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MONOPOLY REGULATION AND FAIR TRADE ACT

[Enforcement Date 29. Mar, 2016.] [Act No.14137, 29. Mar, 2016., Partial
Amendment]

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CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to promote fair and free competition, to encourage thereby creative enterprising activities, to protect consumers and to strive for balanced development of the national economy, by preventing any abuse of market-dominating positions by enterprisers and any excessive concentration of economic power, and by regulating undue collaborative acts and unfair trade practices.

Article 2 (Definitions)

The terms used in this Act shall be defined as follows: <Amended by Act No. 4513, Dec. 8, 1992; Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004; Act No. 8387, Apr. 27, 2007; Act No. 8631, Aug. 3, 2007 >

1. The term "enterpriser" means a person who conducts manufacturing business, service business, or any other business. Any executive, employee, agent or any other person who acts in the interest of the enterpriser shall be deemed an enterpriser in application of the provisions pertaining to enterprisers' organizations;

1 - 2. The term "holding company" means a company which makes controlling any domestic company's business through the ownership of stocks (including equities; hereinafter the same shall apply) as its main business and whose total assets are above the amount determined by Presidential Decree. In such cases, the standards for main business shall be determined by Presidential Decree;

1 - 3. The term "subsidiary" means a domestic company the business of which is controlled by the holding company under the standards prescribed by Presidential Decree;

- 1 - 4. The term "second - tier company" means a domestic company of which management is under the control of the subsidiary under the standards prescribed by Presidential Decree;
2. The term "enterprise group" means a group of companies the businesses of which is substantially controlled by the same person according to the following distinction pursuant to the standards prescribed by Presidential Decree:
 - (a) Where the same person is a company, a group composed of such person and one or more companies controlled by him/her;
 - (b) Where the same person is not a company, a group composed of two or more companies controlled by him/her;
3. The term "affiliated company" means that where two or more companies belong to the same enterprise group, each company is called as an affiliated company of the others;
4. The term "enterprisers' organization" means an association or a federation which is organized by two or more enterprisers for the purpose of increasing their common interests, regardless of its form or federation thereof;
5. The term "executive" means a director, representative director, managing partner with unlimited liability, auditor or person in a similar position, or commercial employer, such as a manager, etc., who is capable of executing general business of the main or branch offices;
6. The term "resale price maintenance" means an act by which an enterpriser compels, in trading the goods or services, a counterpart enterpriser or an enterpriser by next stage of transaction to sell them only at the price fixed in advance, or transacts under any agreement or binding conditions thereon for such purpose;
7. The term "market - dominating enterpriser" means any enterpriser who can determine, maintain, or change the prices, quantity or quality of commodities or services or other terms and conditions of business as a supplier or customer in a particular business area individually or jointly with other enterprisers. In deciding whether an enterpriser is a market - dominating enterpriser, his/her market share, whether and to what extent any barriers to enter into the market exist, and the relative size of competitive enterprisers shall be comprehensively taken into account;

8. The term "particular business area" means an area in which any competitive relation exists or may exist, by the subject, stage or geographical area of a trade;
- 8 - 2. The term "practices practically suppressing competition" means practices which cause or threaten to cause impacts on the determination of price, quantity, quality, or other terms or conditions of trading by intent of a certain enterpriser or an enterprisers' organization, because of reduced competition in a particular business area;
9. The term "credit" means any loan and guarantee or acceptance of company obligation by domestic financial institutions;
10. The term "financial business or insurance business" means financial business and insurance business categorized according to the Korean Standard Industrial Classification that is published by the Commissioner of the National Statistical Office pursuant to Article 22 (1) of the Statistics Act.

Article 2 - 2 (Application to Overseas Act)

In cases where any act that performs even abroad affects the domestic market, this Act shall apply to such act.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

CHAPTER II PROHIBITION OF ABUSE OF MARKET - DOMINATING POSITIONS

- Article 3 (Remedy, etc. of Monopoly or Oligopoly in Market Structures)** (1) The Fair Trade Commission shall establish and implement action plans to promote competition in markets in which monopoly or oligopoly situations have continued for a long time in relation to supply or demand of goods or services.
- (2) The Fair Trade Commission may give opinions to the heads of the relevant administrative agencies as to the introduction of competition or other measures necessary to improve market structures, where it appears to be necessary for the Commission to carry out action plans under paragraph (1).
- (3) The Fair Trade Commission shall investigate the market structures and announce the results in order to establish and promote the action plans referred to in paragraph (1). <Newly Inserted by Act No. 5813, Feb. 5, 1999 >

(4) The Fair Trade Commission may request an enterpriser to submit data necessary for the research and announcement of the market structure referred to in paragraph (3). <Newly Inserted by Act No. 5813, Feb. 5, 1999 >

(5) The Fair Trade Commission may entrust the affairs referred to in paragraphs (3) and (4) to other agencies, as prescribed by Presidential Decree. <Newly Inserted by Act No. 5813, Feb. 5, 1999 >

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 3 - 2 (Prohibition of Abuse of Market - Dominating Position) (1) No market - dominating enterpriser shall commit any act falling under any of the following subparagraphs (hereinafter referred to as "abusive acts"): <Amended by Act No. 5813, Feb. 5, 1999 >

1. Determining, maintaining or changing unreasonably the price of commodities or services (hereinafter referred to as "price");
2. Unreasonably controlling the sale of commodities or provision of services;
3. Unreasonably interfering with the business activities of other enterprisers;
4. Unreasonably impeding the participation of new competitors;
5. Unfairly excluding competitive enterprisers, or doing considerable harm to the interests of consumers.

(2) Categories or standards for abusive acts may be determined by Presidential Decree. <Newly Inserted by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999 >

Article 4 (Presumption of Market - Dominating Enterpriser)

An enterpriser (excluding the enterpriser whose annual amount of sales or purchase in a particular business area is less than 4 billion won) whose market share in a particular business area falls under any of the following subparagraphs shall be presumed a market - dominating enterpriser referred to in subparagraph 7 of Article 2: <Amended by Act No. 8631, Aug. 3, 2007 >

1. Market share of one enterpriser is 50/100 or more;
2. The total market share of not more than three enterprisers is 75/100 or more: Provided, That those whose market share is less than 10/100 shall be excluded herefrom.

[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]

Article 5 (Corrective Measures)

Where there exists any act of violating the provisions of Article 3 - 2, the Fair Trade Commission may order the market - dominating enterpriser concerned to reduce the price, discontinue the act of violation, publish the fact that the latter is ordered to make the correction thereof, and to take other measures necessary for correction.

<Amended by Act No. 5235, Dec. 30, 1996; Act No. 7315, Dec. 31, 2004 >

Article 6 (Penalty Surcharges)

In cases of abusive acts by a market - dominating enterpriser, the Fair Trade Commission may impose upon such enterpriser a surcharge not exceeding the amount equivalent to 3/100 of the turnover determined by Presidential Decree (referring to profits of business particularly for an enterpriser designated by Presidential Decree; hereinafter the same shall apply): Provided, That in cases prescribed by Presidential Decree, where no turnover exists, or where it is difficult to compute the turnover (hereinafter referred to as "in the absence of turnover, etc."), a penalty surcharge may be imposed by up to one billion won.

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

CHAPTER III RESTRICTION ON COMBINATION OF ENTERPRISES AND REPRESSION OF ECONOMIC POWER CONCENTRATION

Article 7 (Restriction on Combination of Enterprises) (1) No one shall, directly or through a person determined by Presidential Decree as having special interest (hereinafter referred to as "person with special interest"), practically suppress competition in a particular business area by conducting practices falling under any of the following subparagraphs (hereinafter referred to as "combination of enterprises"): Provided, That this shall not apply where a person, other than a company whose size of total assets or turnover (referring to the sum of total assets or turnover of affiliated companies) meets the size determined by Presidential Decree (hereinafter referred to as "large company"), performs an act falling under subparagraph 2: <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8631, Aug. 3, 2007 >

1. The acquisition or ownership of stocks of other companies;
 2. The concurrent holding of an executive's position in another company (hereinafter referred to as "concurrent holding of an executive's position") by an executive or employee (referring to a person who continues to be engaged in the affairs of the company, but is not an executive; hereinafter the same shall apply);
 3. A merger with other companies;
 4. An acquisition by transfer, lease or acceptance by mandate of the whole or main part of a business of another company, or the acquisition by transfer of the whole or main part of fixed assets used for the business of another company (hereinafter referred to as "acquisition by transfer of business");
 5. Participation in the establishment of a new company: Provided, That this shall not apply to any of the following cases:
 - (a) Where a person, other than persons with special interests (excluding those determined by Presidential Decree) does not participate in the establishment of a new company;
 - (b) Where a person participates in the establishment of a company by division under Article 530 - 2 (1) of the Commercial Act.
- (2) The provisions of paragraph (1) shall not apply where the Fair Trade Commission deems that a combination of enterprises falls under any of the following subparagraphs. In such cases, the parties concerned shall assume the burden of proof as to whether it meets the requirements: <Amended by Act No. 5813, Feb. 5, 1999 >
1. Where the effect of efficiency promotion attainable through the combination of enterprises is more than the negative effect produced by restricted competition;
 2. Where such combination is made with an inviable company, falling under the requirements determined by Presidential Decree, such as the company whose total capital in a balance sheet is less than its paid - in capital for a reasonable period.
- (3) Deleted. <by Act No. 8631, Aug. 3, 2007 >
- (4) In cases of a combination of enterprises falling under any of the following subparagraphs, it shall be presumed that competition is practically suppressed in a particular business area: <Newly Inserted by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8631, Aug. 3, 2007 >

1. In cases where the aggregate of the market share of a company (referring to all the companies participating in the establishment of a company in cases of paragraph (1) 5; hereafter the same shall apply) taking part in the combination of enterprises (referring to the aggregate of market shares of the affiliated companies; hereafter the same shall apply in this Article) meets the qualifications of the following items:
 - (a) In cases where the aggregate of the market share of the company concerned satisfies the presumptive requirements for a market dominating enterprise;
 - (b) In cases where the aggregate of the market share of the company concerned is the largest in the business area concerned;
 - (c) In cases where the aggregate of the market share of the company concerned exceeds the market share of a company with the second largest market share (referring to a company with the largest market share besides the company concerned) by not less than 25/100 of the aggregate of the market share;
 2. In cases where a large company, directly or through a person with a special interest, combines enterprises according to the following requirements:
 - (a) In cases of the combination of enterprises in a particular business area where small or medium enterprises under the Framework Act on Small and Medium Enterprises occupy not less than two - thirds of the whole market share;
 - (b) In cases of the combination of enterprises through which the combined company will have 5/100 or more of the market share.
- (5) The Fair Trade Commission may determine and announce the standards for the combination of enterprises which practically suppresses competition in a particular business area under paragraph (1), and for the combination of enterprises to which paragraph (1) does not apply pursuant to paragraph (2). <Newly Inserted by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8631, Aug. 3, 2007 >

Article 7 - 2 (Standards for Acquisition or Ownership of Stocks)

The acquisition or ownership of stocks under this Act shall be determined by the genuine ownership of stocks, regardless of the names listed on the register.

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 8 (Reporting on Establishment of and Conversion into Holding Companies)

Where a person has established a holding company or has converted a company into a holding company, he/she shall make a report to the Fair Trade Commission, as prescribed by Presidential Decree. <Amended by Act No. 6371, Jan. 16, 2001 >

[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]

Article 8 - 2 (Restrictions, etc. on Activities by Holding Companies, etc.) (1) The terms used in this Article shall be defined as follows: <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007 >

1. The term "joint stock corporation" means a corporation in which at least two investors (persons, other than those prescribed by Presidential Decree, among investors with a special relationship, shall be deemed one person) who hold substantial amounts of equity so that they may exercise influence on corporate management, substantially restrict the transfer of equity stocks by means of contracts or other equivalent means, thereby making it impracticable to make any changes in equities among investors;

2. The term "venture holding company" means a holding company that has venture enterprises (hereinafter referred to as "venture enterprise") defined in Article 2 (1) of the Act on Special Measures for the Promotion of Venture Businesses as its subsidiaries and meets the standards prescribed by Presidential Decree.

(2) No holding company shall engage in any of the following activities: <Amended by Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act Nos. 8631 & 8635, Aug. 3, 2007; Act No. 11758, Apr. 5, 2013; Act No. 11845, May 28, 2013 >

1. Holding liabilities in excess of twice the total capital amount (referring to the amount computed by deducting liabilities from the total amount of assets on the balance sheet; hereinafter the same shall apply): Provided, That when any holding company holds the amount of liabilities in excess of twice the total amount of capital as at the time the company is converted into a holding company or incorporated as a holding company, it may hold the amount of liabilities in excess of twice the total amount of its capital for two years from the date on which it is converted into a holding company or incorporated as a holding company;

(a) through (c) Deleted. <by Act No. 7315, Dec. 31, 2004 >

2. Holding less than 40/100 of the total number of stocks issued by the subsidiary (where the subsidiary is a listed - stock corporation under the Financial Investment Services and Capital Markets Act (hereinafter referred to as "listed corporation"), a corporation listed on an overseas stock exchange (hereinafter referred to as "overseas listed corporation") publicly announced by the Fair Trade Commission in which the listing requirements, such as the distribution requirements of stock ownership, correspond to those requirements in the domestic securities market prescribed by Presidential Decree, a joint stock corporation, or the subsidiary of a venture holding company, the percentage shall be 20/100; hereafter referred to as "subsidiary stock holding standard" in this Article): Provided, That the same shall not apply to any subsidiary that falls short of the subsidiary stock holding standard on any of the following grounds:

- (a) Where the holding company holds stocks that fall short of the subsidiary stock holding standard as at the time the holding company is converted or incorporated and is within two years from the date on which it is converted or incorporated;
- (b) Where the subsidiary that was a listed corporation, an overseas listed corporation, or a joint stock corporation falls short of the subsidiary stock holding standard on the grounds that it does not fall under any of them and is within one year from the date on which it does not fall under the standard;
- (c) Where the company that was a venture holding company falls short of the subsidiary stock holding standard on the grounds that it does not fall under such venture holding company and is within one year from the date on which it does not fall under such venture holding company;
- (d) Where the subsidiary falls short of the subsidiary stock holding standard and is within one year from the date on which such subsidiary falls short of the subsidiary stock holding standard on the grounds that the subsidiary preferentially allots stocks to the members of the employee stock ownership association pursuant to Article 165 - 7 of the Financial Investment Services and Capital Markets Act while offering and selling stocks or a claim is filed for converting convertible bonds or warrant bonds issued by the subsidiary pursuant to Article 513 or 516 - 2 of the Commercial Act or the preemptive right is exercised;

- (e) Where the non - subsidiary company falls under a subsidiary and falls short of the subsidiary stock holding standard and is within one year from the date on which the relevant company falls under such subsidiary;
 - (f) Where the subsidiary falls short of the subsidiary stock holding standard in the process of making the subsidiary a non - subsidiary and is within one year from the date on which such subsidiary falls short of the subsidiary stock holding standard (limited to where the subsidiary does not fall under the category of the subsidiary within one year from the date on which it falls short of the subsidiary stock holding standard);
 - (g) Where the subsidiary falls short of the subsidiary stock holding standard due to its merger with another company, and is within one year from the date on which such subsidiary falls short of the subsidiary stock holding standard.
3. Holding stocks of a domestic company (excluding a company that operates the public - private partnership project by a method prescribed by subparagraphs 1 through 4 of Article 4 of the Act on Public - Private Partnerships in Infrastructure; hereafter the same shall apply in this subparagraph) that is not an affiliated company, in excess of 5/100 of the total number of stocks issued by the relevant domestic company (this shall not apply to any holding company that holds less than 15/100 of the total amount of the stock value of the domestic company that is not its affiliated company) or holding stocks of any domestic affiliate, other than its subsidiary: Provided, That the same shall apply to any domestic company that is not an affiliated company or any domestic affiliate company that each holds stocks on any of the following grounds:
- (a) Where the company is engaging the activities provided for in the main body of this subparagraph as at the time it is converted into a holding company or is incorporated as a holding company and is within two years from the date on which it is converted or incorporated as a holding company;
 - (b) Where the company engages in the activities provided for in the main body of this subparagraph in the course of making any non - affiliate as its subsidiary and is within one year from the date on which it engages in such activity (limited where it falls under the subsidiary within the same period);
 - (c) Where the company holds the stocks of the domestic affiliate, none of which is owned by the company, in the course of making the domestic affiliate as its

subsidiary and is within one year from the date on which it holds the stocks of the domestic affiliate (limited to where the domestic affiliate is made to fall under its subsidiary);

(d) Where the company is within one year from the date on which the relevant subsidiary does not fall under its subsidiary in the course of getting the subsidiary not to fall under the subsidiary;

4. Holding stocks of a domestic company, other than those of a company conducting financial business or insurance business (including a company meeting the standards determined by Presidential Decree, such as companies closely connected with financial business or insurance business) for a holding company which holds stocks of its subsidiary conducting financial business or insurance business (hereinafter referred to as "financial holding company"): Provided, That when a holding company holds stocks of any domestic company, other than any company that conducts financial business or insurance business, as at the time such holding company is converted into a financial holding company or is incorporated as a financial holding company, such holding company may hold the stocks of such domestic company for two years from the date on which it is converted into a financial holding company or is incorporated as a financial holding company;

5. Holding stocks of a domestic company conducting financial business or insurance business for a holding company which is not a financial holding company (hereinafter referred to as "general holding company"): Provided, That when a holding company holds stocks of any domestic company that conducts financial business or insurance business as at the time the holding company is converted into a general holding company or is incorporated as a general holding company, such holding company may hold the stocks of such domestic company for two years from the date on which it is converted into a general holding company or is incorporated as a general holding company.

