

DEPOSITOR PROTECTION ACT

Act No. 5042, Dec. 29, 1995

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to protect depositors and to maintain the stability of financial institutions by efficiently operating a deposit protection system, to cope with a situation wherein a bank is unable to pay its deposits, etc. due to bankruptcy, etc..

Article 2 (Definitions)

For the purpose of this Act, the definitions of terms shall be as follows:

1. the term “insured bank” means a financial institution which is subject to the application of deposit insurance pursuant to this Act and falls under one of the following items:
 - (a) A financial institution which has received authorization pursuant to Article 9 (1) of the Banking Act;
 - (b) The Korea Development Bank established pursuant to the Korea Development Bank Act;
 - (c) The Industrial Bank of Korea established pursuant to the Industrial Bank of Korea Act;
 - (d) The Korea Housing Bank established pursuant to the Korea Housing and Commercial Bank Act;
 - (e) The National Agricultural Cooperatives Federation pursuant to the Agricultural Cooperatives Act;
 - (f) The National Fisheries Cooperatives Federation, pursuant to the Fisheries Cooperatives Act and a fisheries cooperative which, as a member of the National Fisheries Cooperatives Federation, conducts a business falling under Article 65 (1) 4 (d) of the Fisheries Cooperatives Act;
 - (g) The National Livestock Industry Cooperatives Federation pursuant to the Livestock Industry Cooperatives Act;
 - (h) The Long-Term Credit Bank pursuant to the Long-Term Credit Bank Act; and
2. the term “deposit, etc.” means money raised by an insured bank through deposits, installment savings, installments and money trusts, etc. by which a loss coverage contract has been concluded pursuant to Article 11 of the Trust Business Act: Provided, That such scope may be restricted by the Presidential Decree;

3. the term “depositor, etc.” means the other party having financial transactions with an insured bank such as deposits, etc.;
4. the term “claim such as deposit, etc.” means the principal, capital, interest, profit or other financial claims which a depositor has against an insured bank through his financial transaction such as a deposit, etc.;
5. the term “insolvent bank” means an insured bank which is in a state of suspension of payment of deposits, etc. or an insured bank against which, in view of its financial situation, the Operating Committee pursuant to the provisions of Article 8 has decided that there is concern over the de facto impossibility of the payment of the deposits, etc.;
6. the term “funds support” means one of the following items provided by the Deposit Insurance Corporation established pursuant to the provisions of Article 3:
 - (a) Loan or deposit of funds;
 - (b) Buying of the assets of an insolvent bank(s); and
 - (c) Guarantee or acceptance of the obligations of an insolvent bank(s).
7. the term “insured risk” means an item falling under each of the following:
 - (a) Suspension of payment of deposits of an insured bank (s) (hereinafter referred to as “Category I Insured Risk”); and
 - (b) Cancellation of banking authorization, resolution of dissolution or adjudication of bankruptcy(hereinafter referred to as “Category II Insured Risk”) of an insured bank.

CHAPTER II DEPOSIT INSURANCE CORPORATION

SECTION 1 Common Provisions

Article 3 (Establishment)

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

Article 4 (Corporate Personality)

- (1) The Deposit Insurance Corporation (hereinafter referred to as the “Corporation”) is a non-capital special corporation.
- (2) The Corporation shall be operated pursuant to 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 pursuant to 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, matters of the following shall be entered:

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

(2) When the Corporation desires to change its articles of incorporation, it shall obtain the authorization of the Minister of Finance and Economy, after a resolution has been passed, by the Operating Committee established pursuant to the provisions of Article 8.

Article 7 (Prohibition of Use of Similar Trade Names)

A person who is not the Corporation shall not use “Deposit Insurance Corporation” or similar trade names.

SECTION 2 Operating Committee

Article 8 (Operating Committee)

- (1) An operating committee (hereinafter referred to as the “Committee”) shall be established in the Corporation.
- (2) The Committee shall establish a basic direction relating to the operation of the Corporation, pursuant to this Act, and orders issued under this Act or the articles of incorporation, and shall deliberate upon matters such as use and purpose plans of the funds.

Article 9 (Composition of Committee)

- (1) The Committee shall be composed of members of the following subparagraphs:
1. President of the Corporation;

2. Vice Minister of Finance and Economy;
 3. Superintendent of the Office of Bank Supervision;
 4. Vice President of the Bank of Korea;
 5. Chairman of the Korea Federation of Banks; and
 6. Four members commissioned by the Minister of Finance and Economy, through the recommendation of the President of the Corporation.
- (2) The qualifications of the members of paragraph (1) 6 of this Article shall be prescribed by the Presidential Decree.
- (3) The tenure of office of the members of paragraph (1) 6 of this Article shall be three years, and who may be reappointed.

