

ENFORCEMENT DECREE OF THE SPECIAL ACT ON THE MANAGEMENT OF PUBLIC FUNDS

Presidential Decree No. 17127, Feb. 14, 2001
Amended by Presidential Decree No. 18332, Mar. 29, 2004
Presidential Decree No. 19422, Mar. 29, 2006
Presidential Decree No. 20653, Feb. 29, 2008
Presidential Decree No. 21214, Dec. 31, 2008
Presidential Decree No. 21518, May 29, 2009
Presidential Decree No. 21641, Jul. 27, 2009
Presidential Decree No. 21646, Jul. 27, 2009
Presidential Decree No. 25547, Aug. 12, 2014
Presidential Decree No. 25945, Dec. 30, 2014
Presidential Decree No. 26205, Apr. 20, 2015
Presidential Decree No. 27068, Mar. 29, 2016
Presidential Decree No. 27129, May 10, 2016
Presidential Decree No. 27205, May 31, 2016
Presidential Decree No. 27472, Aug. 31, 2016
Presidential Decree No. 29269, Oct. 30, 2018

Article 1 (Purpose)

The purpose of this Decree is to provide for matters delegated by the Special Act on the Management of Public Funds as well as for those necessary for the enforcement thereof. <Amended by Presidential Decree No. 21646, Jul. 27, 2009>

Article 2 (Duties of Committee)

The term "matters prescribed by Presidential Decree" in Article 3 (2) 9 of the Special Act on the Management of Public Funds (hereinafter referred to as the "Act") means those concerning the publication of a white book on the operation status of public funds under Article 21 of the Act.

Article 3 (Requirements for Expertise of Non-Governmental Members)

(1) The term "economic expert" in Article 4 (1) 3 and 7 of the Act means persons falling under any of the following subparagraphs:

1. A person who has been taking or has ever taken charge of economic, financial, or banking affairs for at least 15 years in a stock-listed corporation under the Financial Investment Services and Capital

Markets Act or any similar enterprise in light of the scale, duration of business continuance, management performance, or status of capital;

2. A person who majors in economics, business administration, financial theories, commercial law, or any other academic field related to economics and who has been working or has ever worked for a college or an accredited research institute for at least 15 years as an adjunct professor or with an equivalent or higher position;

3. A person who has ever served as a public official of Grade-II or higher-ranking in charge of economic, financial, or banking affairs (including public officials in general service who are members of the Senior Executive Service) in the Administration or the National Assembly Secretariat;

4. A person who has been taking or has ever taken charge of economic, financial, or investment affairs for at least 15 years in an international financial institution under any subparagraph of Article 2 (1) of the Act on the Measures for the Admission to International Financial Institutions (hereafter referred to as "international financial institution") or the Organization for Economic Co-operation and Development (OECD).

(2) The term "legal expert" in Article 4 (1) 4 of the Act means persons falling under any of the following subparagraphs:

1. A person who has been serving or has ever served as a judge, a public prosecutor, or a lawyer for at least 15 years;

2. A person who holds a valid lawyer license and has ever served in the Administration, the National Assembly Secretariat, or a public institution (referring to public institutions under Article 4 of the Act on the Management of Public Institutions; the same shall apply hereafter in this Article) for at least 15 years;

3. A person who majors in law and who has ever worked for a college or an accredited research institute as an adjunct professor or with an equivalent or higher position for at least 15 years;

4. A person who majors in law and has ever worked for a court or the Constitutional Court of Korea as a research judge or a constitution research officer for at least 15 years.

(3) The term "accounting expert" in Article 4 (1) 5 of the Act means persons falling under any of the following subparagraphs:

1. A person who holds a valid certified public accountant license and who has been engaging or has ever engaged in the same profession for at least 15 years;

2. A person who holds a valid certified public accountant license and who has ever served in the Administration, the National Assembly Secretariat, or a public institution for at least 15 years;

3. A person who majors in accounting and has ever worked for a college or an accredited research institute for at least 15 years and who has ever served as an adjunct professor or with an equivalent or higher position.