(3) No subsidiary of any general holding company shall engage in any of the following activities: <Amended by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007; Act No. 13071, Jan. 20, 2015>

1. Holding less than 40/100 of the total number of outstanding stocks of a second-tier company (20/100 where the second-tier company is a listed corporation, an overseas listed corporation, or a joint stock corporation; hereafter referred to as

"standard for holding stocks of a second - tier company" in this Article): Provided, That the same shall not apply to any second - tier company that falls short of the standard for holding stocks of a second - tier company on any of the following grounds:

- (a) Where it has been less than two years, since the subsidiary holds stocks of the second - tier company that fall short of the standard for holding stocks of second - tier company at the time of the incorporation of the subsidiary;
- (b) Where it has been less than one year, since the second - tier company that was a listed corporation, an overseas listed corporation, or a joint stock corporation falls short of the standard for holding stocks of a second - tier company on the grounds of its failure to fall under a listed corporation, an overseas listed corporation, or a joint stock corporation;
- (c) Where the second - tier company preferentially allots stocks to the employee stock ownership association while offering and selling its stocks pursuant to Article 165 - 7 of the Financial Investment Services and Capital Markets Act or the second - tier company falls short of the standard for holding stocks of a second - tier company after a claim is filed for converting the convertible bonds or the warrant bonds issued pursuant to Article 513 or 516 - 2 of the Commercial Act or the preemptive right is exercised and is within one year from the date on which the second - tier company falls short of the standard for holding stocks of a second - tier company;
- (d) Where it has been less than one year, since any company that is not a second - tier company falls under the second - tier company, but falls short of the standard for holding stocks of a second - tier company;
- (e) Where it has been less than one year, since the second - tier company falls short of the standard for holding stocks of a second - tier company in the course of getting the second - tier company not to fall under the second - tier company (limited to where it does not fall under the second - tier company during the same period);
- (f) Where it has been less than one year, since a second - tier company falls short of the standard for holding stocks of a second - tier company due to its merger with another company;

2. Holding stocks of any domestic affiliate that is not a second - tier company: Provided, That the same shall not apply where any domestic affiliate holds the stocks on any of the following grounds:

(a) Where it has been less than two years, since the domestic affiliate holds stocks as at the time it is converted into a subsidiary;

(b) Where it has been less than a year, since a company that is not an affiliate falls under a second - tier company in the course of getting the company to fall under a second - tier company (limited to where the company falls under the second - tier company within the same period);

(c) Where it has been less than a year, since stocks of any domestic affiliate, none of which is owned, are obtained in the course of getting the relevant domestic affiliate to fall under the second - tier company (limited to where it falls under the second - tier company within the same period);

(d) Where it has been less than a year, since any second - tier company does not fall under the second - tier company in the course of getting the former not to fall under the latter (limited to where the second - tier company does not fall under any affiliate within the same period);

(e) Where it has been less than a year, since a second - tier company became to hold the stocks another subsidiary due to its merger with such subsidiary;

(f) Where it has been less than a year, since a subsidiary which holds its own stocks came to hold stocks of another domestic affiliate company due to its split;

3. Controlling a company conducting financial or insurance business as a second - tier company: Provided, That if it controls a company conducting financial or insurance business as a second - tier company as at the time it becomes a subsidiary of a general holding company, it may control the second - tier company for two years from the date on which it becomes a subsidiary.

(4) Every second - tier company of a general holding company shall be prohibited from holding stocks of any domestic affiliate: Provided, That the same shall not apply where the domestic affiliate holds such stocks on any of the following grounds: <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007 >

1. Where it has been less than two years since the domestic affiliate holds stocks as at the time it becomes a second - tier company;

2. The domestic company that is not an affiliate holding stocks falls under an affiliate and is within one year from the date on which the domestic company falls under the affiliate;

3. Where it has been less than a year since a second - tier company that holds its own stocks came to hold stocks of another domestic affiliate company due to its spilt;

4. Where a second - tier company holds the total outstanding stocks of a domestic affiliate company (excluding a company conducting financial business or insurance business).

(5) No company (hereinafter referred to as "third - tier company") whose stocks are held by a second - tier company under paragraph (4) 4 shall hold stocks of any domestic affiliate company: Provided, That this shall not apply where it falls under any of the following subparagraphs: <Newly Inserted by Act No. 8631, Aug. 3, 2007 >

1. Where it has been less than two years since a domestic affiliate company falls under a third - tier company for the domestic affiliate company whose stocks were held as at the time it becomes a third - tier company;

2. Where it has been less than a year since a domestic company which is not an affiliate company whose stocks are being held falls under an affiliate company.

(6) In applying the proviso to paragraph (2) 1, paragraph (2) 2 (a) and 3 (a), the provisos to paragraph (2) 4 and 5, and paragraphs (3) 1 (a) and 2 (a), proviso to paragraph (3) 3, paragraphs (4) 1 and (5) 1, if it is impracticable to decrease the amount of liabilities or to acquire or dispose of stocks due to changes in general economic conditions, such as stock price fluctuations, a contract prohibiting the disposal of stocks, a substantial business loss, or other causes, each such grace period as referred to in the said provisions may be extended up to two more years, subject to approval of the Fair Trade Commission. <Newly Inserted by Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007 >

(7) A holding company shall submit to the Fair Trade Commission a report on the business details of the holding company, its subsidiaries, its second - tier companies, and its third - tier company (hereinafter referred to as "holding company, etc."), such as status of stockholding and financial standing, as prescribed by Presidential Decree. <Amended by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007;

Act No. 8631, Aug. 3, 2007 >

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

Article 8 - 3 (Restrictions on Establishment of Holding Company by Enterprise Group subject to Limitations on Debt Guarantees)

Where the same person who controls a company belonging to an enterprise group subject to the limitations on debt guarantees designated under Article 14 (1) or the person with special interests in the same person intends to establish a holding company or convert the company into a holding company, he/she shall have the existing debt guarantees under Article 10 - 2, which fall hereunder, annulled:

<Amended by Act No. 6651, Jan. 26, 2002 >

1. Debt guarantee between a holding company and its subsidiary;
2. Debt guarantee between a holding company and other domestic affiliated companies (excluding a subsidiary controlled by the holding company in question);
3. Debt guarantee between subsidiaries;
4. Debt guarantee between a subsidiary and other domestic affiliated companies (excluding a holding company controlling the subsidiary in question and any other subsidiary controlled by the holding company in question).

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

Article 9 (Prohibition, etc. of Mutual Contribution) (1) Any company belonging to an enterprise group whose total assets, etc. fall under the criteria prescribed by Presidential Decree, and thereby designated under Article 14 (1) (hereinafter referred to as "enterprise group subject to the limitations on mutual investment") shall not acquire or own stocks of an affiliated company which acquires or owns its stocks: Provided, That this shall not apply where it falls under any of the following subparagraphs: <Amended by Act No. 6651, Jan. 26, 2002 >

1. A merger of companies, or the acquisition by transfer of a whole business;
2. Exercise of security right, or the receipt of payment in substitutes.

(2) Any company which makes an investment under the proviso to paragraph (1) shall dispose of stocks within six months from the day on which it acquires or holds them: Provided, That this shall not apply where an affiliated company acquiring or holding its own stocks disposes of them.

(3) Any company which belongs to an enterprise group subject to the limitations on mutual investment and which is also an investment company for the establishment of small and medium enterprises under the Support for Small and Medium Enterprise Establishment Act, shall not acquire or hold stocks of a domestic affiliated company.
<Amended by Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007 >

Article 9 - 2 (Prohibition on Circular Equity Investment) (1) The terms used in this Article shall be defined as follows:

1. The term "affiliated investment" means an act by which a company belonging to an enterprise group subject to limitations on mutual investment acquires or owns the stocks of an affiliate;
2. The term "affiliated investment company" means an affiliate that acquires or owns stocks of another affiliate through affiliated investments;
3. The term "company subject to affiliated investment" means an affiliate that has issued its stocks acquired or owned by an affiliated investment company through affiliated investments;
4. The term "circular equity investment" means an affiliated investment relationship in which all affiliates interconnected through at least three affiliated investments become both affiliated investment companies and companies subject to affiliated investment;
5. The term "group of circular equity investment companies" means a group of affiliates in a relationship of circular equity investment, among companies belonging to an enterprise group subject to limitations on mutual investment.

(2) No company belonging to an enterprise group subject to limitations on mutual investment shall make any affiliated investment that forms any circular equity investment. The same shall also apply to additional affiliated investments in a company subject to affiliated investment made by an affiliate belonging to a group of circular equity investment companies (excluding stocks within an affiliated investment company's equity ratio prior to allotment of new shares, etc. among the stocks acquired or owned by allotment of new shares under Article 418 (1) of the Commercial Act, or by stock dividends under Article 462 - 2 (1) of the same Act (hereinafter referred to as "allotment of new shares, etc.") and any affiliated investment by a merger between affiliates belonging to a group of circular equity

investment companies): Provided, That the same shall not apply to any of the following: <Amended by Act No. 14075, Mar. 18, 2016>

1. A merger or division of companies, comprehensive exchange or transfer of stocks, or acquisition of a going concern by transfer;
2. Exercise of a security right, or the receipt of payment in substitutes;
3. Where stocks of a company subject to affiliated investment are acquired or owned by an affiliated investment company in excess of its equity ratio prior to allotment of new shares, etc. due to forfeiture, etc. of another shareholder's right, among the stocks acquired or owned by such affiliated investment company through allotment of new shares, etc.;
4. Where a council of creditor financial institutions has determined to allow the same person (including his/her relatives) to contribute property or participate in a capital increase by issuing new stocks (including a debt - equity swap for the relevant claims) by an affiliate company, which is a shareholder of the relevant company showing signs of insolvency, pursuant to Article 24 (2) of the Corporate Restructuring Promotion Act, for a company which has commenced administrative proceedings for companies showing signs of insolvency under Article 9 (1) of the same Act;
5. Where a creditor financial institution defined in subparagraph 2 of Article 2 of the Corporate Restructuring Promotion Act has concluded an agreement on the implementation of a work - out plan with a company showing signs of insolvency defined in subparagraph 7 of Article 2 of the same Act, and a council of creditor financial institutions has determined to allow the same person (including his/her relatives) to contribute property or participate in a capital increase by issuing new stocks (including a debt - equity swap for the relevant claims) by an affiliated investment company, which is a shareholder of the relevant company showing signs of insolvency.

(3) A company which has made an affiliated investment pursuant to the proviso to paragraph (2) shall dispose of the stocks it has acquired or owned (referring to the stocks in excess of its equity ratio prior to a decision on allotment of new shares, etc., or on property contribution or capital increase by issuing new stocks, in cases falling under paragraph (2) 3 through 5) within any of the following periods: Provided, That the same shall not apply where the circular equity investment formed

or reinforced by an affiliated investment made under paragraph (2) is withdrawn by disposing of the stocks of a company subject to affiliated investment, which are acquired or owned by a third company belonging to a group of circular equity investment companies:

1. A company that has made an affiliated investment pursuant to paragraph (2) 1 or 2: six months after acquisition or ownership of the relevant stocks;
2. A company that has made an affiliated investment pursuant to paragraph (2) 3: one year after acquisition or ownership of the relevant stocks;
3. A company that has made an affiliated investment pursuant to paragraph (2) 4 or 5: three years after acquisition or ownership of the relevant stocks.

[This Article Newly Inserted by Act No. 12334, Jan. 24, 2014]

Article 10 Deleted. <by Act No. 9554, Mar. 25, 2009>

Article 10 - 2 (Prohibition of Debt Guarantees for Affiliated Company) (1) Any company (excluding a company conducting financial business or insurance business; hereinafter the same shall apply) belonging to an enterprise group which falls under the criteria set forth in Presidential Decree, such as the total amount of assets in excess of a specific scale, and thereby designated under Article 14 (1) (hereinafter referred to as "enterprise group subject to the limitations on debt guarantees"), shall not give debt guarantees to its domestic affiliated companies: Provided, That the same shall not apply to a debt guarantee which falls under any of the following subparagraphs: <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5825, Feb. 8, 1999; Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007 >

1. A guarantee made in connection with any obligation of a company, which is taken over according to the criteria for rationalization under the Restriction of Special Taxation Act;
2. Deleted; <by Act No. 5235, Dec. 30, 1996 >
3. A guarantee on debts which is deemed necessary to enhance the international competitiveness of enterprises, or which is set forth in Presidential Decree.

(2) For the purpose of paragraph (1), "debt guarantee" means any guarantee to be made to a domestic affiliated company by a company belonging to an enterprise group subject to the limitations on debt guarantees in connection with the credit of a

domestic financial institution falling under any of the following subparagraphs:
<Amended by Act No. 5403, Aug. 30, 1997; Act No. 5454, Dec. 13, 1997; Act No. 5528, Feb. 24, 1998; Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007; Act No. 8635, Aug. 3, 2007; Act No. 10303, May 17, 2010>

1. Banks as prescribed by the Banking Act, the Korea Development Bank, the Export - Import Bank of Korea, the Long - Term Credit Bank, and the Industrial Bank of Korea;
2. Deleted;<by Act No. 5503, Jan. 13, 1998 >
3. Insurance companies as prescribed by the Insurance Business Act;
4. Investment traders, investment brokers, and merchant banks as prescribed by the Financial Investment Services and Capital Markets Act;
5. Deleted;<by Act No. 8635, Aug. 3, 2007 >
6. Other financial institutions prescribed by Presidential Decree.