Article 10 (Operation)

- (1) The chairman of the Committee shall become 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, the members as referred to in Article 9 (1) 2 through 5 in accordance with the order prescribed thereby shall act for the chairman
- (4) The Committee shall make resolutions with the attendance of a majority of the Commission and with the affirmative vote of a majority of the members present.
- (5) Matters necessary for the operation of the Committee shall be prescribed by the Presidential Decree.

SECTION 3 Officers and Employees

Article 11 (Officers)

- (1) The Corporation shall have one president, not more than three directors, and one auditor.
- (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.
- (3) The directors shall be appointed and dismissed by the Minister of Finance and Economy upon recommendation of the president of the Corporation.
- (4) An auditor shall be appointed and dismissed by the Minister of Finance and Economy.
- (5) The tenure of office of the president, the directors and the auditor (hereinafter referred to as “officers”) shall be three years, and who may be reappointed.
- (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 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, pursuant to 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 pursuant to this Act or the articles of incorporation; and
3. When, due to mental or physical disability, the executing of one's duties is extremely difficult.

Article 14 (Board of Directors)

- (1) A board of directors shall be established installed 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 Employee)

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

Article 16 (Disqualification for Appointment to Office)

A person who falls under any of the following subparagraphs shall not be an officer or a employee of the Corporation:

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

Article 17 (Duty of Prohibition from Side Jobs, etc.)

- (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.

(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:

1. Management and operation of the deposit insurance fund;
2. Receipt of insurance fees pursuant to the provisions of Article 30;
3. Payments of insurance money, etc. pursuant to the provisions of Articles 31 and 32;
4. Funds support pursuant to the provisions of Articles 36 through 38;
5. Duties incidental to the duties of subparagraphs 1 through 4; and
6. Duties commissioned or designated by the government for the protection of depositors.

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

Article 19 (Duties Execution Manual)

(1) When the Corporation desires to commence its duties, it shall obtain the authorization of the Minister of Finance and Economy through a resolution of the Committee, by drawing up a duties execution manual.

(2) In the duties execution manual pursuant to the provisions of paragraph (1), matters pertaining to insurance fees, insurance money, funds support, and other matters necessary for the execution of the duties of the Corporation shall be entered.

Article 20 (Vicarious Execution of Duties)

(1) When necessary, the Corporation, by obtaining the authorization of the Minister of Finance and Economy, may allow a part of its business to be vicariously executed by another institution (hereinafter referred to as “acting institution”).

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

Article 21 (Request to Insured Banks for Submission of Materials)

(1) In respect of an insured bank, for the execution of business such as the establishment and receipt of insurance fees pursuant to the provisions of Article 30, calculation and payment of insurance money pursuant to the provisions of Articles 31 and 32, and funds support pursuant to the provisions of Articles 36 through 38, the Corporation, within necessary scope, may request the submission of materials related to

the business of an insured bank and the state of its property.

(2) On the basis of the materials submitted, pursuant to the provisions of paragraph (1), the Corporation may investigate the business and the state of the property of an insured bank of which there is concern related to insolvency, as deemed by the Committee.

(3) When an insured bank is in violation of this Act or an order issued under this Act, the Corporation may make a demand a rectification of such situation or censure against the related officers and employees, to the Minister of Finance and Economy or the Superintendent of the Office of Bank Supervision, and in this case, the Minister of Finance and Economy or the Superintendent of the Office of Bank Supervision shall, except in special circumstances, respond to 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.

Article 24 (Setting Up of Deposit Insurance Fund)

(1) For the receipt of insurance fees pursuant to the provisions of Article 30, payment of insurance money, etc. pursuant to the provisions of Articles 31 and 32, and funds support pursuant to the provisions of Articles 37 and 38, a deposit insurance fund (hereinafter referred to as "Fund") shall be established in the Corporation.

(2) The following subparagraphs shall be the sources of revenue for the Fund:

1. Contributions from insured banks;
2. Contributions from the Government;
3. Loans pursuant to the provisions of Article 26;
4. Insurance fees received pursuant to the provisions of Article 30 (1);
5. The funds recovered from those funds used originally for supporting mergers and acquisitions by transfer pursuant to the provisions of Article 37; and
6. Operating profits of the Fund and other revenues.

