatisfaction against Ruling) No appeal of dissatisfaction shall be made against the rulings of the small bankruptcy and the revocation of small bankruptcy.

Article 334 (Concurrence of Date of Creditors Meeting with Date of Investigation on Claim) The date of the first creditors meeting and the date of the investigation on claim, shall be concurrent, unless there is any inevitable reason.

Article 335 (Non-Appointment of Inspection Committee) No inspection committee shall be appointed.

Article 336 (Ruling to be Substituted for Resolution of Creditors Meeting)

(1) Except in cases of the first creditors meeting, the first creditors meeting after a compulsory composition is revoked, and the creditors meeting for the investigation on claim, report on accounts and compulsory composition, the ruling of the court shall substitute the resolution of the creditors meeting.

(2) No appeal of dissatisfaction may be made against the provisions of the

preceding paragraph.

Article 337 (Single Distribution) The distribution shall be made once, and it shall be subject to the provisions concerning the last distribution:
Provided, That it shall not affect any additional distribution.

Article 338 (Method of Public Notice) The public notice on the procedure of small bankruptcy shall be made by posting a notice as prescribed in Article 106.

PART III DISCHARGE AND REINSTATEMENT CHAPTER I IMMUNITY

Article 339 (Request for Discharge)

(1) The bankrupt may make at any time a request for discharge to the court of bankruptcy until the bankruptcy proceedings are terminated. If a discontinuation of bankruptcy is ruled simultaneously with a declaration of bankruptcy, the request for discharge may be made within one month even after the ruling becomes final.

(2) Upon requesting discharge, the offer of compulsory composition or request for discontinuation of bankruptcy as prescribed in Article 319, may not be made.

(3) If compulsory composition is offered, the request for discharge may not be made unless a dismissal or non-authorization of it becomes final, or compulsory composition is denied by the creditors meeting.

(4) If a discontinuation of bankruptcy is requested under Article 319, the request for discharge may not be made unless the ruling of dismissal thereof becomes final.

(5) If the bankrupt is unable to make the request for discharge as referred to in paragraph (1), due to any cause unattributable to him, he may make the request subsequently for discharge only within thirty days after the cause is extinguished.

Article 340 (Presentation of Creditors List) The bankrupt shall present at the same time when the request for discharge is made, the creditors list specifying the names and addresses of the bankruptcy creditors, the amount and cause of the bankruptcy claims, if there is any right to foreclose outside bankruptcy, the object thereof and the amount of the claim unable to be repaid by the exercise of such right. If it is impossible to present at the same time as the request, it shall be presented thereafter without delay.

Article 341 (Examination of Bankrupt)

- (1) The court shall, upon receiving a request for discharge, examine the bankrupt on the date fixed.
- (2) The ruling to determine the date as referred to in the preceding paragraph, shall be notified publicly, and served on the public prosecutor, bankruptcy trustee and known bankruptcy creditors who are to be discharged.
- (3) The provisions of the preceding paragraph shall apply mutatis mutandis to the change of the date as referred to in paragraph (1), postponement and continuation of the examination.
- (4) The provisions of the proviso of Article 211 and Article 212 shall apply mutatis mutandis to the ruling as referred to in the preceding two paragraphs.
- (5) The date as referred to in paragraph (1) may be concurrent with the date of the creditors meeting or investigation on claims.

Article 342 (Report of Bankruptcy Trustee on Investigation) The court may have the bankruptcy trustee investigate whether there is any cause of non-permission of the discharge, and make a report on the result at the date of examination as referred to in the preceding Article.

Article 343 (Keeping of Documents) The court shall keep the document concerning the request for discharge and the investigation of the bankruptcy trustee as prescribed in the preceding Article, for inspection by interested parties.

Article 344 (Objection against Request for Discharge)

- (1) The public prosecutor, bankruptcy trustee, or bankruptcy creditor who is to be subject to the discharge, may make an objection to the court against the request for discharge, at the date of the examination as prescribed in Article 341, or within the period of not less than thirty days as determined by the court on the said date.
- (2) If the ruling determining the period as referred to in the preceding paragraph is pronounced, the service thereof shall not be required.

Article 345 (Hearing of Opinions) The court shall, upon receiving an objection, hear the opinions of the bankrupt and the person who has raised an objection.