(3) and (4) Deleted. <by Act No. 5528, Feb. 24, 1998 >

[This Article Newly Inserted by Act No. 4513, Dec. 8, 1992]

Article 10 - 3 Deleted. <by Act No. 6371, Jan. 16, 2001 >

Article 11 (Limitation on Voting Rights of Finance Companies or Insurance Companies)

Neither finance nor insurance company which belongs to an enterprise group subject to limitations on mutual investment shall exercise its voting rights in stocks of any domestic affiliated company, under its acquisition or ownership: Provided, That the same shall not apply in any of the following cases:<Amended by Act No. 4513, Dec. 8, 1992; Act No. 5235, Dec. 30, 1996; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007; Act No. 14137, Mar. 29, 2016 >

1. Where acquiring or owning the stocks to carry on finance business or insurance business;
2. Where acquiring or owning the stocks of company by obtaining approval, etc. pursuant to the Insurance Business Act, etc. to ensure the efficient operation and management of insurance assets;
3. Where the general meeting of stockholders of a relevant domestic affiliated company (limited to a listed corporation) passes a resolution on any of the following matters. In such cases, the number of voting stocks from among the stocks of said affiliated company shall not exceed 15 percent of the total number of

outstanding stocks of said affiliated company (excluding the number of non - voting shares provided in Articles 344 - 3 (1) and 369 (2) and (3) of the Commercial Act), including the number of stocks to be exercised by the persons, other than those stipulated by Presidential Decree, from among the related parties to said affiliated company:

- (a) Appointment or dismissal of executives;
- (b) Amendment of the articles of incorporation;
- (c) Merger of said affiliated company with another company, or transfer of the whole or main part of business to another company.

Article 11 - 2 (Resolutions by Board of Directors and Publication on Large Scale Internal Trading)

(1) When any company belonging to an enterprise group which falls under the criteria prescribed by Presidential Decree, such as the total amount of assets in excess of a specific scale (hereinafter referred to as "company subject to the publication of internal trading"), intends to conduct any of the following trading (hereinafter referred to as "large - scale internal trading") with specially - related persons or for such specially - related persons beyond the business scale prescribed by Presidential Decree, it shall publish such intention in advance, following a resolution by the board of directors. The same shall apply where such company intends to change major contents prescribed in paragraph (2): <Amended by Act No. 6651, Jan. 26, 2002; Act No. 8382, Apr. 13, 2007 >

1. Offering or trading funds, such as suspense payments and loans;
2. Offering or trading securities, such as stocks and company bonds;
3. Offering or trading assets, such as real estate or intangible property rights;
4. Offering or trading goods or services to or with the affiliated companies prescribed by Presidential Decree in consideration of the stockholder structure, etc. or for such affiliated companies.

(2) Any company subject to the publication of internal trading shall publish significant matters prescribed by Presidential Decree, such as the objective of trading, the other party to trading, and the scale and terms of trading, in making the publication pursuant to paragraph (1).

(3) The Fair Trade Commission may entrust the business affairs related to the publication prescribed in paragraph (1) to institutions in charge of receiving reports

under Article 161 of the Financial Investment Services and Capital Markets Act. In such cases, the Fair Trade Commission shall determine methods, procedures, and other necessary matters with respect to the publication after consultation with such entrusted institutions. <Amended by Act No. 8631, Aug. 3, 2007; Act No. 8635, Aug. 3, 2007 >

(4) If any company subject to the publication of internal trading that runs financial business or insurance business intends to conduct trading that is standardized under the contractual terms and conditions and meets standards prescribed by Presidential Decree, it may conduct such trading, without submitting the relevant case to the board of directors, notwithstanding paragraph (1): Provided, That such company shall publish the details of such trading.

(5) Where a listed company submits the relevant case to the committee (limited to where at least three outside directors referred to in Article 9 (3) of the Financial Investment Services and Capital Markets Act are included, and the number of outside directors is at least 2/3 of the total number of members of the committee) established pursuant to Article 393 - 2 of the Commercial Act for resolution in cases falling under paragraph (1), it shall be deemed that the board of directors has passed a resolution on the relevant case. <Newly Inserted by Act No. 8631, Aug. 3, 2007; Act No. 13071, Jan. 20, 2015 >

[\[This Article Newly Inserted by Act No. 6043, Dec. 28, 1999\]](#)

Article 11 - 3 (Publication of Important Matters by Unlisted Companies, etc.) (1) A company (excluding any company that runs financial business or insurance business) that belongs to the enterprise group that falls under the standards prescribed by Presidential Decree, including the total amount of assets of not less than a certain scale, with the exclusion of any listed corporation, shall publish matters falling under any of the following subparagraphs: Provided, That matters published pursuant to Article 11 - 2 shall be excluded herefrom: <Amended by Act No. 8382, Apr. 13, 2007; Act Nos. 8631 & 8635, Aug. 3, 2007 >

1. Important matters concerning corporate ownership and governance structure, including the current state of stocks held by the largest stockholders and major stockholders (referring to major stockholders provided for in Article 9 (1) 2 of the Financial Investment Services and Capital Markets Act), any change thereof and

changes in composition of the executive board, etc. of the company, which are prescribed by Presidential Decree;

2. Matters, including acquisition of assets or stocks, donations, the provision of security, the acceptance and exception of liabilities, etc. that result in major changes to corporate financial structure, which are prescribed by Presidential Decree;

3. Important matters concerning corporate management, including the transfer and takeover of business, merger and division, the exchange and transfer of stocks, etc., that are related to the management of the company, which are prescribed by Presidential Decree.

(2) The provisions of Article 11 - 2 (2) and (3) shall apply mutatis mutandis to the publication referred to in paragraph (1).

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

Article 11 - 4 (Publication on Status, etc. of Enterprise Groups) (1) A company which belongs to an enterprise group subject to limitations on mutual investment, and the total amount of assets, etc. of which meets the criteria prescribed by Presidential Decree, shall publish information on its general status, status of stockholding, status of affiliated companies which are not a holding company, etc. (limited to where the total assets of the holding company, etc. is not less than 50 percent of the total assets of companies belonging to the enterprise group (or the larger of the total capital or capital stock in the case of a company operating finance business or insurance business), status of circular equity investment made under Article 9 - 2, whether voting rights have been exercised under Article 11 (excluding the exercise of the voting rights in the stocks of a company operating finance business or insurance business), and matters prescribed by Presidential Decree regarding the status of transactions with related parties. <Amended by Act No. 12334, Jan. 24, 2014; Act No. 14137, Mar. 29, 2016>

(2) Article 11 - 2 (3) shall apply mutatis mutandis to publications referred to in paragraph (1).

(3) Except as otherwise expressly provided for in paragraph (2), matters necessary regarding the timing, methods, and procedures for publications under paragraph (1) shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 9554, Mar. 25, 2009]

Article 12 (Reporting on Combination of Enterprises) (1) Where a company (where a corporate combination that falls under subparagraph 3 is conducted, such corporate combination shall be limited to a large - scale company; hereafter referred to as "company liable to report corporate combination" in this Article) whose total assets or turnover meets the criteria set by Presidential Decree or its related party conducts a corporate combination by any of methods provided in subparagraphs 1 through 4 with another company (hereafter referred to as "counterpart company" in this Article) whose total assets or turnover meets the criteria set by Presidential Decree, or a company liable to report corporate combination or its related party conducts a corporate combination by the method provided in subparagraph 5 jointly with the counterpart company or the related party, the company or the related party shall file a report thereon with the Fair Trade Commission, as prescribed by Presidential Decree. The same shall apply where a company whose scale is equivalent to the scale of the counterpart company, other than companies liable to report corporate combination, or its related party conducts a corporate combination by any of the methods provided in subparagraphs 1 through 4 with a company liable to report corporate combination, or a company whose scale is equivalent to the scale of the counterpart company, other than companies liable to report corporate combination, or its related party conducts a corporate combination by the method provided in subparagraph 5 jointly with a company liable to report corporate combination or the related party: < Amended by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007 >

1. Where it holds not less than 20 percent (or 15 percent in the case of a listed corporation) of the total number of outstanding stocks (excluding non - voting stocks provided in Article 370 of the Commercial Act; hereinafter the same shall apply) of another company;
2. Where any person who holds outstanding stocks of another company in excess of the ratio specified in subparagraph 1 becomes the largest investor by additionally acquiring stocks of that company;
3. Where any executive concurrently holds office (excluding where he/she concurrently holds office of any affiliate);

4. Where it engages in the business activity provided in Article 7 (1) 3 or 4;
5. Where it participates in the establishment of a new company and becomes the largest investor thereof.

(2) The total amount of assets or the sales amount of the company liable to report corporate combination or of the counterpart company referred to in paragraph (1) means the aggregate of the total amount of assets or the sales amount of the company that continues to maintain the status of an affiliated company from the date on which the corporate combination is conducted after the date on which the corporate combination is conducted: Provided, That in the case of acquisition by transfer of business prescribed in Article 7 (1) 4, the total amount of assets or the sales amount of the company that transfers its business (including the business rent, the management delegation and the transfer of operating assets) means the amount that does not aggregate the total amount of assets or sales amount of its affiliates.
<Newly Inserted by Act No. 7315, Dec. 31, 2004>

(3) Notwithstanding paragraph (1), no report is required in any of the following cases: <Newly Inserted by Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 6705, Aug. 26, 2002; Act No. 7315, Dec. 31, 2004; ; Act No. 8631, Aug. 3, 2007; Act No. 8635, Aug. 3, 2007; Act Nos. 14122 & 14127, Mar. 29, 2016>

1. Where a small and medium enterprise start - up investment company or a small and medium enterprise start - up investment fund, as defined in subparagraph 4 or 5 of Article 2 of the Support for Small and Medium Enterprise Establishment Act holds stocks of a business starter, as defined subparagraph 2 of the same Article (hereinafter referred to as "business starter"), or venture business in excess of the ratio specified in paragraph (1) 1, or becomes the largest investor by participating in the establishment of the business starter or venture business jointly with another company;
2. Where a new technology venture capitalist or a new technology venture capital fund established under the Specialized Credit Finance Business Act holds stocks of a new technology enterprise, as defined in subparagraph 1 of Article 2 of the Korea Technology Finance Corporation Act (hereinafter referred to as "new technology enterprise") in excess of the ratio specified in paragraph (1) 1, or becomes the largest investor by participating in the establishment of the business starter or

venture business jointly with another company;

3. Where a company liable to report corporate combination holds stocks of any of the following companies in excess of the ratio specified in pursuant to paragraph (1) 1, or becomes the largest investor by participating in the establishment of any of the following companies jointly with another company:

(a) An investment company, as defined in the Financial Investment Services and Capital Markets Act;

(b) A company designated as a concessionaire of a public - private partnership project for infrastructure pursuant to the Act on Public - Private Partnerships in Infrastructure;

(c) An investment company (limited to a company provided in Article 51 - 2 (1) 6 of the Corporate Tax Act) established for the purposes of investing in the company referred to in item (b);

(d) A real estate investment company, as defined in the Real Estate Investment Company Act.

(4) Paragraph (1) shall not apply where the head of the relevant central administrative agency has had a prior consultation with the Fair Trade Commission about the relevant corporate combination under the provisions of any other Act.

(5) Stocks owned by related parties to the relevant company shall be aggregated for the purposes of calculating the ratio of stocks held or acquired, or determining whether the company or related party becomes the largest investor pursuant to paragraph (1) 1, 2 or 5. <Amended by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007 >

(6) A report on a corporate combination under paragraph (1) shall be filed within 30 days after the date of the corporate combination: Provided, That if at least one company is a large - scale company among companies involved in a corporate combination by any of the methods provided in paragraph (1) 1, 2, 4 or 5 (excluding cases prescribed by Presidential Decree), a report on the corporate combination shall be filed within a period beginning on the date set by Presidential Decree, such as the date on which a merger contract is concluded, and ending on the date prior to the date of such corporate combination. <Amended by Act No. 5813, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004; Act No. 9554, Mar. 25, 2009 >

(7) Upon receipt of a report filed under paragraph (6), the Fair Trade Commission shall review whether the corporate combination reported is applicable under Article 7 within 30 days from the date of filing of the report and notify the relevant reporter of the outcomes thereof: Provided, That the Fair Trade Commission may extend the period by up to 90 days, beginning on the date following the expiration of the 30 - day period, where deemed necessary. <Newly Inserted by Act No. 11406, Mar. 21, 2012 >

(8) A person liable to report under the proviso to paragraph (6) is prohibited from engaging in any act of holding stocks, having a merger registered, fulfilling any contract for the acquisition of business by transfer, or subscribing for a stock until before the person is notified of the outcomes of the review by the Fair Trade Commission under paragraph (7). <Amended by Act No. 7315, Dec. 31, 2004; Act No. 11406, Mar. 21, 2012 >

(9) Where a person intends to conduct a corporate combination by the methods provided in Article 7 (1), the person may request the Fair Trade Commission to review whether the corporate combination is categorized as an activity that practically suppresses competition even before the period of filing specified in paragraph (6). <Amended by Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004; Act No. 11406, Mar. 21, 2012 >

(10) Upon receipt of a request for review under paragraph (9), the Fair Trade Commission shall notify the requester of the outcomes thereof within 30 days: Provided, That the Fair Trade Commission may extend the period by up to 90 days beginning on the date following the expiration of such period, where deemed necessary. <Amended by Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004; Act No. 11406, Mar. 21, 2012 >

(11) When two or more companies are liable to file a report under paragraph (1), these companies shall file the report jointly: Provided, That this shall not apply where the Fair Trade Commission has designated one of the companies belonging to an enterprise group comprising of the companies liable to report as the agent responsible for filing the report (hereafter referred to as "agent" in this Article), as prescribed by Presidential Decree. <Amended by Act No. 11406, Mar. 21, 2012 >

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

Article 12 - 2 (Special Cases concerning Procedures for Reporting Combination of

Enterprises) (1) Any person who applies for approval, recommendation of permission for change, etc. (hereafter referred to as "approval, etc." in this Article) of establishment or merger, or change in the largest investor, etc. of any of the following corporations (hereafter referred to as "establishment, etc. of corporation" in this Article) may submit papers for report of combination of enterprises when applying for approval, etc. to an agency in charge of approval, etc. (including the Korea Communications Commission; hereafter the same shall apply in this Article) where the establishment, etc. of the corporation falls under the subject matter of reporting pursuant to Article 12 (1): <Amended by Act No. 9554, Mar. 25, 2009 >

1. Deleted; <by Act No. 10166, Mar. 22, 2010 >

2. Merger of a corporation (limited to a corporation which is a CATV broadcasting business operator pursuant to subparagraph 3 (b) of Article 2 of the Broadcasting Act; hereafter referred to as "CATV broadcasting business operator" in this Article) pursuant to Article 15 (1) 1 of the Broadcasting Act;

3. Where it intends to be the largest investor in a CATV broadcasting business operator pursuant to Article 15 - 2 (1) of the Broadcasting Act or to exercise a dominant influence on the management right of a CATV broadcasting business operator.

(2) When an applicant for approval, etc. submits papers for report on combination of enterprises to the agency in charge pursuant to paragraph (1), the date when the papers were accepted by the agency in charge shall be deemed the date when report pursuant to Article 12 (1) was made.

(3) When the agency in charge has received papers on the report of combination of enterprises pursuant to paragraph (1), it shall promptly deliver the papers on the report of combination of enterprises to the Fair Trade Commission.

(4) Those liable to report corporate combinations pursuant to the proviso to Article 12 (6) may submit papers on the approval, etc. of establishment, etc. of corporation altogether when they make a report on combination of enterprises to the Fair Trade Commission.

