

# DEPOSITOR PROTECTION ACT

Act No. 5042, Dec. 29, 1995

Amended by Act No. 5257, Jan. 13, 1997

Act No. 5403, Aug. 30, 1997

Act No. 5421, Dec. 13, 1997

Act No. 5492, Dec. 31, 1997

Act No. 5556, Sep. 16, 1998

Act No. 5702, Jan. 29, 1999

Act No. 6018, Sep. 7, 1999

Act No. 6173, Jan. 21, 2000

Act No. 6274, Oct. 23, 2000

Act No. 6323, Dec. 30, 2000

## 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, etc. 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. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998; Act No. 6018, Sep. 7, 1999; Act No. 6323, Dec. 30, 2000>*

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 Cooperative Federation as prescribed in the Agricultural Cooperatives Act;

(f) The National Federation of Fisheries Cooperatives 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) Deleted; <by Act No. 6018, Sep. 7, 1999>

(h) The Long-Term Credit Bank as prescribed in the Long-Term Credit Bank Act;

(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 the securities companies as prescribed by the Presidential Decree from among those 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 authorized under Article 7 (1) of the Credit Cooperatives Act;

2. The term “deposits, etc.” 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”) and banks and securities companies which have merged with the merchant banks under the Act on the Structural Improvement of the Financial Industry 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, etc. or other claims against insured financial institutions;

4. The term “claims for deposits, etc.” 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, etc.;

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

(a) Insured financial institutions of which the liabilities 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 Policy Committee under Article 8;

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

(c) Insured financial institutions for which the Financial Supervisory Commission or the Policy Committee under Article 8 deems it difficult to pay for claims for deposits, etc. 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) Lending or depositing of funds;

(b) Purchasing assets;

(c) Guaranteeing or accepting obligations; and

(d) Investments or contributions; and

7. The term “insurance risk” means the following items:

(a) Insured financial institutions’ payment suspension of claims for deposits, etc. (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 KOREA DEPOSIT INSURANCE CORPORATION

## SECTION 1 Common Provisions

### Article 3 (Establishment)

For the purpose of efficiently operating a deposit insurance system, the Korea Deposit Insurance Corporation shall be established under this Act.

### Article 4 (Corporate Personality)

(1) The Korea 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 Policy 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 Policy 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 “Korea Deposit Insurance Corporation” or similar trade names.

## **SECTION 2 Policy Committee**

### **Article 8 (Policy Committee)**

(1) The Policy 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 consist of 9 members as follows: *<Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998; Act No. 6173, Jan. 21, 2000; Act No. 6323, Dec. 30, 2000>*

1. The president of the Corporation;
2. The Vice Minister of Finance and Economy;
3. The Vice Minister of Planning and Budget;
4. The Vice Chairman of the Financial Supervisory Commission;
5. The Vice Governor of the Bank of Korea;
6. through 12. Deleted; and *<by Act No. 6323, Dec. 30, 2000>*
13. One member commissioned by the Minister of Finance and Economy, and 3 members commissioned by the Minister of Finance and Economy on the recommendation of the Minister of Planning and Budget, the Chairman of the Financial Supervisory Commission and the Governor of the Bank of Korea, respectively.

(2) Qualifications for members referred to in paragraph (1) 13 shall be prescribed by the Presidential Decree. *<Amended by Act No. 5492, Dec. 31, 1997; Act No. 6173, Jan. 21, 2000>*

(3) The terms of officers referred to in paragraph (1) 13 shall be three years, and they may be re-appointed. *<Amended by Act No. 5492, Dec. 31, 1997; Act No. 6173, Jan. 21, 2000>*

### **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; Act No. 6173, Jan. 21, 2000>*

(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) through (9) Deleted. *<by Act No. 6323, Dec. 30, 2000>*

(10) The Committee shall prepare the minutes of the Committee, and make them public under the conditions as determined by the Committee. *<Newly Inserted by Act No. 6323, Dec. 30, 2000>*

(11) The Committee may, if necessary, have those who are deemed to represent the insured financial institutions or the related specialists, etc. attend the Committee, and hear their opinions. *<Newly Inserted by Act No. 6323, Dec. 30, 2000>*

(12) Matters necessary for the operation of the Committee shall be prescribed by the Presidential Decree. *<Amended by Act No. 5492, Dec. 31, 1997; Act No. 6323, Dec. 30, 2000>*

### 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) The 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 Judicial)**

The president shall appoint and dismiss the employees of the Corporation.

