

ENFORCEMENT DECREE OF THE BANKING ACT

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.