(5) When the Fair Trade Commission has received papers on the approval, etc. of establishment, etc. of corporation pursuant to paragraph (4), it shall promptly forward the papers on the approval, etc. of establishment, etc. corporation to the

agency in charge.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

- Article 13 (Reporting on Current Status of Stockholding)** (1) Companies belonging to an enterprise group subject to the limitations on mutual investment or an enterprise group subject to the limitations on debt guarantees shall file to the Fair Trade Commission a report on the status of ownership of their stockholders, financial standing, and status of their ownership of other domestic companies' stocks, as prescribed by Presidential Decree. <Amended by Act No. 5235, Dec. 30, 1996; Act No. 6651, Jan. 26, 2002; Act No. 9554, Mar. 25, 2009 >
- (2) Companies belonging to an enterprise group subject to the limitations on debt guarantees, shall file to the Fair Trade Commission a report on the status of debt guarantees issued in favor of domestic affiliated companies after obtaining confirmation from a domestic financial institution, as prescribed by Presidential Decree. <Newly Inserted by Act No. 4513, Dec. 8, 1992; Act No. 5235, Dec. 30, 1996; Act No. 6651, Jan. 26, 2002 >
- (3) The proviso to Article 12 (11) shall apply mutatis mutandis to reports referred to in paragraphs (1) and (2). <Amended by Act No. 5235, Dec. 30, 1996; Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004; Act No. 11406, Mar. 21, 2012 >
- (4) Deleted. <by Act No. 5235, Dec. 30, 1996 >

- Article 14 (Designation, etc. of Enterprise Groups Subject to Limitations on Mutual Investment, etc.)** (1) The Fair Trade Commission shall designate an enterprise group subject to limitations on mutual investment and an enterprise group subject to limitations on debt guarantees (hereinafter referred to as "enterprise group subject to limitations on mutual investment, etc."), as prescribed by Presidential Decree, and shall give notice of such designation to companies belonging to the enterprise group. <Amended by Act No. 4513, Dec. 8, 1992; Act No. 6651, Jan. 26, 2002; Act No. 9554, Mar. 25, 2009 >
- (2) Articles 9, 10 - 2, 11, and 13 shall begin to apply from the date of receipt of notice given under paragraph (1). <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 9554, Mar. 25, 2009 >
- (3) Notwithstanding paragraph (2), where a company designated as an enterprise group subject to limitations on mutual investment, etc. pursuant to paragraph (1) and

notified as a company belonging to an enterprise group subject to limitations on mutual investment, etc., or a company incorporated as an affiliated company into an enterprise group subject to limitations on mutual investment, etc. pursuant to Article 14 - 2 (1) and notified as a company belonging to an enterprise group subject to limitations on mutual investment, etc., is in violation of Article 9 (1) or (3), or 10 - 2 (1) at the time of receiving such notice, such violation shall be dealt with according to the following classification: <Amended by Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7428, Mar. 31, 2005; Act No. 9554, Mar. 25, 2009>

1. Where the company is in violation of Article 9 (1) or (3) (including where the company issuing the stocks acquired or owned is newly incorporated as an affiliated company and violates Article 9 (3) consequently), said paragraph shall not apply for one year beginning on the date of designation or incorporation;
2. Deleted;<by [Act No. 9554, Mar. 25, 2009](#)>
3. Where the company is in violation of Article 10 - 2 (1) (including where a violation is committed as a company receiving a debt guarantee is newly incorporated as an affiliated company), said paragraph shall not apply for two years beginning on the date of designation or incorporation: Provided, That said paragraph shall not apply until the end of the procedure for rehabilitation where the procedure for rehabilitation under the Debtor Rehabilitation and Bankruptcy Act has been commenced for the company referred to in Article 10 - 2 (1), and until the end of the procedure for rehabilitation for the company receiving the debt guarantee, limited exclusively to said debt guarantee, where the company referred to in Article 10 - 2 (1) renders a debt guarantee to the company for which the procedure for rehabilitation has been commenced.
- (4) The Fair Trade Commission may request materials necessary for designating an enterprise group under paragraph (1) from a company or a related party to the company.
- (5) Any company (excluding any company which is under liquidation or has suspended its business for not less than one year) belonging to an enterprise group subject to limitations on mutual investment, etc. shall undergo an audit by a certified public accountant, and the Fair Trade Commission shall use the balance sheet revised according to the opinions of the certified public accountant. <Newly Inserted by Act

No. 5528, Feb. 24, 1998; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 14137, Mar. 29, 2016 >

Article 14 - 2 (Incorporation in and Exclusion from Affiliated Companies) (1) Where a company is to be incorporated in or excluded from affiliated companies of an enterprise group subject to the limitations on mutual investment, etc., the Fair Trade Commission shall, upon request by the company concerned (including a person with a special interest in the company; hereafter the same shall apply in this Article) or ex officio, determine whether the company may be categorized as an affiliated company of a large enterprise group, and either incorporate the company in the affiliated companies, or exclude it from the affiliated companies. <Amended by Act No. 6651, Jan. 26, 2002 >

(2) Where the Fair Trade Commission deems it necessary for determination referred to in paragraph (1), it may request that the company concerned submit data, such as the composition of stockholders and directors, status of debt guarantees, financial standing, transaction data, and other related matters.

(3) Upon request of determination referred to in paragraph (1), the Fair Trade Commission shall notify the requesting person of the results thereof within 30 days: Provided, That the Fair Trade Commission may, if deemed necessary, extend such period by up to 60 days.

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 14 - 3 (Incorporation into Affiliated Company and Presumption of Notification Date)

Where a company which receives a request under Article 14 (4) or 14 - 2 (2) refuses to submit data without justifiable grounds or submits false data, and thereby is not incorporated into an enterprise group subject to the limitations on mutual investment, etc. though it should be incorporated, the company shall be deemed to be incorporated into an enterprise group subject to the limitations on mutual investment, etc. and is given notification thereof on the date prescribed by Presidential Decree.

<Amended by Act No. 6651, Jan. 26, 2002 >

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

Article 14 - 4 (Request for Confirmation of Documents before Competent Institutions)

The Fair Trade Commission may, if deemed necessary for the sake of enforcing the provisions of Articles 9 through 11 and 13 through 14 - 2, request the institutions falling under any of the following subparagraphs to confirm or investigate the data relating to the status of the ownership of stockholders of domestic affiliated companies belonging to an enterprise group subject to the limitations on mutual investment, etc., the data relating to debt guarantees, the data relating to advanced payments, loans, or securities, the data relating to transactions or provision of immovable assets, and other necessary matters: <Amended by Act No. 5491, Dec. 31, 1997; Act No. 5498, Jan. 8, 1998; Act No. 5528, Feb. 24, 1998; Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007; Act No. 8863, Feb. 29, 2008 >

1. The Financial Supervisory Service established under the Act on the Establishment, etc. of Financial Services Commission;
2. Deleted; <by Act No. 5528, Feb. 24, 1998 >
3. Domestic financial institutions pursuant to any subparagraph of Article 10 - 2 (2);
4. Other institutions set forth in Presidential Decree as related to financial or stock transactions.

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 14 - 5 (Disclosure of Information on Current Conditions, etc. of Enterprise Groups subject to Limitations on Mutual Investment) (1) The Fair Trade

Commission may make public the following information on companies belonging to an enterprise group subject to the limitations on mutual investment to prevent the excessive concentration of economic strength, enhance transparency in such enterprise group, etc.:

1. Information on the general conditions, status of corporate governance structure, etc. of companies belonging to the enterprise group subject to the limitations on mutual investment, which is prescribed by Presidential Decree;
2. Information on investment, debt guarantee, business relations, etc. between the companies belonging to the enterprise group subject to the limitations on mutual investment or between a company belonging to the enterprise group subject to the limitations on mutual investment and the specially - related persons thereof, which is prescribed by Presidential Decree.

(2) The Fair Trade Commission may build and operate an information system to efficiently process and make public the information referred to in the subparagraphs of paragraph (1).

(3) With respect to the disclosure of information except for those provided for in paragraphs (1) and (2), the Official Information Disclosure Act shall apply.

[This Article Newly Inserted by Act No. 8382, Apr. 13, 2007]

Article 15 (Prohibition on Unlawful Practices) (1) No one shall engage in any conduct to evade the application of Article 7 (1), 8 - 2 (2) through (5), 8 - 3, 9, 9 - 2, 10 - 2 (1), or 11. <Amended by Act No. 4513, Dec. 8, 1992; Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009; Act No. 12334, Jan. 24, 2014 >

(2) The categories of, and standards for unlawful practices referred to in paragraph (1) shall be determined by Presidential Decree. <Newly Inserted by Act No. 5235, Dec. 30, 1996 >

Article 16 (Corrective Measures, etc.) (1) Where any company has violated or is likely to violate Article 7 (1), 8 - 2 (2) through (5), 8 - 3, 9, 9 - 2, 10 - 2 (1), 11, 11 - 2 through 11 - 4, or 15, the Fair Trade Commission may order such company [referring to a company (including a specially related person where it is impracticable to correct abuses due to restrictions on competition only by corrective measures to the company involved in the combination of enterprises or it is necessary to correct abuses due to restriction on competition in the field where the person specially related to the company involved in the combination of enterprises) involved in the combination of enterprises in cases of violation of Article 7 (1)] or violator to take any of the following corrective measures. In such cases, where the Fair Trade Commission issues an order, upon the report filed under the proviso to Article 12 (6), it shall do so within the period prescribed in Article 12 (7): <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009; Act No. 12334, Jan. 24, 2014 >

1. Cessation of the relevant practice;
2. Disposal of all or some of the stocks;
3. Resignation of executives;
4. Transfer of business;
5. Cancellation of debt guarantees;
6. Publication of the fact that it is ordered to take corrective measures;
7. Restrictions on the business method or business scope which is able to prevent the adverse effects of restricted competition incidental to the combination of enterprises;
- 7 - 2. Performance of the publication duty or correction of details of the publication;
8. Other measures necessary to correct such violations.

(2) Where companies are merged or a company is established in violation of Article 7 (1), 8 - 3, or 12 (8), the Fair Trade Commission may file a lawsuit to nullify said merger or establishment of the relevant companies. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 11406, Mar. 21, 2012 >

(3) The Fair Trade Commission may prescribe and announce standards for taking corrective measures referred to in the subparagraphs of paragraph (1) for violations of Article 7 (1). <Newly Inserted by Act No. 8631, Aug. 3, 2007 >

Article 17 (Penalty Surcharges) (1) The Fair Trade Commission may impose a penalty surcharge on a company that has acquired or owned stocks in violation of Article 9 or 9 - 2 within the limits not exceeding the amount multiplied by ten percent of the acquisition value of stocks so acquired or owned. <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 6043, Dec. 28, 1999; Act No. 9554, Mar. 25, 2009; Act No. 12334, Jan. 24, 2014 >

(2) The Fair Trade Commission may impose a penalty surcharge on a company which has provided a debt guarantee in violation of Article 10 - 2 (1) within the limits not exceeding the amount multiplied by ten percent of the amount of the debt guarantee so provided. <Newly Inserted by Act No. 4513, Dec. 8, 1992; Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 6371, Jan. 16, 2001 >

(3) Deleted. <by Act No. 5813, Feb. 5, 1999 >

(4) The Fair Trade Commission may impose a penalty surcharge on a person who violates any of Article 8 - 2 (2) through (5) within the limits not exceeding the amount multiplied by ten percent of the following applicable amount: <Amended by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007; Act No. 14137, Mar. 29, 2016 >

1. The amount of liabilities that exceeds twice the total amount of capital on the balance sheet prescribed by Presidential Decree (hereafter referred to as "standard balance sheet" in this paragraph) where the person violates Article 8 - 2 (2) 1;

2. The amount calculated by dividing the amount computed by multiplying the total amount of the book value on the standard balance sheet of the stocks of the relevant subsidiary by the ratio that subtracts the holding ratio of the stocks of the subsidiary from the following applicable ratio, by the holding ratio of the stocks of the subsidiary, where the person violates Article 8 - 2 (2) 2:

(a) 20 percent, where the subsidiary is a listed corporation, an overseas listed corporation, a joint stock corporation or a subsidiary of a venture holding company;

(b) Deleted;<by Act No. 8382, Apr. 13, 2007 >

(c) 40 percent, where the subsidiary is not applicable under item (a);

3. Where the person violates any of Article 8 - 2 (2) 3 through 5, (3) 2 or 3, (4) or (5), the total amount of the book value on the standard balance sheet of the stocks that he/she holds in violation of such provisions;

4. Where the person violates Article 8 - 2 (3) 1, the amount calculated by dividing the amount computed by multiplying the total amount of the book value on the standard balance sheet of the stocks of the relevant second - tier company by the ratio that subtracts the holding ratio of the stocks of the second - tier company from the following applicable ratio, by the holding ratio of the stocks of the second - tier company:

(a) 20 percent, where the second - tier company is a listed corporation, an overseas listed corporation, or a joint stock corporation;

(b) 40 percent, where the second - tier company is not applicable under item (a).

Article 17 - 2 Deleted. <by Act No. 9554, Mar. 25, 2009 >

Article 17 - 3 (Compulsory Performance Money) (1) The Fair Trade Commission may impose compulsory performance money on a person who fails to fulfill corrective measures within the specified period after he/she was subject to them pursuant to Article 16 in violation of Article 7 (1) within the limits not exceeding the amount obtained by multiplying 3/10,000 by the following amount per day: Provided, That the Fair Trade Commission may impose compulsory performance money on a person who made the combination of enterprises listed in Article 7 (1) 2 within the limits not exceeding two million won per day: <Amended by Act No. 8631, Aug. 3, 2007 >

1. The total amount of the book value of stocks acquired or owned and liabilities accepted, for the combination of enterprises listed in Article 7 (1) 1 or 5;
2. The total amount of the book value of stocks issued in return for a merger and liabilities accepted, for the combination of enterprises listed in Article 7 (1) 3;
3. The amount of business takeover, for the combination of enterprises listed in Article 7 (1) 4.

(2) The matters necessary for the imposition, payment, collection and refund of compulsory performance money shall be determined by Presidential Decree: Provided, That the compulsory performance money in arrears shall be collected in the same manner as dispositions of national taxes in arrears.

(3) The Fair Trade Commission may entrust the Commissioner of the National Tax Service with the business on the collection of compulsory performance money or dispositions of compulsory performance money in arrears under paragraphs (1) and (2).

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

Article 18 (Enforcing Compliance with Corrective Measures) (1) No company ordered to dispose of stocks pursuant to Article 16 (1) shall exercise voting rights to such stocks from the date of receiving such order. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 8631, Aug. 3, 2007 >

(2) No company which has made a cross - capital investment in violation of Article 9, or a circular equity investment in violation of Article 9 - 2 shall exercise voting rights to all of such stocks from the date of receiving a corrective order, until the violation has been corrected. <Amended by Act No. 5335, Dec. 30, 1996; Act No. 12334, Jan.

24, 2014 >

(3) and (4) Deleted. <by Act No. 9554, Mar. 25, 2009 >

[This Article Wholly Amended by Act No. 4513, Dec. 8, 1992]

CHAPTER IV RESTRICTIONS ON UNFAIR COLLABORATIVE ACTS

Article 19 (Prohibition of Unfair Collaborative Acts) (1) No enterpriser shall agree with other enterprisers by contract, agreement, resolution, or any other means, to jointly engage in an act falling under any of the following subparagraphs, which unfairly restricts competition (hereinafter referred to as "unfair collaborative act") or allow any other enterpriser to perform such unfair collaborative act: <Amended by Act No. 4513, Dec. 8, 1992; Act No. 4790, Dec. 22, 1994; Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007 >

1. Fixing, maintaining or changing the price;
2. Determining terms and conditions for the transaction of goods or services, or for payment of prices thereof;
3. Restricting production, delivery, transportation, or transaction of goods or restricting transaction of services;
4. Limiting the area in which a transaction arises or the transaction counterpart;
5. Preventing or restricting the establishment or extension of facilities or the installation of equipment necessary for the production of goods or the rendering of services;
6. Restricting kinds and standards of goods or services when they are produced or traded;
7. Jointly carrying out, managing the main parts of business or establishing a company, etc. to jointly carry out and manage it;
8. Deciding successful bidder, successful auctioneer, bidding price, highest price or contract price, and other matters prescribed by Presidential Decree;
9. Practically restricting competition in a particular business area by means of interfering or restricting the activities or contents of business by other enterprisers (including the enterpriser who has conducted the activity), which is other than the act referred to in subparagraphs 1 through 8.

(2) The provisions of paragraph (1) shall not apply, where unfair collaborative practices are authorized by the Fair Trade Commission as satisfying the requirements prescribed by Presidential Decree, and they are conducted for any of the following purposes: <Newly Inserted by Act No. 5235, Dec. 30, 1996 >

1. Industry rationalization;
2. Research and technology development;
3. Overcoming of economic depression;
4. Industrial restructuring;
5. Rationalization of trade terms and conditions;
6. Improvement of competitiveness of small and medium enterprises.