### **Article 15-2 (Appoint and Dismissal of Agents)**

- (1) The president may appoint agents from among officers or employees of the Corporation, who have the authority to act on judicial or extrajudicial matters with respect to the business of the Corporation.
- (2) The scope of employees who can be appointed as agents to act on trial under the provisions of paragraph (1) shall be prescribed by the Presidential Decree.

### **Article 16 (Disqualification for Appointment to Office)**

A person who falls under any of the following subparagraphs shall not be an officer of the Corporation, and a person falling under subparagraph 2 shall not be an employee of the Corporation: <Amended by Act No. 6323, Dec. 30, 2000>

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; Act No. 6323, Dec. 30, 2000>

1. Management and operation of the deposit insurance fund;

1-2. Vicarious exercise of right to claim compensation for damages under Article 21-2;

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;

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 Data)

(1) The Corporation may request an insured financial institution and a financial holding company which has such insured financial institution as its subsidiary, etc. under the Financial Holding Companies Act to submit the data related to the business and property of such insured financial institution and financial holding company to the extent necessary for carrying out its duties such as the decision on the insolvent financial institutions under subparagraph 5 of Article 2 or the insolvency-threatened financial institutions under subparagraph 5-2 of Article 2, 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. *<Amended by Act No. 5492, Dec. 31, 1997; Act No. 6274, Oct. 23, 2000; Act No. 6323, Dec. 30, 2000>*

(2) The Corporation may investigate the business and the state of property of the insured financial institution, which is deemed to contain a concern about insolvency on the basis of the data, etc. submitted under paragraph (1), and the financial holding company, which has such insured financial institution as its subsidiary, etc. under the Financial Holding Companies Act. *<Amended by Act No. 5492, Dec. 31, 1997; Act No. 6274, Oct. 23, 2000; Act No. 6323, Dec. 30, 2000>*

(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 a financial holding company, which has such insured financial institution as its subsidiary, etc. under the Financial Holding Companies Act, and transmit the results of the inspection or have its staff to participate jointly in the inspection of such insured financial institution and financial holding company 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; Act No. 6274, Oct. 23, 2000>*

(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 and a financial holding company, which has such insured financial institution as its subsidiary, etc. under the Financial Holding Companies Act, 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; Act No. 6274, Oct. 23, 2000>*

(5) The Corporation may, in case where deemed that there exist the risks of insurance accidents as a result of investigations under paragraph (2), notify the Financial Supervisory Commission thereof and request it to take adequate measures. In this case, the Financial Supervisory Commission in receipt of such a request shall comply with it unless there exist any special reasons. *<Newly Inserted by Act No. 6323, Dec. 30, 2000>*

#### **Article 21-2 (Vicarious Exercise of Right to Claim Compensation for Damages)**

(1) The Corporation may, when what falling under each of the following subparagraphs takes place, request any insolvent financial institution or any insolvent-threatened financial institution (hereinafter referred to as “insolvent financial institution, etc.”, and including only in this Article the liquidated corporation or the bankrupt foundation) to seek compensation for damages from the former and present officers and employees deemed to be responsible for such insolvency and such fear to become insolvent, any person stipulated in each subparagraph of Article 401-2 (1) of the Commercial Act, the obligors who have failed to perform the obligations (if the obligors are the corporations, including the former and present officers and employees of relevant corporations, the persons stipulated in each subparagraph of Article 401-2 (1) of the Commercial Act, and the principal shareholders prescribed by the Presidential

Decree) and any third person (hereinafter referred to as “persons related to insolvency”): *<Amended by Act No. 6323, Dec. 30, 2000>*

1. Payment of any insurance money is decided or such insurance money is paid under the provisions of Articles 31 and 34 (1);

2. Any cleanup financial institution established pursuant to the provisions of Article 36-3 (1) decides on takeover of business or contract, or payment of claims such as deposits, etc. or takes over business or contract, or pays claims such as deposits, etc.;

3. Financial assistance is decided or financial assistance is provided under the provisions of Article 38; and

4. Deleted. *<by Act No. 6323, Dec. 30, 2000>*

(2) The request made by the Corporation under the provisions of paragraph (1) shall be in writing that specifies the reasons thereof, method of claim, and claim period.