(4) The term "financial expert" in Article 4 (1) 6 of the Act means persons falling under any of the following subparagraphs:

1. A person who has been working or has ever worked for any of the following legal entities or organizations (including foreign legal entities or organizations corresponding thereto) for at least 15 years:

(a) The Bank of Korea established pursuant to the Bank of Korea Act;

(b) The Financial Supervisory Service established pursuant to Article 24 of the Act on the Establishment of Financial Services Commission and institutions subject to inspection under Article 38 of the aforesaid Act;

(c) The Deposit Insurance Corporation established pursuant to the Depositor Protection Act (hereinafter referred to as the "Deposit Insurance Corporation") and other legal entities or organizations established pursuant to finance-related statutes and as supervised by the Financial Services Commission;

2. A person who majors in a finance-related field and who has been working or has ever worked for a college or an accredited research institute for at least 15 years as an adjunct professor or with an equivalent or higher position;

3. A person who has ever served as a public official of Grade-II or higher-ranking in charge of a finance-related area (including public officials in general service who are members of the Senior Executive Service) in the Administration or the National Assembly Secretariat;

4. A person who has been taking or has ever taken charge of financial or investment affairs for at least 15 years in an international financial organization.

Article 4 (Convening Meetings of Committee)

Chairpersons of the Committee for the Management of Public Funds (hereinafter referred to as the "Committee") shall, when they intend to convene a meeting of the Committee pursuant to Article 5 (2) of the Act, determine the date and time, venue, and agenda items for the upcoming meeting and notify each Committee member in writing of the matters not later than seven days before the date of the meeting: Provided, That the foregoing shall not apply to any urgent case.

Article 5 (Grounds for Disqualification of Committee Members)

The term "the Banking Act or any finance-related Act specified by Presidential Decree" in subparagraphs 3 and 4 of Article 7 of the Act means any of the following Acts: <Amended by Presidential Decree No. 25279, Mar. 24, 2014; Presidential Decree No. 26205, Apr. 20, 2015; Presidential Decree No. 27205, May 31, 2016; Presidential Decree No. 27472, May 31, 2016; Act No. 29269, Oct. 30, 2018>

1. The Banking Act;

2. The Bank of Korea Act;

3. The Korea Development Bank Act;

4. The Industrial Bank of Korea Act;

5. The Export-Import Bank of Korea Act;

6. The Financial Investment Services and Capital Markets Act;

7. The Asset-Backed Securitization Act;
8. The Act on Special-Purpose Companies for Mortgage-Backed Bonds;
9. The Secured Bond Trust Act;
10. The Registration of Bonds and Debentures Act;
11. The Act on External Audit of Stock Companies;
12. The Certified Public Accountant Act;
13. The Insurance Business Act;
14. The Specialized Credit Finance Business Act;
15. The Agricultural Cooperatives Act;
16. The Fisheries Cooperatives Act;
17. The Mutual Savings Banks Act;
18. The Credit Unions Act;
19. The Community Credit Cooperatives Act;
20. The Act on Registration of Credit Business and Protection of Finance Users;
21. The Act on Real Name Financial Transactions and Confidentiality;
22. The Credit Information Use and Protection Act;
23. The Act on Reporting and Using Specified Financial Transaction Information;
24. The Electronic Financial Transactions Act;
25. The Act on the Regulation of Conducting Fund-Raising Business without Permission;
26. The Foreign Exchange Transactions Act;
27. Deleted; <by Presidential Decree No. 25945, Dec. 30, 2014>
28. The Credit Guarantee Fund Act;
29. The Korea Technology Finance Corporation Act;
30. The Korea Housing Finance Corporation Act;
31. The Depositor Protection Act;
32. The Act on the Efficient Disposal of Non-Performing Assets of Financial Companies and the Establishment of Korea Asset Management Corporation;
33. The Act on the Structural Improvement of the Financial Industry;
34. The Financial Holding Companies Act;
35. The Act on the Establishment of Financial Services Commission;
36. The Act on the Guarantee of Workers' Retirement Benefits;
37. The Framework Act on the Promotion of Cultural Industries;
38. The Act on Special Measures for the Promotion of Venture Businesses;
39. The Act on Appraisal and Certified Appraisers;
40. The Real Estate Investment Company Act;
41. The Act on Special Measures for the Promotion of Specialized Enterprises for Materials and Components ;