Article 346 (Cause of Non-permission of Discharge) The court may make a ruling of non-permission on the discharge only in the following cases:

1. Where it is deemed that the bankrupt commits any offense falling under Article 366, 367, 369 or 374;
2. Where the bankrupt acquires any property, within one year before the

declaration of bankruptcy, through a credit transaction by means of any deceitful way with the intent to make the other party believe that there is no fact which is the cause of the bankruptcy, notwithstanding the existence of such cause.

3. Where the bankrupt presents a false list of creditors, or makes a false statement on the status of property before the court;

4. Where the bankrupt has obtained discharge within ten years before he makes the request for discharge; and

5. Where the bankrupt violates his liability prescribed in this Act.

Article 347 (Dismissal of Request for Discharge)

(1) If the bankrupt fails to attend on the date at which the examination on discharge is to be made, without any justifiable reason, or he attends but refuses to make any statement, the court may dismiss the request for discharge.

(2) In the case as referred to in the preceding paragraph, the bankrupt may not make a new request for discharge as to the same bankruptcy.

Article 348 (Effective Date of Ruling on Discharge) The ruling of the discharge shall not take effect until it becomes final.

Article 349 (Effect of Discharge) The bankrupt who has obtained the discharge, shall be exempted from all the liabilities to the bankruptcy creditors except the liability for distribution under the bankruptcy proceedings: Provided, That the above discharge shall not apply to the following claims:

1. Taxes;

2. Fines, penalties, expenses for penal procedures, additional collection of charges, and fines for negligence;

3. Compensation for damages for torts by the bankrupt in bad faith;

4. Wages of employees: Provided, That they are limited to the portion of last six months;

5. Deposit money and the security for good conduct of employees; and

6. Claim not entered in the creditors list by the bankrupt in bad faith: Provided, That this shall not apply where the creditors had knowledge of the bankruptcy.

Article 350 (Effect on Guarantor, etc.) Discharge shall not affect any right which the bankruptcy creditors have against the guarantor of the bankrupt and the person who bears the obligation together with the bankrupt, and any

security provided for the bankruptcy creditors.

Article 351 (Public Notice of Ruling of Discharge and Entry in Claim List) When a ruling of the discharge becomes final, the court shall notify publicly the text of the ruling, and if there is a claim list, it shall enter therein the fact that the ruling of discharge becomes final.

Article 352 (Revocation of Discharge) If a conviction against a bankrupt for a fraudulent bankruptcy becomes final, the court may decide a revocation of the discharge upon a request by a the bankruptcy creditor or ex officio. This provision shall also apply to cases where the bankrupt obtains the discharge in any unlawful way, and the bankruptcy creditor requests the revocation of the discharge within one year after granting discharge.

Article 353 (Hearing of Opinions) The court shall hear the opinions of the bankrupt and the person requesting the revocation, before it decides on the revocation of discharge.

Article 354 (Effectuation of Revocation of Discharge) The ruling of the revocation of discharge shall not take effect unless it becomes final.

Article 355 (Priority of New Creditor) If the discharge is revoked, any person who obtains the claim by any cause taken place after the discharge is granted, and before it is revoked, shall be entitled to be repaid in preference to other creditors.

Article 356 (Public Notice on Text of Ruling of Revocation of Discharge and Entry in Claim List) If a ruling of revocation of discharge becomes final, the court shall notify publicly the text of such ruling, and if there is a claim list, it shall enter the fact that the ruling of revocation of discharge becomes final.

Article 357 (Applicable Provisions) The provisions of Articles 99 through 108 shall apply mutatis mutandis to discharge and its revocation.

CHAPTER II REINSTATEMENT

Article 358 (Legal Reinstatement)

(1) The bankrupt shall be reinstated in the following cases:

1. Where the ruling of discharge becomes final;
2. Where the ruling of authorization of compulsory composition becomes final;
3. Where the ruling of the discontinuation of bankruptcy upon the request as

prescribed in Article 319 becomes final; and

4. Where the bankrupt has passed ten years without receiving any final judgment of guilt for the offense of fraudulent bankruptcy, after the bankruptcy is declared.

(2) If the ruling of the revocation of discharge or compulsory composition becomes final, the reinstatement as referred to in subparagraph 1 or 2 of the preceding paragraph, shall lose its effect in the future.

Article 359 (Reinstatement by Request)

(1) If a bankrupt who is unable to be reinstated under the preceding paragraph, is exempted from the whole liabilities to the bankruptcy creditors by performance or any other way, the bankruptcy court shall make a ruling of reinstatement upon a request of the bankrupt.

(2) The requesting person shall present documents attesting the fact that he is exempted from the liability.