(3) The Corporation may, if any insolvent financial institution does not comply with the request made under the provisions of paragraph (1), promptly claim compensation for damages on behalf of such insolvent financial institution.

(4) The Corporation may, if any insolvent financial institution files a lawsuit to claim compensation for damages referred to in paragraph (1), participate in such suit to assist such insolvent financial institution during a period for which such suit is pending. In this case, the provisions of Articles 65 through 71 shall be applied *mutatis mutandis*.

(5) Where the Corporation wins a lawsuit by exercising vicariously the right to claim compensation for damages under the provisions of paragraph (3) or participate in a lawsuit at the request of an insolvent financial institution, any expenses accruing therefrom shall be borne by such insolvent financial institutions.

(6) Where an insolvent financial institution goes bankrupt, any claim for expenses referred to in paragraph (5), which are not borne by such insolvent financial institution shall be deemed a foundation claim.

(7) The Corporation may, when deemed necessary to claim compensation for damages, to exercise vicariously the right to claim compensation for damages or to participate in a lawsuit under paragraphs (1) through (4), investigate the business and the status of property of the relevant insolvent financial institution, etc. and the obligors who have failed to perform the obligations to the insolvent financial institutions, etc. *<Amended by Act No. 6323, Dec. 30, 2000>*

(8) The provisions of paragraphs (1) through (6) shall apply *mutatis mutandis* to any insured financial institution that survives after the takeover of any insolvent financial institution by a third person or a merger of insolvent financial institutions. In this case, the Corporation may ask such insured financial institution to furnish data necessary to claim compensation for damages from persons responsible for such insolvency or participate in any lawsuit, and such insured financial institution shall comply with such request from the Corporation unless special reasons exist for not complying with such request.

(9) The persons conducting the investigation under paragraph (7) shall carry the identification indicating their authority, and show it to the parties concerned. <Newly Inserted by Act No. 6323, Dec. 30, 2000>

(10) Matters necessary for the method and procedure, etc. for the investigation under paragraph (7) shall be prescribed by the Presidential Decree. <Newly Inserted by Act No. 6323, Dec. 30, 2000>

### **Article 21-3 (Request for Data)**

(1) The Corporation may, when it is deemed necessary for a request for the claim of compensation for damages, the vicarious exercise of the right to claim compensation for damages or participation in a lawsuit, ask the heads of central administrative agencies concerned, local governments and public institutions prescribed by the Presidential Decree (hereafter referred to as “public institutions” in this Article) to furnish data or information pertaining to assets of persons involved in such insolvency.

(2) The heads of public institutions shall, upon receiving a request referred to in paragraph (1), comply with such request unless special reasons exist for not complying with such request.

## **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 (hereafter 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 for deposits, etc. under Article 35-2, investments under Article 36-3 (4), and the support of funds under the provisions of Articles 36-5 (3) and 38. <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998; Act No. 6323, Dec. 30, 2000>

(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; Act No. 6323, Dec. 30, 2000>

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 from claims for deposits, etc. purchased 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), or 38; 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 and appendant expenses for supporting the liquidation, etc. of insolvent financial institutions under Article 36-5 (3) or 38, 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; Act No. 6323, Dec. 30, 2000>*
- (4) The contributions under the provisions of paragraph (2) 1 shall be determined separately for each insured financial institution by taking into account the balance of deposits, etc. of each insured financial institution, within the scope of not exceeding one percent (ten percent for merchant banks and mutual savings and finance companies) of its paid-in capital or contribution. The amount, time and method of payment 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.

#### **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, insurers, merchant banks, mutual savings and finance companies, and credit cooperatives. 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>*

### **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; and
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 may, notwithstanding the provisions of Article 79 of the Bank of Korea Act, 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, under the conditions 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 at every issue the amount, terms, and the methods of issue and redemption 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.