42. The Act on Public-Private Participation in Infrastructure;
43. The Industrial Development Act;
44. The Ship Investment Company Act;
45. The Foreign Investment Promotion Act;
46. The Housing Act;
47. The Support for Small and Medium Enterprise Establishment Act;
48. The Overseas Resources Development Business Act.

Article 5-2 (Secretariat)

- (1) The Secretariat under Article 10 of the Act shall have one Director General, who shall be a member in general service of the Senior Executive Service.
- (2) The Director General shall, by the order of the Chairperson, exercise overall control over the affairs of the Secretariat, and direct and supervise the public officials under his/her control.
- (3) The Director General shall perform the affairs concerning the operation of and support for the Public Fund Oversight Committee, such as deliberation on and coordination of matters regarding the management of public funds.

Article 5-3 (Request for Reporting by Appropriate Institutions)

- (1) The Committee shall, when it requests the submission of reports, data, or documents by an appropriate institution pursuant to subparagraph 1 of Article 11 of the Act, issue a written notice specifically stating the details of such request, the period for reporting or deadline for submission.
- (2) The Committee shall, when it requests the attendance of and submission of opinions by interested parties, persons for reference, or relevant public officials pursuant to subparagraph 2 of Article 11 of the Act, issue a written notice by not later than seven days before the date of the meeting.
- (3) Interested parties, persons for reference, or relevant public officials to whom a notice was issued pursuant to paragraph (2) may attend the meeting and make an oral statement of his/her opinion or present a written statement of his/her opinion by not later than the day immediately before the date of the meeting.
- (4) The Committee shall, when it intends to conduct an on-the-spot investigation on an appropriate institution pursuant to subparagraph 3 of Article 11 of the Act, issue a written notice in advance to the appropriate institution on the purposes, date and time, and place of the investigation, any basic information on investigators, and other relevant matters: Provided, That the foregoing shall not apply to cases where the investigation is urgently needed or where such prior notice is likely to undermine the purpose of the investigation.
- (5) Any person who conducts an on-the-spot investigation on an appropriate institution pursuant to paragraph (4) shall carry with him/her an identification card indicating his/her authority and shall show it to relevant persons.

Article 5-4 (Operational Regulations)

Necessary matters concerning the operation of the Committee in addition to matters prescribed by this Decree shall be determined by the Chairpersons, subject to resolution of the Committee.

Article 5-5 (Establishment and Composition of Subcommittees)

(1) Pursuant to Article 12 of the Act, the following subcommittees shall be established within the Committee in order to have the subcommittees deliberate on the appropriateness of the management and recovery of public funds:

1. The Subcommittee for the Examination on Financial Support;
2. The Subcommittee for the Examination on Sale.

(2) The Subcommittee for the Examination on Financial Support under paragraph (1) 1 shall be comprised of the following persons:

1. Three persons elected from among the members under Article 4 (1) 3 through 7 of the Act (excluding the members who serve as Chairpersons of the Committee);
2. The head of the secretariat under Article 10 of the Act;
3. Two persons commissioned by Chairpersons of the Committee from among the persons who have expertise and experience related to the examination of the Subcommittee for the Examination on Financial Support.

(3) The Subcommittee for the Examination on Sale under paragraph (1) 2 shall be comprised of the following persons:

1. Two persons elected from among the members under Article 4 (1) 3 through 7 of the Act (excluding the members who serve as Chairpersons of the Committee and committee members under paragraph (2) 1);
2. The head of the secretariat under Article 10 of the Act;
3. Three persons commissioned by Chairpersons of the Committee from among the persons who have expertise and experience related to the examination of the Subcommittee for the Examination on Sale.