(3) The expenditures of the Fund shall consist of insurance money, funds support for mergers and acquisitions by transfer pursuant to the provisions of Article 37, loans and repayments of interests on such loans, and other operating expenses of the Corporation.

(4) The contributions pursuant to the provisions of paragraph (2) 1 shall be determined separately for each insured bank by taking into account the deposit balance of each insured bank, within the scope of not

exceeding one percent of its paid-in capital or contribution. The payment amount, payment time and payment method shall be prescribed by the Presidential Decree.

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:

1. Purchase of government bonds and public loans, or other marketable securities designated by the Committee;
2. Deposit in financial institutions designated by the Committee;
3. Other methods prescribed by the Minister of Finance and Economy.

Article 26 (Loan)

When deemed necessary for the execution of its duties stipulated under the provisions of Article 18 (1) 3 and 4, the Corporation, notwithstanding the provisions of Article 93 of the Bank of Korea Act, may borrow funds from the government or the Bank of Korea by obtaining authorization from the Minister of Finance and Economy, pursuant to the Presidential Decree.

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.
- (2) When a disposition of the Corporation pursuant to this Act, is unlawful, or when deemed necessary for the protection of depositors, the Minister of Finance and Economy may either cancel a part or the whole of such disposition, or suspend the execution of such disposition.

Article 28 (Report and Inspection, etc.)

- (1) When deemed necessary, in respect of the Corporation, the Minister of Finance and Economy may either compel the reporting of matters, etc. pertaining to the duties accounting and properties of the Corporation, or let public officials under his jurisdiction to investigate the state of the business or its books and records, documents, facilities, or other such necessary matters of the Corporation.
- (2) In case where public officials under the jurisdiction of the Minister of Finance and Economy undertake an investigation pursuant to 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)

Insurance relations between the Corporation, an insured bank, and a depositor, etc. shall be formed when a depositor, etc. holds a claim such as a deposit, etc., against an insured bank.

Article 30 (Payment, etc. of Insurance Fee)

(1) Each insured bank shall pay to the Corporation an insurance fee; the amount of which is calculated from multiplying its deposit balance by a ratio not exceeding 0.05 percent per annum as prescribed by the Presidential Decree. In this case, the ratio may be set up differently after considering the management and financial status of each insured bank.

(2) Notwithstanding the provisions of paragraph (1), with respect to an insured bank falling under any of the following subparagraphs, the Corporation may, through a resolution of the Committee, either reduce the whole or part of the insurance fee, or defer the payment of the fee by prescribing a specified period:

1. An insured bank which is related to an insured risk; and
2. An insured bank 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) In case where an insured bank does not pay the insurance fee, pursuant to the provisions of paragraph (1), until the deadline of payment, such insured bank shall pay the insurance fee with the addition of an arrears, as prescribed by the Presidential Decree, to the Corporation.

(4) The method of payment, and time of payment, and other necessary matters of the insurance fee and arrears, pursuant to the provisions of paragraphs (1) and (3), shall be prescribed by the Presidential Decree.

Article 31 (Payment of Insurance Money, etc.)

(1) When an insured risk occurs to an insured bank, the Corporation shall pay the insurance money, pursuant to the request of the depositors of the insured bank concerned: Provided, That with respect to a Category I Insured Risk, there shall be a payment decision of the insurance money pursuant to the provisions of Article 34.

(2) In case of a Category I Insured Risk, a part of the deposits, etc. of the depositors may be paid in advance, in accordance with the depositors' request as prescribed by the Presidential Decree.

(3) The Corporation shall publicly notify the period and method of payment pursuant to the provisions of paragraph (1) or (2), and other necessary matters, as prescribed by the Presidential Decree; and the depositors, etc. shall request payment within the publicly notified period: Provided, That in case where it is deemed that there is cause for not requesting payment within such period, this shall not apply.

Article 32 (Calculation of Insurance Money)

(1) The insurance money paid to each depositor, etc. by the Corporation pursuant to the provisions of Article 31 shall be such an amount that the total amount of debts owed by each depositor, in respect of his corresponding insured bank shall be deducted from the total amount of claims such as deposits, etc., of each depositor on the day the insured risk occurs.

(2) The insurance money pursuant to the provisions of paragraph (1) shall be the amount prescribed by the Presidential Decree.

(3) In case where there is an amount received in advance (hereinafter referred to as “provisionally-paid amount”) by each depositor, etc., pursuant to the provisions of Article 31 (2), the insurance money shall be the amount, pursuant to the provisions of paragraphs (1) and (2), from which the provisional payment money is deducted.