## **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. <Amended by Act No. 5556, Sep. 16, 1998>

#### **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 deposits, etc. 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>

(3) The Corporation may check whether any insured financial institution has indicated whether insurance relations have been built and their contents under the provisions of paragraph (2). <Newly Inserted by Act No. 6173, Jan. 21, 2000>

#### **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, etc. (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 institutions 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, etc. 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 as prescribed by the Presidential Decree to the Corporation. *<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.
- (5) The Corporation shall have the right to receive the premiums to be paid by the insured financial institutions whereto an insurance accident takes place, in preference to other bonds, next to the national and local taxes. *<Newly Inserted by Act No. 6323, Dec. 30, 2000>*

#### **Article 30-2 (Obligation of Insured Financial Institutions to Keep Secrets)**

Any insured financial institution and its officers and employees (including persons who have served as officers and employees) shall be prohibited from using contents of insurance premiums set differently by insured financial institution under the provisions of the latter part of Article 30 (1) for any advertisements, making public or leaking such insurance premiums to persons other than the officers and employees of the insured financial institution concerned: Provided, That the same shall not apply to the case where it is deemed necessary to protect depositors and to the case of contents 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 for deposits, etc. 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 publish the date of commencement of payment, period, method and other necessary matters under the provisions of paragraph (2) as prescribed by the Presidential Decree. *<Amended by Act No. 6173, Jan. 21, 2000>*
- (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>*

(6) The Corporation may, in paying the insurance money under paragraph (1), where the depositors, etc. correspond to the persons related to insolvency under Article 21-2 (1) or are in the special relations prescribed by the Presidential Decree with the persons related to insolvency, reserve the payment of insurance money within the limit of 6 months from the date of public notice on the commencing date, etc. of payment of insurance money under paragraph (3) (hereinafter referred to as the “date of public notice on payment of insurance money”), under the conditions as prescribed by the Presidential Decree, against the claims such as the deposits of the relevant depositors, etc. *<Newly Inserted by Act No. 6323, Dec. 30, 2000>*

(7) The limitation of the right by depositors, etc. to claim the insurance money under the provisions of paragraph (1) shall be extinguished unless such right is exercised for 5 years from the date of commencement of payment referred to in paragraph (3). *<Newly Inserted by Act No. 6173, Jan. 21, 2000>*

### **Article 32 (Calculation of Insurance Money, etc.)**

(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 surety obligations) owed by each depositor to his corresponding insured financial institution from the total amount of claims for deposits, etc. of each depositor as of the date of public notice on payment 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; Act No. 6323, Dec. 30, 2000>*

(2) The maximum amount of insurance money under paragraph (1) shall be limited to the amount as determined by the Presidential Decree in view of the amount of per capita gross domestic production and the size of protected deposits, etc. *<Amended by Act No. 6323, Dec. 30, 2000>*

(3) Where there is an amount received in advance (hereinafter referred to as “provisional payment”) by each depositor under the provisions of Article 31 (2), the insurance money shall be the amount from which the provisional payment is deducted under the provisions of paragraphs (1) and (2).

(4) Where the amount of the provisional payment paid to each 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. 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: <Amended by Act No. 5492, Dec. 31, 1997; Act No. 5556, Sep. 16, 1998>

1. When a suspension of payment of claims for deposits, etc. 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 for Deposits, etc.)**

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

(2) The Corporation shall, in purchasing claims for deposits, etc. under paragraph (1), pay an amount obtained by estimating the worth of claims for deposits, etc. (hereinafter referred to as “estimated payment”) under paragraph (3) on the request of depositors. In this case, where an amount calculated by deducting actually paid expenses from the realized claims for deposits, etc. 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 for deposits, etc. purchased by the Corporation from such depositors based on the date of public notice on payment of insurance money (excluding claims for deposits, etc. equivalent to surety obligations of depositors liable for it, and claims for deposits, etc. which are the object of mortgage rights) by estimated payment rates under Article 35-3. <Amended by Act No. 5556, Sep. 16, 1998>

#### **Article 35-3 (Estimated Payment Rates)**

Where the Corporation purchases claims for deposits, etc. under Article 352 (1), it shall, if the bankruptcy proceedings are initiated in the light of financial status of the relevant insolvent financial institution, determine estimated payment rates, taking into consideration an estimated amount to be reimbursed for claims for the deposits, etc. relating to such insolvent financial institution.