(4) The Chairperson of the Subcommittee for the Examination on Financial Support shall be elected from among the subcommittee members under paragraph (2) 1, while the Chairperson of the Subcommittee for the Examination on Sale shall be elected from among the subcommittee members under paragraph (3) 1.

(5) Where a member commissioned under paragraph (2) 3 or (3) 2 falls under any of the following cases, the Chairperson of the Committee may dismiss such member from his/her office: *<Newly Inserted by Presidential Decree No. 27219, May 10, 2016>*

1. Where he/she becomes unable to perform his/her duties due to mental disorders;
2. Where he/she has committed any unlawful act in relation to his/her duties;
3. Where he/she is deemed unqualified as a member due to neglect of duty, injury to dignity, or any other reason;
4. Where he/she indicates his/her intention that it is impracticable to perform his/her duties.

Article 5-6 (Operation of Subcommittees)

(1) Each subcommittee shall report to the Committee the results of the examination under Article 5-5 (1). *<Amended by Presidential Decree No. 25547, Aug. 12, 2014>*

(2) Each subcommittee may hear opinions of non-governmental experts for the examination under Article 5-5 (1). *<Amended by Presidential Decree No. 25547, Aug. 12, 2014>*

(3) Necessary matters concerning the operation of subcommittees in addition to matters prescribed in this Decree shall be prescribed by the Chairperson of the relevant subcommittee, subject to resolution of the relevant subcommittee.

Article 6 (Least Cost Principle)

(1) The Government or the Korea Deposit Insurance Corporation shall, in accordance with Article 13 (1) of the Act, provide public funds in a manner that minimizes the investment cost thereof, taking into account the following matters: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree No. 21646, Jul. 27, 2009; Presidential Decree No. 27068, Mar. 29, 2016>*

1. In cases where the liquidation or bankruptcy of a financial company, etc. that received public funds is likely to seriously hamper the stability of financial systems, taking into account the transactions partners and the role played by the relevant financial company, etc. in the same business category, national economic loss that may arise therefrom;

2. Whether or not the method for allocating the relevant public funds is implemented in a manner that minimizes the amount obtained by deducting the expected amount of recovered public funds from the amount required of public funds.

(2) Materials which the Financial Services Commission submits to the Government or Korea Deposit Insurance Corporation (hereinafter referred to as the "Government, etc.") under Article 13 (2) of the Act shall include the following matters: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. Materials verifying that the investment in the insolvent financial institution in question or the purchase of securities thereof is appropriate in light of the least cost principle under paragraph (1);

2. Materials of the actual investigation conducted most recently on assets and liabilities of the insolvent financial institution.

Article 7 (Exceptions to Provision of Public Funds in Installments)

The term "vicarious payment of deposits and other cases prescribed by Presidential Decree" in the proviso to Article 14 (2) of the Act means any of the following cases: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree No. 21518, May 29, 2009; Presidential Decree Nos. 21641 & 21646, Jul. 27, 2009; Presidential Decree No. 25945, Dec. 30, 2014; Presidential Decree No. 27068, Mar. 29, 2016>*

1. Cases in which the insurance or provisional payments are paid under Article 31 (1) or (2) of the Depositor Protection Act, or bonds including deposits are purchased under Article 35-2 of the said Act;

2. Cases in which a financial company authorized to perform liquidation established under Article 36-3 of the Depositor Protection Act is provided public funds;

3. Cases in which public funds are provided under Article 38 (1) 1 of the Depositor Protection Act: Provided, That any case in which a person who received public funds is an insolvent financial company or insolvency-threatened financial company under the Depositor Protection Act (hereinafter referred to as "insolvent financial companies, etc.") shall be excluded;