(3) Necessary matters with respect to the standards, methods, and procedures of authorization under paragraph (2) and modification of authorized matters shall be determined by Presidential Decree. <Newly Inserted by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999 >

(4) Any contract, etc. stipulating unfair collaborative acts as referred to in paragraph (1) shall be null and void between enterprisers.

(5) Where two or more enterprisers conduct an act falling under any subparagraph of paragraph (1), it shall be assumed that the enterprisers have agreed to conduct an act in association falling under any subparagraph of paragraph (1) when it is highly probable to reckon that they did the act in association regarding the characteristic of the relevant transaction, goods or services, economic reasons and ripple effects of the relevant activity, frequency, mode, etc. of contact among enterprisers. <Amended by Act No. 8631, Aug. 3, 2007 >

(6) The Fair Trade Commission may prescribe and announce the standards for examination of unfair collaborative acts. <Newly Inserted by Act No. 8631, Aug. 3, 2007 >

Article 19 - 2 (Measure for Prevention of Collaborative Acts concerning Public Sector

Bidding) (1) The Fair Trade Commission may request for the submission of data on bidding and other cooperations to the heads of central administrative agencies, local governments or public enterprises under the Act on the Management of Public Agencies (hereinafter referred to as "head of a public agency") to uncover or prevent unfair collaborative acts related to bidding ordered by the State, local

governments or public enterprises under the Act on the Management of Public Agencies. <Amended by Act No. 9554, Mar. 25, 2009 >

(2) When the head of a public agency prescribed by Presidential Decree announces bidding or when a successful bidder is determined, he/she shall submit information on the bidding to the Fair Trade Commission.

(3) The extent of information on the bidding that has to be submitted to the Fair Trade Commission pursuant to paragraph (2) and procedures for submission thereof shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 20 Deleted. <by Act No. 5235, Dec. 30, 1996 >

Article 21 (Corrective Measures)

When any collaborative act is performed in violation of Article 19 (1), the Fair Trade Commission may order the enterpriser concerned to discontinue such act, to publish the fact that the relevant enterpriser is ordered to correct such collaborative act, or to take necessary corrective measures.<Amended by Act No. 5235, Dec. 30, 1996; Act No. 7315, Dec. 31, 2004 >

Article 22 (Penalty Surcharges)

When any act is performed in violation of Article 19 (1), the Fair Trade Commission may impose a penalty surcharge on the relevant enterpriser within the limits not exceeding the amount equivalent to 10/100 of the turnover determined by Presidential Decree: Provided, That in cases of an absence of the turnover, etc., a surcharge of not exceeding two billion won may be imposed.<Amended by Act No. 7315, Dec. 31, 2004 >

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

Article 22 - 2 (Mitigation, Exemption, etc. for Voluntary Reporters, etc.) (1) With respect to any of the following persons, the corrective measures taken under Article 21 or the penalty surcharge imposed under Article 22 may be mitigated or exempted, or the complaint filed under Article 71 may be exempted: <Amended by Act No. 6371, Jan. 16, 2001; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 11937, Jul. 16, 2013 >

1. A person who has reported voluntarily on the fact of an unfair collaborative act;
2. A person who has cooperated in the investigation by furnishing evidence or by any other means.

(2) Where a person for whom a corrective measure or penalty surcharge is mitigated or exempted pursuant to paragraph (1) re - violates Article 19 (1) on or after the date of the mitigation or exemption, the person shall not be granted mitigation or exemption of any of the corrective measures or the penalty surcharge pursuant to paragraph (1) within five years from the date the corrective measure or penalty surcharge is mitigated or exempted. <Newly Inserted by Act No. 14137, Mar. 29, 2016 >

(3) Neither the Fair Trade Commission nor public officials under its control shall supply or divulge information and data related to voluntary reporting or giving report, such as the identity of any person who has filed a voluntary report or cooperated in an investigation, and the detail of information, except in cases prescribed by Presidential Decree, such as necessary for performing a litigation. <Newly Inserted by Act No. 8631, Aug. 3, 2007 >

(4) Matters necessary for the scope of persons entitled to mitigation or exemption under paragraph (1), criteria for, and scope of mitigation or exemption and detailed matters regarding prohibition on supply and divulgence of information and data pursuant to paragraph (3) shall be determined by Presidential Decree. <Amended by Act No. 6371, Jan. 16, 2001; Act No. 8631, Aug. 3, 2007; Act No. 14137, Mar. 29, 2016 >

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

CHAPTER V PROHIBITION OF UNFAIR TRADE PRACTICES

Article 23 (Prohibition of Unfair Trade Practices) (1) No enterpriser shall commit any act which falls under any of the following subparagraphs, and which is likely to impede fair trade (hereinafter referred to as "unfair trade practices"), or make an affiliated company or other enterprisers perform such act: <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 8382, Apr. 13, 2007; Act No. 12095, Aug. 13, 2013 >

1. Unfairly refusing any transaction, or discriminating against a certain transacting partner;
2. Unfairly excluding competitors;
3. Unfairly coercing or inducing customers of competitors to deal with oneself;
4. Trading with a certain transacting partner by unfairly taking advantage of his/her position in trade;
5. Trading under the terms and conditions which unfairly restrict business activities of a transacting party or disrupting business activities of another enterpriser;
6. Deleted; <by Act No. 5814, Feb. 5, 1999 >
7. Assisting a person with special interest, or any other companies by conducting any of the following acts:
 - (a) Providing the person with special interest, or an other company with advanced payment, loans, human resources, immovable assets, securities, goods, services, right on intangible properties, etc. or conducting a transaction under substantially favorable terms;
 - (b) Transacting with the person with special interest, or another company that does not perform a practical role in the transaction, despite that transacting with another enterpriser is substantially favorable;
8. An act likely to impair fair trade, other than those listed in subparagraphs 1 through 7.
 - (2) No person with special interest or company may conduct an act of receiving the relevant assistance from another enterpriser despite the possibility of falling under paragraph (1) 7. <Newly Inserted by Act No. 12095, Aug. 13, 2013 >
 - (3) The categories or standards for unfair trade practices shall be determined by Presidential Decree. <Amended by Act No. 5235, Dec. 30, 1996; Act No. 12095, Aug. 13, 2013 >
 - (4) If it is necessary to prevent acts of violating paragraph (1), the Fair Trade Commission may make and announce the guidelines to be observed by enterprisers. <Amended by Act No. 12095, Aug. 13, 2013 >
 - (5) In order to prevent an unreasonable inducement of customers, the enterprisers or an enterprisers' organization may voluntarily make a code (hereinafter referred to as "fair competition code"). <Amended by Act No. 5814, Feb. 5, 1999; Act No. 12095, Aug. 13, 2013 >

(6) Enterprisers or an enterprisers' organization may request that the Fair Trade Commission to examine whether or not the fair competition code referred to in paragraph (5) is in violation of paragraph (1) 3 or 6. <Amended by Act No. 12095, Aug. 13, 2013>

Article 23 - 2 (Prohibition of Provision of Inappropriate Benefit to Person with Special Interest)

(1) No company that belongs to an enterprise group falling under the standards prescribed by Presidential Decree, such as the total amount of assets not less than a fixed size, may devolve any inappropriate benefit on a person with special interest (limited to the same person and his/her relatives; hereafter the same shall apply in this Article) or on any affiliate company in which the person with special interest holds stocks of not less than the proportion of stocks determined by Presidential Decree, by conducting any of the following acts. In such cases, the categories or standards for the following acts shall be determined by Presidential Decree:

1. Conducting a transaction under the terms that are substantially favorable compared with the terms that have been applied, or judged to be applicable to normal transactions;
2. Providing a business opportunity which will result in substantial benefit to the company if such business is performed directly by the company or through a company controlled by it;
3. Conducting a transaction of cash or other financial instruments with a person with special interest under substantially favorable terms;
4. Conducting a transaction without reasonable considerations to its business ability, financial status, credit rating, technical skills, price, transaction terms, etc. or comparing them with other enterprisers.

(2) Paragraph (1) 4 shall not apply to the transactions prescribed by Presidential Decree as inevitable for attaining the purpose of the transaction, such as increase of efficiency of the enterprise, confidentiality, urgency, etc.

(3) The other party to a transaction or the provision of a business opportunity under paragraph (1) shall not conduct the relevant transaction or be provided with a business opportunity despite the possibility of falling under any subparagraph of paragraph (1).

(4) No person with special interest may instruct whomsoever to conduct any act falling under paragraph (1) or (3), or involve in the relevant act.

[This Article Newly Inserted by Act No. 12095, Aug. 13, 2013]

Article 23 - 3 (Prohibition of Retaliatory Measures) No entrepreneur shall discontinue any transaction, reduce any quantity, or give any disadvantage to an entrepreneur who has engaged in any of the following conduct regarding unfair trade practices referred to in Article 23 (1) by reason of such conduct, or have an affiliate or another entrepreneur do engage in such conduct:

1. Filing an application for mediation of disputes under Article 48 - 6 (1);
2. Reporting under Article 49 (2);
3. Cooperating in investigations conducted by the Fair Trade Commission under Article 50.

[This Article Newly Inserted by Act No. 12708, May 28, 2014]

Article 24 (Corrective Measures)

When an enterprise violates Article 23 (1) or (2), 23 - 2 or 23 - 3, the Fair Trade Commission may order the entrepreneur (in cases falling under Articles 23 (2) and 23 - 2, referring to the person with a special interest or relevant company) to discontinue the relevant unfair trade practices or the provision of inappropriate benefits to the person with a special interest, to take measures to prevent the reoccurrence thereof, to stop the relevant retaliatory measures, to delete the pertinent provisions from the contract, to publish the fact that the entrepreneur is ordered to take corrective measures or to take other necessary measures necessary for correcting such violation. <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5814, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004; Act No. 12095, Aug. 13, 2013; Act No. 12708, May 28, 2014 >

Article 24 - 2 (Penalty Surcharges) (1) When an enterprise violates Article 23 (1) or 23 - 3 (excluding subparagraph 7), the Fair Trade Commission may impose upon the entrepreneur a penalty surcharge not exceeding the amount computed by multiplying the turnover determined by Presidential Decree by 2/100: Provided, That in cases of absence of the turnover, etc., a penalty surcharge of not exceeding five hundred million won may be imposed. <Amended by Act No. 6043, Dec. 28, 1999; Act No.

7315, Dec. 31, 2004; Act No. 12095, Aug. 13, 2013; Act No. 12708, May 28, 2014>
(2) Where a person with a special interest or relevant company violates Article 23 (1) 7 or (2), or 23 - 2 (1) or (3), the Fair Trade Commission may impose upon the person with a special interest or relevant company a penalty surcharge not exceeding the amount computed by multiplying the turnover determined by Presidential Decree by 5/100: Provided, That in cases of absence of the turnover, etc., a penalty surcharge of not exceeding two billion won may be imposed. <Newly Inserted by Act No. 12095, Aug. 13, 2013 >

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

CHAPTER VI ENTERPRISERS' ORGANIZATION

Article 25 Deleted. <by Act No. 5813, Feb. 5, 1999 >

Article 26 (Prohibited Activities of Enterprisers' Organization) (1) No enterprisers' organization shall commit any of the following acts: <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999 >

1. Unfairly restricting competition through an act falling under any subparagraph of Article 19 (1);
2. Restricting the present or future number of enterprisers in any business area;
3. Unreasonably restricting the business contents or activities of member enterprisers (referring to an enterpriser who is a member of the enterprisers' organization; hereinafter the same shall apply);
4. Inducing or assisting an enterpriser to conduct unfair trade practices under each subparagraph of Article 23 (1), or to conduct practices of resale price maintenance under Article 29;
5. Deleted.<by Act No. 5814, Feb. 5, 1999 >

(2) Article 19 (2) and (3) shall apply mutatis mutandis to cases as referred to in paragraph (1) 1. In such cases, "enterpriser" shall be construed as "enterprisers' organization". <Amended by Act No. 5235, Dec. 30, 1996; Act No. 8631, Aug. 3, 2007 >

(3) If it is necessary for preventing any act of violating paragraph (1), the Fair Trade Commission may establish and announce any guidelines to be observed by the

enterprisers' organization.

(4) If the Fair Trade Commission intends to establish the guidelines as referred to in paragraph (3), it shall hear opinions from the heads of the related administrative agencies.

Article 27 (Corrective Measures)

The Fair Trade Commission may, when there exists an act of violating Article 26, order the enterprisers' organization concerned (if necessary, it includes the member enterprisers concerned) to discontinue the said act, to publish the fact that the enterprisers' organization is ordered to take corrective measures or to take other necessary corrective measures. <Amended by Act No. 4513, Dec. 8, 1992; Act No. 5235, Dec. 30, 1996; Act No. 5814, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004>

[This Article was amended by Act No. 7315 promulgated on December 31, 2004 pursuant to the declaration of unconstitutionality made on January 31, 2002.]

Article 28 (Penalty Surcharges) (1) Where an enterprisers' organization commits any of the violations prescribed in the subparagraphs of Article 26 (1), the Fair Trade Commission may impose upon the enterprisers' organization a penalty surcharge not exceeding 500 million won.

(2) The Fair Trade Commission may impose upon an enterpriser involved in practices violating Article 26 (1) 1 a penalty surcharge not exceeding the amount calculated by multiplying the turnover determined by Presidential Decree by ten percent: Provided, That the Fair Trade Commission may a penalty surcharge not exceeding 2 billion won in the absence of the turnover, etc. <Amended by Act No. 11406, Mar. 21, 2012>

(3) The Fair Trade Commission may impose upon an enterpriser involved in practices violating Article 26 (1) 2 through 4 a penalty surcharge not exceeding the amount calculated by multiplying the turnover determined by Presidential Decree by 5 percent: Provided, That the Fair Trade Commission may a penalty surcharge not exceeding 1 billion won in the absence of the turnover, etc. <Newly Inserted by Act No. 11406, Mar. 21, 2012; Act No. 14137, Mar. 29, 2016>

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

CHAPTER VII RESTRICTIONS ON RESALE PRICE MAINTENANCE

Article 29 (Restrictions on Resale Price Maintenance) (1) No enterpriser shall engage in a resale price maintenance: Provided, That this shall not apply where there exist justifiable reasons in terms of the maximum price maintenance preventing the transactions of commodities or services in excess of specified prices. <Amended by Act No. 6371, Jan. 16, 2001 >

(2) The provisions of paragraph (1) shall not apply to literary works prescribed by Presidential Decree, or to those commodities which meet all of the following conditions and have been pre - designated by the Fair Trade Commission as eligible for a resale price maintenance:

1. The uniformness in quality of the relevant commodity shall be easily identified;
2. The relevant commodity shall be used daily by ordinary customers;
3. Free competition shall exist with respect to the relevant commodity.

(3) Where an enterpriser desires to be so designated as provided for in paragraph (2), he/she shall apply to the Fair Trade Commission, as prescribed by Presidential Decree.

(4) The Fair Trade Commission shall make it public whenever it designates a commodity as being eligible for resale price maintenance under paragraph (2).

Article 30 (Modification of Resale Price Maintenance)

Where an enterpriser who produces or sells a commodity which the Fair Trade Commission designates and makes public under Article 29 (4) concludes a contract in order to determine the resale price of the said commodity and maintain the said price, and the contract is likely to cause serious injury to the interests of consumers, the Fair Trade Commission may order modification of the terms of the contract.

<Amended by Act No. 8631, Aug. 3, 2007 >

[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]

Article 31 (Corrective Measures)

The Fair Trade Commission may, when there exists an act in violation of Article 29 (1), order the enterpriser concerned to discontinue the said act, to publish the fact that the enterpriser is ordered to take corrective measures or to take other

necessary corrective measures against the said act. <Amended by Act No. 5235, Dec. 30, 1996; Act No. 7315, Dec. 31, 2004>

Article 31 - 2 (Penalty Surcharges)

In cases of a resale price maintenance in violation of Article 29, the Fair Trade Commission may impose upon the enterpriser concerned a penalty surcharge not exceeding the amount obtained by multiplying the turnover determined by Presidential Decree by 2/100: Provided, That in cases of an absence of the turnover, etc., a penalty surcharge of not exceeding 500 million won may be imposed.