(4) In respect of each depositor, etc., when the amount of the paid provisional payment money exceeds the insurance money, pursuant to the provisions of paragraphs (1) and (2), each depositor shall return such excess amount to the Corporation.

Article 33 (Notification of Insured Risk)

(1) When an insured risk occurs, the insuring bank shall promptly notify the Corporation of such fact, and, also, publicly notify of this fact, pursuant to the Presidential Decree.

(2) In case where one of the following events occurs, the Monetary Board Committee shall promptly notify the Corporation of such fact, pursuant to the Presidential Decree:

1. When a suspension of payment of deposits, etc. of an insured bank is ordered;
2. When either the authorization for the banking business of an insured bank is cancelled, or the dissolution resolution of an insured bank is approved; and
3. When a notification, pursuant to the provisions of Article 115 of the Bankruptcy Act, is received from the court.

Article 34 (Payment Decision)

(1) In case of a Category I Insured 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 1 month from the date of the receipt of the notification, pursuant to the provisions of Article 33.

(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.

Article 35 (Acquisition of Claims)

In case where insurance money is paid, the Corporation, within the scope of such payment, shall acquire the rights of the depositors related to the insuring bank.

CHAPTER IV FUNDS SUPPORT

Article 36 (Mediation of Mergers, etc.)

To protect the depositors and to maintain the stability of the financial system, when deemed necessary, the Corporation, in respect of insured banks, may mediate their mergers or acquisitions by transfer pursuant to the provisions of Article 37.

Article 37 (Application for Funds Support)

In case where an insured bank merges with an insolvent bank (except for insolvent banks whose insurance money was paid pursuant to the provisions of Article 31) or acquires by transfer the whole of a business of such insolvent bank, the insured bank may apply for funds support to the Corporation. In this case, the merger shall include the cases where the insured bank concerned survives or a new insured bank is established.

Article 38 (Decision on Funds Support)

When there is an application for funds support, pursuant to the provisions of Article 37, the Corporation, in accordance with a resolution of the Committee, shall make a decision on whether or not to grant funds support.

Article 39 (Special Case of Continuation of Business)

With respect to the business of an insured bank which has acquired by transfer the whole of a business of an insolvent bank pursuant to 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*.

CHAPTER V PENAL PROVISIONS

Article 40 (Penal Provisions)

A person who violates the provisions of Article 17 (3) shall be sentenced to imprisonment for a period of not more than 2 years, or by a fine of an amount not exceed 10 million won.

Article 41 (Penal Provisions)

A person who either does not respond to a request for the submission of materials pursuant to the provisions of Article 21 (1) or submits false materials, or a person who refuses, obstructs, or avoids an investigation pursuant to the provisions of Article 21 (2) shall be sentenced to imprisonment for a period of not more than 1 year or a fine of an amount not to exceed 5 million won.

Article 42 (Presumption as Public Officials in Application of Criminal Act)

(1) The officers and employees of the Corporation, and the officers and employees of an acting institution pursuant to 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 pursuant to 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 bank commits an offense under Article 41 with respect to the business of the insured bank, the insured bank shall be sentenced to a fine as stated in the same of the same Article, in addition to punishing the offender.

Article 44 (Fine for Negligence)

(1) A person who violates the provisions of Articles 7 and 33 (1) shall be sentenced to a fine for negligence not exceeding 2 million won.

(2) The fine for negligence pursuant to the provisions of paragraph (1) shall be levied and collected by the Minister of Finance and Economy as prescribed by the provisions of the Presidential Decree.

(3) A person who is dissatisfied with the disposition of a fine for negligence pursuant to 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.

(4) When a person who received a disposition of a fine for negligence pursuant to the provisions of paragraph (2) files a protest pursuant to the provisions of paragraph (3), the Minister of Finance and Economy shall, without delay, inform a competent court of such fact, and the competent court which has received such information shall render a judgement on the disposition of a fine for negligence, pursuant to the Non-Contentious Case Litigation Procedure Act.

(5) When a protest is not filed within the period pursuant to 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.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1996: Provided, That the provisions of Sections 3 and 4 shall enter into force on January 1, 1997.

Article 2 (Incorporation Committee)

(1) The Minister of Finance and Economy shall, within three months on the date of the promulgation of this Act, organize an incorporation committee, by entrusting not more than ten incorporation commissioners, and let 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 pursuant to 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 pursuant to 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 insured banks or institutions concerned, through the consent of the insured banks or institutions concerned.

(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 Deleted.

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.

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