4. Cases in which the Korea Deposit Insurance Corporation provides public funds in such a manner as to purchase assets of a financial company, etc.;
5. Cases in which any state-owned property under the State Property Act is contributed to the Korea Development Bank established under the Korea Development Bank Act, the Export-Import Bank of Korea established under the Export-Import Bank of Korea Act, or the Industrial Bank of Korea established under the Industrial Bank of Korea Act;
6. Cases in which public funds are provided to make up for a deficit in net assets of a financial company, etc. (referring to the amount calculated by deducting total assets from total liabilities, if the total liabilities exceed the total assets);
7. Deleted; <by Presidential Decree No. 21646, Jul. 27, 2009>
8. Other cases deemed inevitable to maintain the stability of financial systems.

Article 8 (Conclusion of Arrangement for Implementation of Management Normalization)

(1) The Government, etc. shall, in cases where it intends to provide a financial company, etc. with public funds under Article 17 (1) of the Act, conclude a written arrangement for the implementation of a plan for management normalization with the relevant financial company, etc. prior to the provision of public funds: Provided, That this shall not apply in the following cases: <Amended by Presidential Decree No. 18332, Mar. 29, 2004; Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree 21214, Dec. 31, 2008; Presidential Decree No. 21646, Jul. 27, 2009; Presidential Decree No. 27068, Mar. 29, 2016>

1. Cases which fall under any subparagraph of Article 7 (excluding subparagraph 6 of the aforesaid Article) and which are determined and publicly notified by the Financial Services Commission;
2. Cases in which the conclusion of a written arrangement for the implementation of a plan for management normalization with a financial company, etc. that received public funds yields no tangible result, including cases in which the sale of such financial company, etc. is determined.

(2) The term "standards for financial soundness, including the equity capital ratio as prescribed by Presidential Decree" in Article 17 (2) 1 of the Act means the standards for financial soundness which apply to the financial company, etc. in question under the relevant statutes or regulations by which such financial company, etc. is established, as determined by the Financial Services Commission. <Amended by Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree No. 27068, Mar. 29, 2016>

(3) The term "standards for profitability, including return on assets as prescribed by Presidential Decree" in Article 17 (2) 2 of the Act means any of the following standards: Provided, That the Government, etc. may apply up to two of the following for standards for profitability, in consideration of a percentage of the total voting shares held by the Government, etc. out of those owned by the relevant financial company, etc., or a percentage of the public funds recovered out of those provided to the relevant financial company, etc. under subparagraph 1 of Article 2 of the Act: <Amended by Presidential Decree No. 27068, Mar. 29, 2016>

1. Profitability to assets or capital ratio;
2. Profitability to cost ratio;

3. Productivity per executive officers or employee.

(4) The term "standards for asset soundness, including bad loan ratio as prescribed by Presidential Decree" in Article 17 (2) 3 of the Act means non-performing loans to total loans ratio. <Amended by Presidential Decree No. 27068, Mar. 29, 2016>

Article 9 (Non-disclosure of Arrangement)

The term "matters prescribed by Presidential Decree" in the proviso of Article 17 (3) of the Act means any of the following matters: <Amended by Presidential Decree No. 27068, Mar. 29, 2016>

1. Issuance of securities including shares or bonds;
2. Sale of assets held including immovable property, bonds, etc.;
3. Methods for the implementation of plans for management normalization.

Article 10 (Scope of Insolvent Enterprises Eligible for Conclusion of Arrangement)

(1) The term "insolvent enterprise prescribed by Presidential Decree" in Article 18 (1) of the Act means any of the following enterprises of which total liabilities to all financial companies, etc. are not less than 50 billion won and of which liabilities to the relevant financial company, etc. that received public funds (excluding a financial company, etc. less than 50/100 of the total voting shares of which are owned by the Korea Deposit Insurance Corporation) are not less than ten billion won: <Amended by Presidential Decree No. 19422, Mar. 29, 2006; Presidential Decree No. 27068, Mar. 29, 2016>

1. Any enterprise which is likely to revive despite its worsening financial circumstances and which formulates a corporate improvement plan and strives for management normalization through negotiations and adjustments with a creditor financial institution;
2. Deleted; <by Presidential Decree No. 19422, Mar. 29, 2006>
3. Any enterprise to which an approval for a revival plan is granted under the Debtor Rehabilitation and Bankruptcy Act.