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

CHAPTER IX ENFORCEMENT AGENCY

CHAPTER VIII (Articles 32 through 34 - 2) Deleted.

Article 35 (Establishment of Fair Trade Commission) (1) The Fair Trade Commission shall be established under the jurisdiction of the Prime Minister for the purpose of independently performing the objectives of this Act.

(2) The Fair Trade Commission shall carry out its functions as one of the central administrative agencies pursuant to Article 2 of the Government Organization Act. <Amended by Act No. 8631, Aug. 3, 2007 >

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

Article 36 (Matters under Jurisdiction of Fair Trade Commission)

Matters under the jurisdiction of the Fair Trade Commission are as follows:

1. Matters relating to regulating the abuse of market - dominating positions;
2. Matters relating to restricting the combination of enterprises and preventing the concentration of economic power;
3. Matters relating to regulating unfair collaborative acts and anti - competitive practices on the part of enterprisers' organizations;
4. Matters relating to regulating unfair trade practices and resale price maintenance;
5. Deleted; <by Act No. 14137, Mar. 29, 2016 >
6. Matters relating to competition - facilitating policies through consultation, coordination with respect to competition - restricting Acts and subordinate statutes and administrative measures;

7. Other matters prescribed as under the jurisdiction of the Fair Trade Commission in accordance with any other Act or subordinate statute.

Article 36 - 2 (International Cooperation of Fair Trade Commission) (1) The Government may conclude treaties with foreign governments within the scope of not violating Acts and not infringing on interests of the Republic of Korea in order to enforce this Act.

(2) The Fair Trade Commission may assist foreign governments in enforcing Acts according to the treaties concluded pursuant to paragraph (1).

(3) Where any foreign government with which any treaty is not concluded pursuant to paragraph (1) asks for the Government's assistance in the enforcement of Acts on the condition that the former complies with the request of the Republic of Korea's assistance in the enforcement of Acts on the same or similar matters, the Fair Trade Commission may assist the foreign country in the enforcement of Acts.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

Article 37 (Organization, etc. of Fair Trade Commission) (1) The Fair Trade Commission shall be comprised of nine commissioners, including a chairman and a vice - chairman, and four commissioners of them shall be non - standing members of the Fair Trade Commission. <Amended by Act No. 5235, Dec. 30, 1996 >

(2) The standing and non - standing commissioners of the Fair Trade Commission (hereinafter referred to as "commissioners") shall be appointed or commissioned by the President from among the following persons who have experience or knowledge specialized in the field of monopoly regulation, fair trade, or consumerism: the chairman and vice - chairman shall be appointed upon the recommendation of the Prime Minister; and the other commissioners shall be appointed or commissioned upon the recommendation of the chairman. In such cases, the chairperson shall undergo a hearing held by the National Assembly: <Amended by Act No. 4831, Dec. 23, 1994; Act No. 7796, Dec. 29, 2005; Act No. 8631, Aug. 3, 2007; Act No. 11406, Mar. 21, 2012; Act No. 13450, Jul. 24, 2015 >

1. Any person who has served as a public official of Grade II or higher (including a public official in general service belonging to the Senior Civil Service);
2. Any person who has careers as a judge, prosecutor or attorney for 15 or more years;

3. Any person who has majored in the studies related to law, economics, business administration or consumerism, and has served for 15 or more years at a university or publicly authorized research institute as an associate professor or higher or a position corresponding thereto;

4. Any person who has served in the field of business management and consumer protection activities for 15 or more years.

(3) The chairman and the vice - chairman shall be deemed political appointees, while the other standing commissioners shall be deemed public officials in general service belonging to the Senior Civil Service Corps in a fixed term position under Article 26 - 5 of the State Public Officials Act. <Amended by Act No. 7796, Dec. 29, 2005; Act No. 13450, Jul. 24, 2015 >

(4) The chairman, the vice - chairman, and the head of the Secretariat under Article 47 shall be an executive representative, despite the provisions of Article 10 of the Government Organization Act. <Newly Inserted by Act No. 5235, Dec. 30, 1996; Act No. 5529, Feb. 28, 1998; Act No. 8631, Aug. 3, 2007 >

Article 37 - 2 (Types of Meetings)

Meetings of the Fair Trade Commission shall be categorized as a meeting comprised of all members (hereinafter referred to as "plenary session"), and a meeting comprised of three members including a standing commissioner (hereinafter referred to as "chamber").

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 37 - 3 (Subjects of Plenary Session and Chamber) (1) The plenary session shall deliberate and determine the following matters: <Amended by Act No. 6371, Jan. 16, 2001 >

1. Matters as to an interpretation or application of Acts and subordinate statutes, regulations, and public announcement under the jurisdiction of the Fair Trade Commission;

2. Matters as to an appeal under Article 53;

3. Matters on which resolutions have not been made in a chamber, or which a chamber has decided to refer them to the plenary session;

4. Matters necessary to make or reform regulations or public announcement;

5. Matters having substantial economic impacts or those recognized as necessary for being dealt with by the plenary session itself.

(2) A chamber may deliberate or determine matters, other than those falling under each subparagraph of paragraph (1).

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 38 (Chairman) (1) The chairman shall represent the Fair Trade Commission.

(2) The chairman may attend and take the floor at the State Council.

(3) If the chairman is unable to carry out his/her duties due to any accident, the vice - chairman shall act for him/her. If both of the chairman and the vice - chairman are unable to perform their duties due to any accident, standing commissioners shall act for them in the order of seniority. <Amended by Act No. 5813, Feb. 5, 1999 >

Article 39 (Term of Office of Commissioner)

The term of office of the chairman, vice - chairman and commissioners shall be three years, and may be renewed only once.<Amended by Act No. 6371, Jan. 16, 2001 >

Article 40 (Guarantee of Commissioner's Status)No commissioner shall be removed from office or decommissioned contrary to his/her intention except in any of the following cases: <Amended by Act No. 13450, Jul. 24, 2015 >

1. Where he/she has been sentenced to imprisonment without prison labor or severer;
2. Where he/she becomes incapable of performing his/her duties due to prolonged physical or mental weakness.

Article 41 (Prohibition of Commissioner's Political Activities)No commissioner may enter a political party, or participate in any political activity.

Article 42 (Proceedings and Quorum of Meetings) (1) Proceedings of the plenary session shall be presided over by the chairman, and resolutions shall be passed with the concurrent vote of a majority of all members. <Amended by Act No. 5813, Feb. 5, 1999 >

(2) Proceedings of a chamber shall be presided over by one of the standing members, and resolutions shall be passed with the presence of all members, and by a unanimous vote of the members present.

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

Article 43 (Disclosure of Trial and Resolutions and Confidentiality of Agreement) (1)

The trial and resolution by the Fair Trade Commission shall be disclosed: Provided, That this shall not apply where the Fair Trade Commission deems it necessary to protect trade secrets of an enterpriser or enterprisers' organization.

(2) In principle, the trial of the Fair Trade Commission shall be conducted orally, but may be conducted in written if necessary. <Newly Inserted by Act No. 8631, Aug. 3, 2007 >

(3) The agreement on a resolution for a case by the Fair Trade Commission shall not be disclosed. <Amended by Act No. 8631, Aug. 3, 2007 >

[This Article Wholly Amended by Act No. 5813, Feb. 5, 1999]

Article 43 - 2 (Maintenance of Good Order in Venue of Adjudicatory Proceedings)

The chairman of the plenary session or a chamber is authorized to issue necessary orders to maintain good order in the venue of the adjudicatory proceedings with regard to the parties, those having interest in the result of the proceedings, witnesses, and those attending the venue.

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 44 (Challenge, Discharge, and Withdrawal of Commissioners) (1) Any

commissioner may be challenged with regard to deliberation or resolution of cases falling under any of the following subparagraphs: <Amended by Act No. 7315, Dec. 31, 2004 >

1. Where the challenged commissioner himself/herself, his/her spouse or ex - spouse is one of the parties, or has rights or liabilities held jointly with other persons;
2. Where the challenged commissioner has a relationship of affinity with one of the parties, or he/she or a corporation to which he/she belongs is involved in advisory or consulting services as to legal or managerial matters of one of the parties;
3. Where the challenged commissioner or a corporation to which he/she belongs has testified or attested;
4. Where the challenged commissioner or a corporation to which he/she belongs has acted or is acting as an agent of one of the parties;

5. Where the challenged commissioner or a corporation to which he/she belongs has participated in any act or its omission which have been subject matter of cases;

6. Where anyone who is a public official belonging to the Fair Trade Commission investigates or examines the relevant case.

(2) One of the parties may apply for the discharge of commissioner, where it appears to him/her to be impossible that deliberations or resolutions maybe made on fair terms. An application for the discharge of commissioner shall be determined by the chairman without any resolutions by the Commission.

(3) A commissioner may withdraw himself/herself from the deliberation and resolution of cases before him/her, where he/she falls under a ground referred to in any subparagraph of paragraph (1) or under a ground referred to in paragraph (2).

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

Article 45 (Preparation and Correction of Written Decision) (1) Where the Fair Trade Commission makes a decision on matters violating the provisions of this Act, it shall make a written decision specifying the reason thereof, and such written decision shall be signed and sealed by the commissioners who have participated in the decision. <Amended by Act No. 5813, Feb. 5, 1999>

(2) When it is evident that there are errors in writing, miscalculation, or other similar mistakes in the written decision, etc., the Fair Trade Commission may correct them upon application or ex officio. <Newly Inserted by Act No. 8631, Aug. 3, 2007>

Article 46 (Timing of Decision on Practices Violating Provisions of this Act)

When the Fair Trade Commission passes a resolution on matters violating the provisions of this Act, it shall make a decision based on the facts which take place to the date a trial is concluded on such matters.

[This Article Newly Inserted by Act No. 11406, Mar. 21, 2012]

Article 47 (Establishment of Secretariat)

The Secretariat shall be established in the Fair Trade Commission to carrying out the affairs of the Fair Trade Commission.

Article 48 (Provisions concerning Organization) (1) Except as otherwise expressly provided in this Act, matters necessary for the organization of the Fair Trade

Commission shall be prescribed by Presidential Decree.

(2) Except as otherwise expressly provided in this Act, matters necessary for the operation of the Fair Trade Commission shall be prescribed by the Rules of the Fair Trade Commission. <Newly Inserted by Act No. 5235, Dec. 30, 1996 >

CHAPTER IX - 2 ENFORCEMENT AGENCY

Article 48 - 2 (Establishment, etc. of Korea Fair Trade Mediation Agency) (1) The Korea Fair Trade Mediation Agency (hereinafter referred to as "Mediation Agency") shall be established to perform the following duties: <Amended by Act No. 11406, Mar. 21, 2012 >

1. Mediation of disputes regarding acts under suspicion of violation of Article 23 (1);
2. Mediation of disputes in which other Acts have the Mediation Agency take charge;
3. Research and analyses of the trend of markets or industries and fair competition;
4. Research and analyses of transaction practices of enterprisers;
5. Other business entrusted by the Fair Trade Commission.

(2) The Mediation Agency shall be a corporation.

(3) The president of the Mediation Agency shall be appointed by the chairman of the Fair Trade Commission from among persons falling under any subparagraph of Article 37 (2).

(4) The Government may contribute or subsidize expenses incurred in the establishment and operation of the Mediation Agency within budgetary limits.

(5) The provisions regarding incorporated foundations in the Civil Act shall apply mutatis mutandis to matters regarding the Mediation Agency, except as otherwise expressly prescribed by this Act.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 48 - 3 (Establishment and Organization of Fair Trade Dispute Mediation Council)

(1) In order to mediate disputes regarding acts under suspicion of violation of Article 23 (1), the Fair Trade Dispute Mediation Council (hereinafter referred to as "Council") shall be established within the Mediation Agency.

(2) The Council shall be comprised of no more than seven members, including one chairperson.

(3) The president of the Mediation Agency shall also hold the position of the chairperson of the Council.

(4) Members of the Council shall be appointed or entrusted by the chairman of the Fair Trade Commission on the recommendation of the president of the Mediation Agency from among the following persons who have experience in and specialized knowledge about the field of monopoly regulation, fair trade or consumerism. In such cases, at least one of the following persons shall be included therein:

1. A person who has been in the position of a public official meeting the requirements prescribed by Presidential Decree;
2. A person who has been in the position of a judge, prosecutor, or attorney for at least the period prescribed by Presidential Decree;
3. A person who has majored in the studies related to law, economics, business administration or consumerism, and has served for at least the period prescribed by Presidential Decree at a university or publicly authorized research institute as an associate professor or higher or a position corresponding thereto;
4. A person who has a past career in business administration or consumer protection activities for at least the period prescribed by Presidential Decree.

(5) The term of office of a member of the Council shall be three years and reappointment is allowed.

(6) When there is a vacancy in any member of the Council, a substitute member shall be appointed pursuant to paragraph (4) and the term of office of the substitute member shall be the period remaining on his/her predecessor's term.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 48 - 4 (Meetings of Council) (1) The chairperson of the Council shall call a meeting of the Council and chair the meeting.

(2) The Council shall start deliberation with the attendance of a majority of the members enrolled, and pass a resolution with the approval of a majority of the members present.

(3) When the chairperson of the Council is unable to fulfill his/her duties due to an accident, the member of the Council designated by the chairman of the Fair Trade

Commission shall conduct the duty as proxy.

(4) Enterprisers who are parties to a dispute which has become the subject matter of mediation (hereinafter referred to as "party to a dispute") may attend the Council and express his/her opinion.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 48 - 5 (Exclusion, Challenge and Withdrawal of Members of Council) (1) Where a member of the Council falls under any of the following subparagraphs, he/she shall be excluded from mediating the relevant disputed matters:

1. Where a member of the Council, his/her spouse or ex - spouse becomes a party to dispute of the matters of mediation of dispute, or is in the relationship of holder of mutual right or of responsible person;
2. Where a member of the Council is, or used to be, a relative of the party to dispute of the matters of mediation of dispute:
3. Where a member of the Council or a juristic person to which a member of the Council belongs is conducting the role of adviser or counsel on the law, management, etc.;
4. Where a member of the Council or a juristic person to which a member of the Council belongs participates, or used to participate, in the matters of mediation of dispute as an agent of party to dispute, and has testified or attested.

(2) When there are circumstances under which it is difficult to ensure fairness in the mediation of the Council, a party to dispute may apply for challenge of the member to the Council.

(3) Where a member of the Council falls under the causes prescribed in paragraph (1) or (2), he/she may withdraw himself/herself from mediating the relevant disputed matters.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 48 - 6 (Filing Applications, etc. for Mediation) (1) An enterpriser who has suffered a loss due to an act under suspicion of violation of Article 23 (1) may apply for mediation by submitting a document (hereinafter referred to as "application for mediation of a dispute") stating the matters prescribed by Presidential Decree to the Fair Trade Commission or the Council: Provided, That this shall not apply in any of the following cases:

1. Where it is appropriate to handle in accordance with Article 24 or 51 in consideration of the details, nature, degree, etc. of the act under the suspicion of violation, which meets the criteria prescribed by Presidential Decree;
2. A case under investigation by the Fair Trade Commission pursuant to Article 49 before an application for mediation of the dispute is filed.
 - (2) Upon receipt of an application for mediation of a dispute filed under paragraph (1), the Fair Trade Commission shall examine whether it corresponds to an act or case provided in the subparagraphs of paragraph (1) and notify the Council of its review opinion along with the application for mediation of the dispute within the period prescribed by Presidential Decree from the date of receipt thereof.
 - (3) Upon receipt of an application for mediation of a dispute filed under paragraph (1) or (2), the Council shall immediately notify the Fair Trade Commission or parties to the dispute of the fact that it has received the application, as prescribed by Presidential Decree.
 - (4) An application for medication of a dispute filed under paragraph (1) shall have the effect of interrupting the prescription: Provided, That the same shall not apply when the application is withdrawn or rejected. <Newly Inserted by Act No. 14137, Mar. 29, 2016 >
 - (5) Where a judicial claim is made, bankruptcy procedures commence, seizure or provisional seizure, or provisional disposition occurs within six months in any case falling under the proviso to paragraph (4), the prescription shall be deemed interrupted by the initial application for mediation of a dispute. <Newly Inserted by Act No. 14137, Mar. 29, 2016 >
 - (6) The prescription interrupted under the main sentence of paragraph (4) shall begin to run anew in any of the following cases: <Newly Inserted by Act No. 14137, Mar. 29, 2016 >
 1. Where a mediation docket is prepared after the dispute is successfully mediated;
 2. Where mediation proceedings are terminated upon failure to mediate the dispute.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 48 - 7 (Mediation, Etc.) (1) The Council may advise to agree with each other on their own, or may prepare a mediation proposal and suggest the mediation proposal to parties to dispute.