#### **Article 35-4 (Approval for Payment of Estimated Payment)**

Where the Corporation intends to pay an estimated payment under Article 35-2 (2), it shall obtain an approval from the Minister of Finance and Economy through a resolution by the Committee, after determining estimated payment rates under Article 35-3, and the period and method of purchase of claims for deposits, etc. <Amended by Act No. 5556, Sep. 16, 1998>

#### **Article 35-5 (Purchase Announcement)**

Where the Corporation obtains approval under Article 35-4, it shall publicly announce it, under the conditions as prescribed by the Presidential Decree.

#### **Article 35-6 (Korea Deposit Insurance Corporation's Right of Setoff by Subrogation)**

The Corporation may, on behalf of depositors, set off claims for deposits, etc. of respective depositors (excluding claims for deposits, etc. offered by depositors to relevant insured financial institutions as security for others) and obligations (excluding surety obligations) for which depositors are liable to the relevant insured financial institutions as of the date of payment announcement of insurance money.

#### **Article 35-7 (Duties of Managers)**

Where the officers or employees of the Corporation are appointed as managers under the provisions of Article 14-6 (1) of the Act on the Structural Improvement of the Financial Industry or Article 86-2 (5) of the Credit Cooperatives Act, the provisions of Article 21-3 shall apply mutatis mutandis to their duties.

#### **Article 35-8 (Duties of Liquidators or Bankruptcy Trustees)**

(1) and (2) Deleted. <by Act No. 6323, Dec. 30, 2000>

(3) Where a shareholders' meeting is not held under the provisions of Articles 533 (1) and 540 (1) of the Commercial Act after the Corporation or one of its officers and employees has been appointed as a liquidator under Article 20 (1) of the Special Act on the Management of Public Funds, the Financial Supervisory Commission's approval shall be considered to have obtained an approval from such shareholders' meeting. *<Amended by Act No. 6323, Dec. 30, 2000>*

(4) Where the Corporation or one of its officers and employees has been appointed as a liquidator or bankruptcy trustee under Article 20 (1) of the Special Act on the Management of Public Funds, the provisions of Article 21-3 shall apply mutatis mutandis to his duties. *<Amended by Act No. 6323, Dec. 30, 2000>*

(5) The Corporation or one of its officers and employees who has been appointed as a liquidator or bankruptcy trustee under Article 20 (1) of the Special Act on the Management of Public Funds shall be prohibited from claiming any remunerations for his duties: Provided, That the same shall not apply to justifiable expenses which have been spent to perform his duties. *<Amended by Act No. 6323, Dec. 30, 2000>*

#### **Article 35-9 (Subscription to Liability Insurance)**

(1) The Corporation may request the insured financial institutions (limited to the insured financial institutions satisfying the criteria determined by the Presidential Decree) to subscribe to the insurance to make up for the damages to the property of relevant insured financial institutions due to the default or delict of the officers and employees of relevant insured financial institutions (hereinafter referred to as the "liability insurance").

(2) The Corporation may, in case where the insured financial institution fails to comply with the request for subscribing to the insurance under paragraph (1), conclude a contract subscribing to the insurance in behalf of the relevant insured financial institutions.

(3) The Corporation may, in case where the insured financial institution fails to bear the premiums, etc. of a contract of the insurance subscription concluded under paragraph (2), deduct such an amount from the premium paid by the relevant insured financial institution under Article 30 (1); in this case, the amount equivalent to it shall be considered to have been unpaid as the premium.

(4) Matters necessary for the request for subscription to the liability insurance under paragraph (1) or (2), or the method and procedure for the proxy shall be prescribed by the Presidential Decree.

#### **Article 36 (Good Offices for Mergers)**

The Corporation may offer good offices for the merger, transfer or business takeover by third parties between the insolvent financial institutions, etc. or the financial holding company having the relevant insolvent financial institution as an affiliated company under the Financial Holding Companies Act (hereinafter referred to as "merger between insolvent institutions, etc."), in case where deemed necessary for the protection of depositors, etc. and the maintenance of financial system's stability. *<Amended by Act No. 5492, Dec. 31, 1997; Act No. 6323, Dec. 30, 2000>*

### **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, etc.
- (2) The Financial Supervisory Commission which has been requested by the Corporation under paragraph (1) shall notify the Corporation of the results.