(2) The term "other matters provided for by Presidential Decree" in Article 18 (1) of the Act means matters concerning a restructuring plan for the relevant insolvent enterprise. <Amended by Presidential Decree No. 27068, Mar. 29, 2016>

(3) Any financial company, etc. which shall conclude a written arrangement with an insolvent enterprise under Article 18 (1) of the Act and may jointly conclude such arrangement under the same paragraph with any other financial company, etc. which provides the insolvent enterprise with new funds. <Amended by Presidential Decree No. 27068, Mar. 29, 2016>

Article 11 Deleted. <by Presidential Decree No. 20653, Feb. 29, 2008>

Article 12 (Publication of White Book)

A white book on the management of public funds published by the Committee under Article 21 of the Act shall include the actual results of allocation of public funds and recovery thereof. <Amended by Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree No. 21646, Jul. 27, 2009>

ADDENDUM

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

ADDENDUM <Presidential Decree No. 18332, Mar. 29, 2004>

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

ADDENDA <Presidential Decree No. 19422, Mar. 29, 2006>

Article 1 (Enforcement Date)

This Decree shall enter into force on April 1, 2006.

Article 2 Omitted.

ADDENDA <Presidential Decree No. 20653, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation: Provided, That the amended provisions of each Presidential Decree which was promulgated before this Decree enters into force and the enforcement date of which has yet to arrive, among the Presidential Decrees amended pursuant to Article 2 of the Addenda, shall enter into force on the date such Presidential Decree is to enter into force.

Article 2 Omitted.

ADDENDA <Presidential Decree No. 21214, Dec. 31, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 21518, May 29, 2009>

Article 1 (Enforcement Date)

This Decree shall enter into force on June 1, 2009.

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 21641, Jul 27, 2009>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 31, 2009. (Proviso Omitted.)

Articles 2 through 15 Omitted.

ADDENDUM <Presidential Decree No. 21646, Jul 27, 2009>

This Decree shall enter into force on July 28, 2009.

ADDENDA <Presidential Decree No. 25279, Mar. 24, 2014>

Article 1 (Enforcement Date)

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

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 25547, Aug. 12, 2014>

Article 1 (Enforcement Date)

This Decree shall enter into force on August 13, 2014.

Article 2 Omitted.

ADDENDA <Presidential Decree No. 25945, Dec. 30, 2014>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date when a merger is registered pursuant to Article 4 (6) of the Addenda to the Korea Development Bank Act (Act No. 12663).

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 26205, Apr. 20, 2015>

Article 1 (Enforcement Date)

This Decree shall enter into force on April 29, 2015.

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 27068, Mar. 29, 2016>

Article 1 (Enforcement Date)

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

Article 2 (Applicability to Profitability Standards for Written Arrangement)

The amended provisions of Article 8 (3) shall also apply where a written arrangement is concluded to implement a plan for management normalization before this Decree enters into force.

ADDENDUM <Presidential Decree No. 27129, May 10, 2016>

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

ADDENDA <Presidential Decree No. 27205, May 31, 2016>

Article 1 (Enforcement Date)

This Decree shall enter into force on September 30, 2016. (Proviso Omitted.)

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 27472, Aug. 31, 2016>

Article 1 (Enforcement Date)

This Decree shall enter into force on September 1, 2016.

Articles 2 through 7 Omitted.

ADDENDA <Presidential Decree No. 29269, Oct. 30, 2018>

Article 1 (Enforcement Date)

This Decree shall enter into force on November 1, 2018.

Articles 2 through 11 Omitted.

Last updated : 2019-10-01