Article 360 (Public Notice on Request for Reinstatement and Keeping of Documents) The court shall notify publicly the fact that a request for reinstatement is made, and keep the documents concerning such request for inspection by interested parties.

Article 361 (Objection of Creditor) Any bankruptcy creditor may raise an objection to the court against a request for reinstatement, within three months from the date of the public notice as prescribed in the preceding Article.

Article 362 (Hearing of Opinion) If an objection is raised, the court shall hear the opinions of the bankrupt and the bankruptcy creditor raising the objection.

Article 363 (Effectuation of Reinstatement) The ruling of the reinstatement shall not take effect until it becomes final.

Article 364 (Public Notice on Reinstatement) If the ruling of reinstatement becomes final, the court shall notify publicly the text thereof.

Article 365 (Applicable Provisions) The provisions of Articles 99 through 107 shall apply mutatis mutandis to the procedure of reinstatement.

PART IV PENAL PROVISIONS

Article 366 (Offense of Fraudulent Bankruptcy) If a debtor commits an act falling under any of the following subparagraphs with the intention of aiming at his or another persons's interest or doing any harm to the creditor, whether or not it is before or after the bankruptcy is declared, and the declaration of bankruptcy becomes final, he shall be punished by imprisonment for not more than ten years:

1. Act concealing or damaging any property belonging to the bankrupt estate, or disposing it unfavorably to the creditors;
2. Act increasing falsely the burden of the bankrupt estate;
3. Act not preparing the commercial books to be prepared pursuant to Acts, or act not making any entry sufficiently reflecting the present situation of the property, or act making any false entry, or act concealing or damaging them; and
4. Act changing the contents of, or concealing or damaging, a book closed by the court administrative officer or junior official under Article 177.

Article 367 (Offense of Negligent Bankruptcy) If a debtor commits the following act, whether it is before or after the declaration of bankruptcy, and the declaration of bankruptcy becomes final, he shall be punished by imprisonment for not more than five years, or a fine not exceeding fifty million won:
<Amended by Act No. 5519. Feb. 24, 1998>

1. Act decreasing significantly the property or bearing excessive obligation, due to any extravagance, gambling or other speculative act;
2. Act bearing any obligation under a noticeably unfavorable condition with the intention of delaying the declaration of bankruptcy, or an act purchasing goods on credit transactions, and disposing of them under a noticeably unfavorable condition;
3. Act concerning the provision of security or extinguishment of an obligation, with the intention of giving any special benefit to a creditor, knowing the existence of the cause of the bankruptcy, and not belonging to the liability of the debtor himself or in the time or method;
4. Omission of not preparing any commercial book to be prepared pursuant to Act, or not making any entry therein sufficiently reflecting the present situation of the property, or making any false entry in it, or concealing or damaging it; and
5. Act changing the contents of, or concealing or damaging, a book closed by the court administrative officer or junior officer under Article 177.

Article 368 (Offense of Fraudulent or Negligent Bankruptcy by Person in Specified Position) If a legal representative, director, person who is equivalent to him or manager of the debtor commits act as prescribed in the preceding two Articles, and the declaration of the bankruptcy against the

debtor becomes final, that person shall be subject to the same penalty as prescribed in the preceding two Articles. This provision shall also apply to an inheritor, his legal representative and a manager in a bankruptcy of any inherited property.

Article 369 (Offense of Violation of Guard or Leaving Residence)

(1) If a person who is ordered to be under guard pursuant to this Act, flees, or meets or communicates with any outsider without obtaining permission of the court, he shall be punished by imprisonment for not more than one year, or a fine not exceeding ten million won. <Amended by Act No. 5519. Feb. 24, 1998>

(2) If a bankrupt leaves his residence without obtaining the permission of the court, the provisions of paragraph (1) shall also apply.

Article 370 (Offense of Fraudulent Bankruptcy by Third Person) If a person other than the debtor and those as prescribed in Article 368, commits the act as prescribed in Article 366, or a person exercises the right of a bankruptcy creditor without authority to benefit himself or another person, he shall be punished by imprisonment for not more than ten years, if the declaration of bankruptcy against the debtor becomes final.

Article 371 (Revocation of Compulsory Composition and Application of Penal Provisions) In application of Articles 366, 367 and the preceding Article, the revocation of compulsory composition shall be considered as declaration of bankruptcy.