### **Article 36-3 (Establishment of Readjusting Financial Institution)**

- (1) The Corporation may establish a financial institution for taking over business or contracts of insolvent financial institutions or performing the readjustment affairs (hereinafter referred to as “readjusting 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; Act No. 6173, Jan. 21, 2000>*
- (2) Readjusting financial institutions shall be stock companies.
- (3) The Corporation shall prepare the articles of incorporation of any readjusting 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 readjusting financial institution shall be invested in full by the Corporation from the fund’s charge. *<Amended by Act No. 5556, Sep. 16, 1998>*
- (5) Readjusting financial institutions may use titles such as banks, securities companies, insurers, merchant banks, mutual savings 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 readjustment of insolvent financial institutions.

### **Article 36-4 (Appointment and Powers of Officers)**

- (1) Any readjusting 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 readjusting 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 readjusting financial institutions.

#### **Article 36-5 (Business Scope of Readjusting Financial Institutions)**

(1) Readjusting financial institutions shall carry out the payment of claims for deposits, etc., collection of claims such as loans, or other business necessary for the effective discharge of readjusting business by readjusting 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 for deposits, etc. paid by a readjusting 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 readjusting financial institutions in accordance with a decision by the Committee.

(4) The Corporation shall direct and supervise the affairs of readjusting financial institutions as prescribed by the Presidential Decree.

(5) The Financial Supervisory Service Governor may, where deemed necessary, ask the readjusting financial institution to furnish necessary data within a certain scope or ask the Corporation to inspect the readjusting financial institution. In this case the readjusting financial institution or the Corporation shall, upon receipt of the request, comply it therewith unless there exists any special causes contrary thereto. *<Newly Inserted by Act No. 6173, Jan. 21, 2000>*

#### **Article 36-6 (Incorporation Registration and Announcement)**

(1) Where the Corporation establishes a readjusting financial institution under Article 36-3, it shall register with the court having jurisdiction over the seat of the readjusting financial institution's main office.

(2) Where the Corporation establishes a readjusting 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.

### **Article 36-7 (Business Periods of Readjusting Financial Institutions)**

(1) The business period of readjusting 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 readjusting financial institution on approval by the Minister of Finance and Economy in case of a termination of business period of the readjusting financial institution, merger, or transfer or taking over of business between the readjusting financial institution and an insured financial institution or the assumption of a readjusting financial institution by a third party. <Amended by Act No. 5556, Sep. 16, 1998>

(3) Where the Corporation deems that any readjusting financial institution's continuance of doing business is likely to damage the interests of depositors, it may dissolve the readjusting financial institution on approval by the Minister of Finance and Economy. <Amended by Act No. 5556, Sep. 16, 1998>

### **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, 382 through 385, 389 (1), 393, 409 through 410, and 517 through 520 of the Commercial Act shall not apply to readjusting financial institutions. <Amended by Act No. 5556, Sep. 16, 1998>

(2) With regard to readjusting financial institutions, except as otherwise provided for in this Act, this Act shall prevail over the Commercial Act.

### **Article 37 (Application for Funding Support)**

Any person who intends to take over or merge an insolvent financial institution, etc. or a financial holding company having the relevant insolvent financial institution as an affiliated company under the Financial Holding Companies Act, or take over its business or contracts, may apply to the Corporation for funding support. <Amended by Act No. 5556, Sep. 16, 1998; Act No. 6323, Dec. 30, 2000>

### **Article 38 (Funding Support to Insured Financial Institution)**

(1) The Corporation may, in case where falling under any of the following subparagraphs, render the funding support to an insured financial institution or a financial holding company having the relevant insured financial institution as an affiliated company under the Financial Holding Companies Act: <Amended by Act No. 6323, Dec. 30, 2000>

1. Where deemed necessary when there exists an application for funding support under Article 37 or for making the merger of insolvent financial institution, etc. go smoothly;

2. Where deemed that the improvement of financial structures of insolvent financial institution, etc. is necessary for the protection of depositors and the stability of credit orders; and
  3. Where there exists a request from the Financial Supervisory Commission under Article 12 (1) of the Act on the Structural Improvement of the Financial Industry.
- (2) The standards, methods, and conditions for funding support under paragraph (1) and other necessary matters shall be prescribed by the Presidential Decree. <Newly Inserted by Act No. 5492, Dec. 31, 1997; Act No. 6323, Dec. 30, 2000>