(2) Where necessary to verify the fact regarding the subject matter of the relevant dispute, the Council may conduct an investigation or request the parties to such dispute to submit relevant data or to appear.

(3) The Council shall reject an application for mediation for an act or a case provided in the subparagraphs of Article 48 - 6 (1). The same shall apply to a dispute notified by the Fair Trade Commission as falling under an act or case provided in the subparagraphs of Article 48 - 6 (1).

(4) The Council shall terminate mediation procedures in any of the following cases:
<Amended by Act No. 14137, Mar. 29, 2016 >

1. Where parties to a dispute have accepted the recommendation or mediation proposal made by the Council; have mediated on their own accord; or have successfully mediated the dispute otherwise;

2. Where parties to a dispute fails to reach an agreement through mediation until after the lapse of 60 days (90 days, if both contending parties to have agreed to extend the period) from the date on which it has received an application for mediation of the dispute under Article 48 - 6 (1) or a notification from Fair Trade Commission under paragraph (2) of the same Article;

3. Where there is no practical benefit in proceeding with mediation procedures because either of the contending parties refuses mediation, or files a lawsuit of the subject matter of the dispute to a court, etc.

(5) Upon rejecting an application for mediation or terminating mediation procedures, the Council shall file a written report stating the progress of mediation, grounds for rejecting the application for mediation or for terminating mediation procedures, etc. with the Fair Trade Commission without delay, and shall notify the contending parties of the fact, as prescribed by Presidential Decree.

(6) The Fair Trade Commission shall not take any corrective measure pursuant to Article 24 or give any recommendation for correction pursuant to Article 51 (1) to the contending parties until mediation procedures terminate.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 48 - 8 (Preparation of Mediation Docket and Validity thereof) (1) Where the subject matter of a dispute is successfully mediated, the Council shall prepare a mediation docket in which members who have participated in the mediation and

contending parties to a dispute have place their signatures and seals. <Amended by Act No. 14137, Mar. 29, 2016 >

(2) Where contending parties mediate the subject matter of a dispute on their own accord and request the Council to prepare a mediation docket before it commences mediation procedures, the Council shall prepare the mediation docket. <Amended by Act No. 14137, Mar. 29, 2016 >

(3) Parties to a dispute shall implement an agreement reached through mediation and submit the outcomes of implementation to the Fair Trade Commission.

(4) Where parties to a dispute has reached an agreement pursuant to paragraph (1) and they have implemented the agreement, the Fair Trade Commission need not take any corrective measure pursuant to Article 24 and give a recommendation for correction pursuant to Article 51 (1).

(5) A mediation docket prepared pursuant to paragraph (1) or (2) shall be have the same effect as a court settlement. <Newly Inserted by Act No. 14137, Mar. 29, 2016 >

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

Article 48 - 9 (Organization, Operation, etc. of Council)

Except as expressly prescribed by Articles 48 - 3 through 48 - 8, matters necessary for the organization, operation, mediation procedures, etc. of the Council shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

CHAPTER X INVESTIGATION PROCEDURES AND OTHER RELATED MATTERS

Article 49 (Identification, Reporting, etc. of Violations) (1) The Fair Trade

Commission deems that a suspicion of violating the provisions of this Act exists, it may conduct a necessary investigation ex officio. <Amended by Act No. 6371, Jan. 16, 2001 >

(2) If any person recognizes the existence of a fact violating the provisions of this Act, he/she may report such fact to the Fair Trade Commission.

(3) Where the Fair Trade Commission has conducted an investigation under paragraph (1) or (2), it shall give notice, in writing, to the relevant parties, with

regard to the outcomes of the investigation (including the details of measures, if corrective measures, etc. are intended to be taken as a result of such investigation).

<Newly Inserted by Act No. 5235, Dec. 30, 1996 >

(4) If the following periods have passed, the Fair Trade Commission shall not issue orders for corrective measures or impose any penalty surcharge prescribed by this Act, against any violation of the provisions of this Act: Provided, That the foregoing shall not apply where the corrective measures or the imposition of penalty surcharges are revoked by a court ruling and a new disposition is made based on the grounds for such ruling. <Amended by Act No. 11406, Mar. 21, 2012 >

1. When the Fair Trade Commission commences an investigation on a violation of the provisions of this Act, five years from the date of commencement;
2. When the Fair Trade Commission does not commence an investigation on a violation of the provisions of this Act, seven years from the date of ending such act.

Article 50 (Investigations, etc. of Violations) (1) The Fair Trade Commission may, if deemed necessary for the enforcement of this Act, take the following measures, as prescribed by Presidential Decree:

1. Summons of the relevant parties, interested parties, or witnesses to a hearing and seeking their opinions;
2. Designation of an appraiser and entrustment of appraisal;
3. Issuance of an order to an enterpriser, an enterprisers' organization, an executive or employee thereof for a report on the cost and business situation or for the presentation of other necessary materials or things, or detention of presented materials or things.

(2) The Fair Trade Commission may, if deemed necessary for the enforcement of this Act, have an affiliated public official (including those under the jurisdiction of an agency as entrusted under Article 65) access the office or place of business of enterprisers or their organizations in order to examine the business and management situation, account books, documents, electronic materials, voice - recording materials, video materials and other materials or things prescribed by Presidential Decree, and hear statements from the relevant parties, interested parties or witnesses at a designated place, as prescribed by Presidential Decree. <Amended by Act No. 5235,

Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001 >

(3) Any public official who conducts an examination under paragraph (2), may order enterprisers or their organizations or executives and employees thereof to submit materials or things necessary for such examination, or detain the materials or things submitted, as prescribed by Presidential Decree.

(4) Any public official who conducts an examination under paragraph (2), shall produce to a party interested a certificate indicating his/her authority.

(5) In cases where it is deemed impossible to confirm unlawful practices if not through information or data pertaining to financial transactions (hereinafter referred to as "information pertaining to financial transactions") in connection with the investigation of a person under considerable suspicion of having done an act to remove the application of Article 9 (1) in violation of Article 15, or where it is deemed impossible to confirm whether funds have been supported without through information or data pertaining to financial transactions in connection with the investigation of a company liable to publish its insider trading under considerable suspicion of violating Article 23 (1) 7, the Fair Trade Commission may request the head of the specific branch of any financial institution to submit information pertaining to his/her branch's financial transactions by means of a document stating the following matters after undergoing a resolution thereon by a meeting provided for in Article 37 - 3, notwithstanding Article 4 of the Act on Real Name Financial Transactions and Confidentiality and the head of the specific branch shall comply with the request: <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009 >

1. Personal information of traders;
2. The term of trade subject to the request;
3. The legal basis of the request;
4. The purposes of using the information;
5. Details of information pertaining to financial transactions that is requested (limited to the information pertaining to the financial transactions involving an act evading or circumventing application of the provisions of Article 9 or an illegal loaning with the financial institution of the person who is suspected of being involved in the act evading or circumventing application of the provisions of Article 9 or the illegal loaning);

6. Personal information, such as names and positions of persons in charge of making the request or persons responsible for making the request in the agency.

(6) The request for submitting financial transaction information referred to in paragraph (5) shall be limited to the minimum needed for the investigation. <Newly Inserted by Act No. 7315, Dec. 31, 2004 >

(7) In cases where any financial institution furnishes the Fair Trade Commission with financial transaction information pursuant to paragraph (5), the relevant financial institution shall notify in writing the relevant trader of major details of the furnished information pertaining to the financial transactions, the purpose of using the information, the person who is furnished with the information and the date on which the information is furnished within ten days from the date on which the information pertaining to the financial transactions is furnished. In such cases, the provisions of Article 4 - 2 (4) of the Act on Real Name Financial Transactions and Confidentiality shall apply mutatis mutandis to expenses incurred in the notification. <Newly Inserted by Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007 >

(8) In cases where the Fair Trade Commission requests any financial institution to furnish financial transaction information pursuant to paragraph (5), it shall enter the fact in its record book and keep the record book for three years from the date on which it requests the financial institution to furnish the financial transaction information. <Newly Inserted by Act No. 7315, Dec. 31, 2004 >

(9) Anyone who is furnished with financial transaction information pursuant to paragraph (5) shall be prohibited from furnishing any other person with it, leaking it to any other person or using it for other purposes. <Newly Inserted by Act No. 7315, Dec. 31, 2004 >

Article 50 - 2 (Prohibition on Abusing Investigation Authority)

Public officials in charge of the investigation shall conduct their investigations within the necessary minimum limit in order to enforce this Act and they shall be prohibited from abusing their investigation authority for any other purpose, etc.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

Article 50 - 3 (Application for Postponing Investigation, etc.) (1) In cases where any enterpriser or any enterprisers' organization who or that is subjected to a disposition or an investigation by the Fair Trade Commission pursuant to Article 50 (1) through

(3) is difficult to implement such disposition or undergo the investigation on the grounds of natural disaster or other grounds prescribed by Presidential Decree, the enterpriser or the enterprisers' organization may apply the Fair Trade Commission to postpone implementing such disposition and conducting such investigation, as prescribed by Presidential Decree.

(2) The Fair Trade Commission shall, when it receives an application for postponing the disposition and investigation under paragraph (1), examine the grounds of such application and if the grounds thereof are recognized as being reasonable, it may postpone the disposition and the investigation.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

Article 51 (Recommendation for Correction of Violation) (1) If a violation of this Act has occurred, the Fair Trade Commission may determine a scheme for correction and recommend that the enterpriser or enterprisers' organization concerned comply with it.

(2) Any person who has been recommended under paragraph (1), shall notify the Fair Trade Commission within ten days of receipt of the notice of recommendation for correction, as to whether or not he/she accepts the recommendation. <Amended by Act No. 5235, Dec. 30, 1996 >

(3) If a person, upon receipt of a recommendation for correction under paragraph (1), accepts the recommendation, it shall be considered that an order to take corrective measures has been issued under this Act. <Amended by Act No. 5235, Dec. 30, 1996 >

Article 51 - 2 (Resolution of Agreement) (1) An enterprise or enterprisers' organization that is under investigation or deliberation of the Fair Trade Commission (hereafter referred to as "applicant" in this Article to Article 51 - 5) may file, with the Fair Trade Commission, an application of a resolution of agreement under paragraph (3) for voluntary correction of anti - competitive status quo arising from activities subject to the relevant investigation or deliberation (hereafter referred to as "relevant activities" in this Article to Article 51 - 5), relief of damages to consumers, improvement of transaction order: Provided, That where the relevant activities fall under any of the following subparagraphs, the Fair Trade Commission shall not make the resolution of agreement and follow the procedures for deliberation

under this Act:

1. Where the relevant activities are violated activities under Article 19 (Prohibition of Unfair Collaborative Acts) (1);
2. Where any prosecution requirement under Article 71 (Filing of Complaint) (2) exists;
3. Where the applicant cancels the application before the resolution of agreement.

(2) An applicant shall file an application under paragraph (1) with a written statement indicating the following matters:

1. Fact relevance specifying the relevant activities;
2. Measures for correction in order to restore competition order or transaction order, such as the suspension of the relevant activities, restoration to the original state, etc.;
3. Measures for correction necessary to relieve or prevent damages to consumers, other enterprisers, etc.

(3) Where the Fair Trade Commission determines, after the investigation of the fact relevance of the relevant activities, that the measures for correction under paragraph (2) 2 and 3 (hereinafter referred to as "measures for correction") meet all the following requirements, it may suspend the procedures for deliberation related to the relevant activities and then make a resolution (hereinafter referred to as "resolution of agreement") with the same purport of the measures for correction. In such cases, it may amend the measures for correction, following the consultation with the applicant:

1. The measures for correction shall be balanced against corrective measures or other sanctions, which are expected when it is judged that the relevant activities violate this Act;
2. It shall be deemed that the measures for correction are appropriate to restore a fair and free competition order or transaction order or protect consumers or other enterprisers.

(4) The resolution of agreement by the Fair Trade Commission shall not mean that it is recognized that the relevant activities violate this Act, and no one shall assert that the relevant activities violate this Act due to the fact that the applicant has receives the resolution of agreement.

[This Article Newly Inserted by Act No. 11119, Dec. 2, 2011]

Article 51 - 3 (Procedures for Resolution of Agreement) (1) The Fair Trade

Commission shall determine whether to commence a procedure for resolution of agreement, taking into account the necessity of swift measures or direct compensation for damage to consumers.

(2) The Fair Trade Commission shall provide an opportunity to present opinions by notifying interested persons, such as applicant, etc., of the following matters or publicly announcing them on the Official Gazette or the Internet homepage of the Fair Trade Commission, by setting the period of not less than 30 days before the resolution of agreement:

1. Overview of the relevant activities;
2. The provisions of relevant Acts and subordinate statutes;
3. Measures for correction (where the measures for correction are amended pursuant to the latter part of Article 51 - 2 (Resolution of Agreement) (3), referring to the measures for correction amended);
4. Other information to help interested persons, such as the applicant, etc., with respect to the relevant activities: Provided, That the information that is inappropriate to disclose due to the protection of business confidentiality or privacy, or public interests shall be excluded herefrom.

(3) The Fair Trade Commission shall notify the head of relevant administrative agencies of the matters under each subparagraph of paragraph (2), and then hear opinions therefrom and consult with the Prosecutor General.

(4) Where the Fair Trade Commission makes or cancels a resolution of agreement, it shall undergo deliberation and resolution following the classifications under Article 37 - 3 (Subjects of Plenary Session and Chamber).

(5) An applicant who receives a resolution of agreement shall submit a plan for implementing the resolution of agreement and the results of implementation to the Fair Trade Commission in accordance with the resolution under paragraph (4).

(6) Other detailed matters, such as methods of preparing written application under Article 51 - 2 (Resolution of Agreement) (2), methods of inquiring about information, procedures for deliberation and resolution shall be prescribed and publicly notified by the Fair Trade Commission.

[This Article Newly Inserted by Act No. 11119, Dec. 2, 2011]

Article 51 - 4 (Cancellation of Resolution of Agreement) (1) The Fair Trade

Commission may cancel a resolution of agreement in any of the following cases:

1. Where measures for correction become inappropriate due to significant changes, etc. of fact relevance, such as market conditions, etc. which are the basis of the resolution of agreement;
2. Where the resolution of agreement is made based on an incomplete or inaccurate information provided by an applicant, or an applicant receives the resolution of agreement by false or illicit means;
3. Where an applicant fails to implement the resolution of agreement without any justifiable ground.

(2) Where a resolution of agreement is cancelled pursuant to paragraph (1) 1, the Fair Trade Commission may make a resolution of agreement again when an applicant files an application of a resolution of agreement pursuant to Article 51 - 2 (1). In such cases, Articles 51 - 2 through 51 - 5 shall apply.

(3) Where a resolution of agreement is cancelled pursuant to paragraph (1) 2 and 3, the Fair Trade Commission may continue the procedures for determination with respect to the relevant activities, which have been suspended pursuant to Article 51 - 2 (3).

[This Article Newly Inserted by Act No. 11119, Dec. 2, 2011]

Article 51 - 5 (Compulsory Performance Money) (1) The Fair Trade Commission may

impose compulsory performance money by not more than two million won per day before the resolution of agreement is implemented or cancelled against a person who fails to implement the resolution of agreement within a considerable period without any justifiable ground.