Article 372 (Offense of Acceptance of Bribe in Bankruptcy)

(1) If the bankruptcy trustee or inspection committee gives, accepts, demands or promises any bribe in connection with his duties, he shall be punished by imprisonment for not more than five years, or a fine not exceeding fifty million won. This provision shall also apply to cases where a bankruptcy creditor, his representative or director or a person who is equivalent to him gives, accepts, demands or promises any bribe in connection with a resolution of the creditors meeting. <Amended by Act No. 5519. Feb. 24, 1998>

(2) In the cases as referred to in the preceding paragraph, the accepted bribe shall be confiscated. If it is impossible to confiscate the whole or part of it, the value thereof shall be collected.

Article 373 (Offense of Offer of Bribe in Bankruptcy)

(1) Any person who promises, offers, or expresses his intention to offer any bribe to the bankruptcy trustee, inspection committee, bankruptcy creditor, or his representative, director or a person who is equivalent to him person, shall be punished by imprisonment for not more than three years, or a fine not exceeding thirty million won. <Amended by Act No. 5519. Feb. 24, 1998>

(2) If the person who commits the offense as referred to in the preceding paragraph, surrenders himself to justice, the punishment may be reduced or exempted.

Article 374 (Offense of Violation of Liability for Explanation)

(1) If a person liable for explanation under Article 143, fails to provide an explanation without any justifiable reason, or renders a false explanation, he shall be punished by imprisonment for not more than one year, or a fine not exceeding ten million won. <Amended by Act No. 5519. Feb. 24, 1998>

(2) If the person who commits an offense as referred to in the preceding paragraph reports it to the court of bankruptcy, the punishment may be reduced or exempted.

ADDENDA

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation: Provided, That Article 258 of the Commercial Act as prescribed in Article 197 shall be Article 126 of the Commercial Act applicable pursuant to subparagraph 11 of Article 1 of the Chosun Civil Ordinance (Ordinance No. 7, 1912) by December 31, 1962.

(2) (Repealed Acts and Subordinate Statutes) The Bankruptcy Act applied pursuant to subparagraph 11 of Article 1 of Act No. 7 Chosun Civil Affairs Order in 1912 shall be hereby repealed.

(3) (Retroactive Effect of this Act) This Act shall be applicable to any case pending in the court at the time this Act enters into force: Provided, That it shall not affect any effect produced pursuant to the former Act.

(4) (Period of Request for Discharge) Notwithstanding the provisions of Article 339, any bankrupt in a case where the bankruptcy proceedings is terminated before this Act enters into force, may request the discharge within one year from the enforcement date of this Act, except in the case as prescribed in Article 358 (1) 2 and 3 of this Act.

(5) (Application of Preceding Paragraph) The provisions of Article 339 (5) shall apply mutatis mutandis in cases where the bankrupt as prescribed in the preceding paragraph is unable to make the request for discharge within the period as prescribed in the preceding paragraph, by a cause unattributable to him.

(6) (Rightful Reinstatement) Any bankrupt who falls under Article 358 (1) 2 through 4 before this Act enters into force, shall be reinstated rightfully the enforcement date of this Act.

(7) (Effect of Ruling of Revocation of Compulsory Composition on Reinstatement) If a ruling of revocation of compulsory composition becomes final, after reinstatement is made because of the ruling of the authorization the compulsory

composition pursuant to the provisions of the preceding paragraph, the reinstatement shall lose its effect for the future.

(8) (Claim for Recovery against Illegal Amasser) In application of Article 349, any claim for recovery as prescribed by the Recovery of Illegally Amassed Wealth Act shall be considered as taxes.

ADDENDA <Act No. 4472, Dec. 31, 1991>

Article 1 (Enforcement Date) This Act shall enter into force on January 1, 1993.

Article 2 (Transitional Measures) This Act shall not be applicable to any claim created before this Act enters into force, or any claim for loss caused by any accident which occurred before this Act enters into force.

ADDENDUM <Act No. 5454, Dec. 13, 1997>

This Act shall enter into force on January 1, 1998. (Proviso is Omitted.)

ADDENDA <Act No. 5519, Feb. 24, 1998>

Article 1 (Enforcement Date) This Act shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures)

(1) Except as specially provided in the Addenda, this Act shall also apply to matters arising prior to the entry into force of this Act: Provided, That this shall not influence effects arising from the previous provisions.

(2) The provisions with respect to jurisdiction of this Act shall not apply to cases pending at the time when this Act enters into force.

(3) The application of penal provisions to acts committed prior to the entry into force of this Act shall be governed by the previous provisions.