**Article 38-2 Deleted.** <by Act No. 6323, Dec. 30, 2000>

**Article 38-3 (Special Case for Transfer of Credits)**

(1) The Corporation and any readjusting financial institution (hereafter referred to as the “Corporation, etc.” in this Article), when they are transferred with designated credits through the acquisition of assets falling under each of the following subparagraphs, shall be deemed to have requirements for setting up against any person under the provisions of Article 450 of the Civil Act by publishing the fact of the transfer of such designated credits in not less than two daily newspapers (not less than one nationally-circulated newspaper shall be included): Provided, That any debtor, any person who has pledged his property to secure another’s obligation and other interested persons can not set up against the Corporation, etc. on the grounds of what has occurred with the transfers of credits prior to such publication:

1. Any asset the Corporation is transferred in relation to payment of insurance money under the provisions of Article 31 (1) or financial aid under the provisions of Article 38 or Article 38-2;
2. Any asset a readjusting financial institution transfers to the Corporation; and
3. Any asset any readjusting financial institution is transferred in relation to business under the provisions of Article 36-5 (1).

(2) The Corporation, etc., when they make the publication under the provisions of paragraph (1), shall keep and administer data pertaining to the credits they are transferred and make such data accessible to interested persons. In this case, the Committee shall determine the keeping and administration of such data, and standards as well as procedures necessary for making such data accessible to such interested persons.

**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)**

Any person falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not exceeding two years or by a fine not exceeding 10 million won:

1. A person who has leaked secrets in violation of the provisions of Article 17 (3); and
2. A person who has advertised, published or leaked contents of insurance premiums set differently by insured financial institution in violation of the provisions of Article 30-2.

### **Article 41 (Penal Provisions)**

Any falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not exceeding one year or by a fine not exceeding 5 million won:

1. A person who has failed to furnish data or furnished false data in violation of the provisions of Article 21 (1) or the later part of Article 21-2 (8); and
2. A person who has rejected, hindered or dodged investigation in violation of the provisions of Article 21 (1) or Article 21-2 (7).

### **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 performs any act of violating the provisions of subparagraph 2 of Article 40 or 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; Act No. 6173, Jan. 21, 2000>

### **Article 44 (Fine for Negligence)**

(1) Any person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding 2 million won: <Amended by Act No. 6173, Jan. 21, 2000>

1. A person who has violated the provisions of Articles 7, 29 (2) or 33 (1); and
2. A person who has rejected, hindered or dodged investigation under the provisions of Article 29 (3).



(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 June 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 (hereafter 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.

ADDENDA <Act No. 6018, Sep. 7, 1999>

#### **Article 1 (Enforcement Date)**

This Act shall enter into force on July 1, 2000. (Proviso Omitted.)

**Articles 2 through 21 Omitted.**

ADDENDA <Act No. 6173, Jan. 21, 2000>

**Article 1 (Enforcement Date)**

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

**Article 2 (Duration Period of Regulation)**

- (1) The amended provisions of Article 30-2 shall take force by the date on which five years lapse from the date of enforcement of this Act.
- (2) The amended provisions of Article 30-2, unless their valid term under the provisions of paragraph (1) is extended after going through a request for a review under the provisions of Article 8 (3) of the Framework Act on Administrative Regulations or they are revised by the date on which five years lapse from the date of enforcement of this Act, shall lose their effect.
- (3) The amended provisions of subparagraph 2 Article 40 shall apply to any person who has violated the amended provisions of Article 30-2 during a period for which such amended provisions have been effective in accordance with the provisions of paragraph (1) even after such amended provisions lose their effect in accordance with the provisions of paragraph (2).

ADDENDA <Act No. 6274, Oct. 23, 2000>

**Article 1 (Enforcement Date)**

This Act shall enter into force one month after the date of its promulgation.

**Articles 2 through 6 Omitted.**

ADDENDA <Act No. 6323, Dec. 30, 2000>

- (1) (Enforcement Date) This Act shall enter into force on January 1, 2001.
- (2) (Transitional Measures on Unpaid Premiums) In applying the amendments to Article 30 (5), with respect to the unpaid premiums at the time when this Act enters into force, the previous provisions shall apply.

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