(2) Article 17 - 3 (Compulsory Performance Money) (2) and (3) shall apply mutatis mutandis to the imposition, payment, collection, refund, etc. of compulsory performance money.

[This Article Newly Inserted by Act No. 11119, Dec. 2, 2011]

Article 52 (Opportunity of Furnishing Explanations) (1) The Fair Trade Commission

shall, before issuing to take corrective measures or levying a penalty surcharge in

response to violations of this Act, provide the parties concerned or interested parties with the opportunity to furnish explanations.

(2) The parties concerned or interested parties may attend meetings of the Fair Trade Commission to furnish explanations or present necessary materials.

Article 52 - 2 (Request for Access to Data)

Any party concerned or interested person may request the Fair Trade Commission to have access to or make a copy of data relating to the measures taken under this Act. In such cases, the Fair Trade Commission shall comply with such request, if deemed necessary for the public interest or a consent is granted by the person providing such data.

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

Article 53 (Appeal) (1) Any party dissatisfied with any measures taken by the Fair Trade Commission pursuant to this Act, may file an appeal stating the grounds therefor with the Fair Trade Commission within 30 days from the receipt of a notification of the said measures. <Amended by Act No. 5813, Feb. 5, 1999 >

(2) The Fair Trade Commission shall make a decision with respect to an appeal under paragraph (1) within 60 days: Provided, That where it is unable to make a decision within such period due to extenuating circumstances, the period may be extended by up to 30 days. <Newly Inserted by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999 >

Article 53 - 2 (Suspension of Enforcement of Orders for Corrective Measures) (1)

Where an appeal under Article 53 (1) has been made by a person against whom corrective measures have been taken by this Act, or where the Fair Trade Commission deems it necessary to prevent irrevocable damage or harm caused by the enforcement of such measures or the continuance of procedures, the Fair Trade Commission may, if requested by one of the parties or ex officio, decide whether to suspend enforcement of such measures or continuance of procedures (hereinafter referred to as "suspension of enforcement").

(2) The Fair Trade Commission may, upon request by one of the parties, or ex officio, revoke a decision with the effect of suspension of enforcement, where the grounds for suspension of enforcement no longer exist after the decision of

suspension of enforcement has been made. <Amended by Act No. 5813, Feb. 5, 1999 >

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 53 - 3 (Service of Documents) (1) The provisions of Articles 14 through 16 of the Administrative Procedures Act shall apply mutatis mutandis to the service of documents. <Amended by Act No. 8631, Aug. 3, 2007 >

(2) Notwithstanding the provisions of paragraph (1), any enterpriser or any enterprisiers' organization that has its domicile, place of business or office (hereinafter referred to as "domicile, etc.") overseas shall be asked to designate a domestic agent on whom any document shall be served. <Amended by Act No. 8631, Aug. 3, 2007 >

(3) Where any enterpriser or any enterprisiers' organization that has to designate a domestic agent pursuant to paragraph (2) fails to designate a domestic agent, paragraph (1) shall apply. <Newly Inserted by Act No. 8631, Aug. 3, 2007 >

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

Article 54 (Institution of Lawsuit) (1) Where a person intends to file a lawsuit against any measure taken by the Fair Trade Commission under this Act, he/she shall do so within 30 days from the date of receiving a notice of disposition or receiving the written decision of the Fair Trade Commission against such appeal. <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6371, Jan. 16, 2001 >

(2) The period referred to in paragraph (1) shall be a peremptory period.

Article 55 (Exclusive Jurisdiction over Lawsuits for Appeals)

The Seoul Appellate Court having jurisdiction over the seat of the Fair Trade Commission shall have exclusive jurisdiction over any lawsuits for appeal cases filed pursuant to Article 54. <Amended by Act No. 5235, Dec. 30, 1996 >

Article 55 - 2 (Procedures for Dealing with Cases, etc.)

Matters necessary for procedures in dealing with cases in violation of this Act shall be determined and announced by the Fair Trade Commission.

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

CHAPTER X - 2 INVESTIGATION PROCEDURES AND OTHER RELATED MATTERS

Article 55 - 3 (Imposition of Penalty Surcharges) (1) In imposing surcharges under this Act, the Fair Trade Commission shall take into account the following matters:

1. The nature and degree of unlawful practices;
2. The duration and frequency of unlawful practices;
3. The amount of benefits, etc. accrued from unlawful practices.

(2) In cases of a merger with a company violating this Act, the Fair Trade Commission may impose a penalty surcharge on a company surviving a merger or established in the course of such merger, on the grounds that unlawful practices conducted by the former have been deemed conducted by the latter.

(3) Where an enterpriser who is a company violating this Act is divided or divided and merged, the Fair Trade Commission may impose and collect a penalty surcharge on the grounds that unlawful practices conducted before the date of division or division and merger of the enterpriser are deemed conducted by any of the following companies: <Newly Inserted by Act No. 11406, Mar. 21, 2012 >

1. The company to be divided;
2. The new company to be established through division or division and merger;
3. Where the part of the company to be divided is merged with another company and then the other company exists, the other company.

(4) When an enterpriser who is a company violating this Act establishes a new company pursuant to Article 215 of the Debtor Rehabilitation and Bankruptcy Act, the Fair Trade Commission may impose and collect a penalty surcharge on the grounds that unlawful practices are deemed conducted by the existing company or the new company. <Newly Inserted by Act No. 11406, Mar. 21, 2012 >

(5) Standards for the imposition of penalty surcharges under paragraph (1) shall be prescribed by Presidential Decree. <Amended by Act No. 5813, Feb. 5, 1999; Act No. 11406, Mar. 21, 2012 >

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 55 - 4 (Extension of Deadlines for Payment of Penalty Surcharges and Payment in Installments) (1) If the Fair Trade Commission deems it impracticable for a

person on whom penalty surcharges have been imposed (hereinafter referred to as "person liable to pay penalty surcharges") to pay the penalty surcharges in lump sum because the sum of the penalty surcharges exceeds the amount determined by Presidential Decree on any of the following grounds, it may extend a deadline for payment of penalty surcharges or allow the person to pay the penalty surcharges in installments. In such cases, security may be required where necessary:

1. Where he/she has sustained a substantial property loss because of a fire, theft, etc.;
2. Where his/her business is at considerable risk because of worsening business conditions;
3. Where lump sum payment of penalty surcharges is likely to bring substantial financial difficulties;
4. Where there exist other grounds equivalent to those referred to in subparagraphs 1 through 3.

(2) A person liable to pay penalty surcharges shall file an application with the Fair Trade Commission within 30 days after receipt a notice of payment of penalty surcharges to apply for an extension of the deadline for payment of penalty surcharges or for payment in installments under paragraph (1). <Amended by Act No. 6651, Jan. 26, 2002 >

(3) Where a person liable to pay penalty surcharges granted an extension of the deadline for payment of penalty surcharges, or allowed to pay such penalty surcharges in installments under paragraph (1), falls under any of the following cases, the Fair Trade Commission may revoke the decision on the extension of the deadline for payment of penalty surcharges or the payment in installments, and collect such penalty surcharges in lump sum: <Amended by Act No. 13071, Jan. 20, 2015 >

1. Where he/she fails to pay an installment of penalty surcharges;
2. Where he/she fails to comply with an order by the Fair Trade Commission with regard to modification of, or preservation of security;
3. Where it is deemed impossible to collect all or the remaining amount of penalty surcharges on the grounds of forced enforcement, commencement of an auction, declaration of insolvency, dissolution of a corporation, national or local taxes in arrears;

4. Where it is deemed possible for him/her to pay penalty surcharges in lump sum because a ground provided for in paragraph (1) has ceased.

(4) The extension of the deadline for payment of penalty surcharges, or payment in installments pursuant to paragraphs (1) through (3), and other necessary matters shall be determined by Presidential Decree. <Amended by Act No. 5813, Feb. 5, 1999 >

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 55 - 5 (Liability to Jointly Pay Surcharges) (1) Where an enterpriser which is a company on which a penalty surcharge is imposed splits or merges with any other company (including cases where the enterpriser splits or merges with any other company on the date on which the penalty surcharge is imposed), the following companies shall be liable to jointly pay the penalty surcharge:

1. The company that splits;
2. The company that is incorporated through division and merger;
3. Where part of the company that splits and merges with another company that survives, such another company that survives.

(2) Where an enterpriser which is a company on which a penalty surcharge is imposed dissolves on the grounds of division and merger (including cases where the company dissolves on the date on which the penalty surcharge is imposed), the following companies shall be liable to jointly pay the surcharge:

1. The company that is incorporated through division and merger;
2. Where part of the company that splits and merges with another company that survives, such another company that survives.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

Article 55 - 6 (Collection of Penalty Surcharges and Disposition for Deferred Payment)

(1) The Fair Trade Commission shall collect an additional penalty surcharge, as prescribed by Presidential Decree, by taking into account the overdue interest rate of banks provided in Article 2 of the Banking Act within 40 percent per annum for the period from the day following the expiration of a deadline for payment of penalty surcharges to the date of payment inclusive, where the person subject to payment of penalty surcharge fails to pay the penalty surcharge by the deadline for payment. In such cases, the period for collecting the penalty surcharge shall not exceed 60

months. <Amended by Act No. 5813, Feb. 5, 1999; Act No. 7315, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007; Act No. 10303, May 17, 2010; Act No. 11406, Mar. 21, 2012 >

(2) The Fair Trade Commission may, where a person subject to payment of penalty surcharge fails to pay a penalty surcharge within a deadline for payment, give notice with the deadline for payment specified therein and, where original and additional surcharges under paragraph (1) are not paid by the deadline for payment, collect surcharges in the same manner as delinquent national taxes are collected.

(3) The Fair Trade Commission may delegate to the Commissioner of the National Tax Office its affairs relating to the collection of surcharges or additional surcharges, or the procedures for surcharges in arrears under paragraphs (1) and (2).

(4) The Fair Trade Commission may, where deemed necessary for the collection of surcharges in arrears, request the Commissioner of the National Tax Office to furnish the information on the imposition of national taxes on persons who failed to pay the surcharges. <Newly Inserted by Act No. 6371, Jan. 16, 2001 >

(5) The public officials in charge of the affairs of surcharges may, where necessary for the collection of surcharges, request the heads of registry offices and other relevant administrative agencies to allow them to have access to required documents, or to deliver their transcripts or abstracts, without compensation. <Newly Inserted by Act No. 6371, Jan. 16, 2001 >

(6) Matters necessary for the collection of surcharges shall be determined by Presidential Decree.

[This Article Newly Inserted by Act No. 5235, Dec. 30, 1996]

Article 55 - 7 (Additional Payment for Refund of Penalty Surcharges)

Where the Fair Trade Commission refunds a penalty surcharge as a result of a ruling on an appeal or a ruling of the court, it shall make an additional payment for the refund for the period beginning on the date of payment of the penalty surcharge and ending on the date of refund, as prescribed by Presidential Decree: Provided, That where the imposition of a penalty surcharge is revoked as a result of a ruling of the court and a penalty surcharge is newly imposed based on the grounds for the ruling, an additional payment on refund shall be calculated and made for the amount penalty surcharge initially paid, less the penalty surcharge assessed and newly imposed.

<Amended by Act No. 14137, Mar. 29, 2016>

[This Article Newly Inserted by Act No. 6371, Jan. 16, 2001]

Article 55 - 8 (Deficit Disposal) (1) Where a person liable to pay a surcharge, administrative fine or other collection money (hereinafter referred to as "collection money, etc.") pursuant to this Act has a ground falling under any of the following subparagraphs, the Fair Trade Commission may make deficit disposal:

1. Where the amount appropriated to the amount in arrears after delinquency disposition falls short of the amount in arrears;
2. Where negative prescription on right to collect collections, etc. has been completed;
3. Where the delinquent is missing or it became clear that the delinquent does not own assets;
4. Where it was confirmed that the presumed amount of total property which is the object of delinquency disposition leaves no remainder after filling up the disposition fees for arrears;
5. Where it was confirmed that the presumed amount of total property which is the object of delinquency disposition leaves no remainder after filling up the reimbursement of national taxes, local taxes, claims, etc. which took the right to lease of a house on a deposit basis, right of pledge or mortgage as security, which have preference to collection money, etc.;
6. Where the collection money is not likely to be collected, and falls under any ground prescribed by Presidential Decree.

(2) When deficit disposal pursuant to paragraph (1) is intended, local administrative agencies shall be inquired of the whereabouts of the delinquent or whether the delinquent owns assets, and the result shall be confirmed.

(3) When deficit disposal is to be made as it falls under the requirements of paragraph (1) 4 or 5, delinquency disposition shall be suspended and the seizure of property shall be revoked.

(4) When another property which can be seized is found after deficit disposal pursuant to paragraph (1), the Fair Trade Commission shall promptly revoke the deficit disposal and make delinquency disposition: Provided, That this shall not apply where the case falls under paragraph (1) 2.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

CHAPTER XI DAMAGES

Article 56 (Liability for Damages) (1) If an enterpriser or an enterprisers' organization violates the provisions of this Act, and thereby gives a person any damage, he/she or it shall be liable for compensation of such damage to the person: Provided, That the same shall not apply where the enterpriser or the enterprisers' organization verifies that he/she or it violates the provisions of this Act without any deliberation or any negligence. <Amended by Act No. 7315, Dec. 31, 2004 >

(2) Deleted. <by Act No. 7315, Dec. 31, 2004 >

Article 56 - 2 (Transmission of Records)

Where a lawsuit for liability for damages is instituted under Article 56, the court may request the Fair Trade Commission to transmit the records of the particular case (including protocols and stenographic records of examination of persons concerned, references or expert witnesses, or all judicial evidence).

[This Article Newly Inserted by Act No. 5813, Feb. 5, 1999]

Article 57 (Recognition of Damages Amount)

Where it is recognized that damage is caused by the act of violating the provisions of this Act, but it is extremely difficult to verify the fact that is necessary to determine the amount of such damage in light of the character of the fact, the court may recognize a reasonable amount of damage based on the gist of entire arguments and the outcome of investigating evidence.

[This Article Wholly Amended by Act No. 7315, Dec. 31, 2004]

CHAPTER XII EXEMPTIONS

Article 58 (Lawful Acts Conducted Pursuant to Acts and Subordinate Statutes)

This Act shall not apply to lawful acts of an enterpriser or an enterprisers' organization conducted in accordance with other Acts and orders issued under such Acts.

Article 59 (Exercise of Right to Intangible Property)

This Act shall not apply to any act which is deemed the justifiable exercise of the right under the Copyright Act, the Patent Act, the Utility Model Act, the Design Protection Act or the Trademark Act. <Amended by Act No. 7289, Dec. 31, 2004; Act No. 8631, Aug. 3, 2007 >

Article 60 (Acts of Specified Associations)

This Act shall not apply to any acts of an association established by satisfying the following requirements (including a federation of associations): Provided, That this shall not apply to unfair trade practices or price hikes by restricting unfairly competition: <Amended by Act No. 5813, Feb. 5, 1999 >

1. It shall aim at mutual aid among small - sized enterprisers or consumers;
2. It shall be established voluntarily, and its members may enter and withdraw voluntarily;
3. Each member shall have an equal voting right;
4. Where profits are distributed to members, the limit thereof shall be determined by the articles of incorporation.

Article 61 Deleted. <by Act No. 5235, Dec. 30, 1996 >

CHAPTER XIII SUPPLEMENTARY PROVISIONS

Article 62 (Duty to Preserve Confidentiality) No commissioner, public official who performs or has performed his/her duties under this Act, or no one in the Council who is, or used to be, in charge of mediation of dispute shall divulge any confidential information of an enterpriser or an enterprisers' organization which he/she has learned in the course of carrying out his/her duties, or use it for the purpose, other than to enforce this Act. <Amended by Act No. 8631, Aug. 3, 2007 >

Article 63 (Consultation on Enactment of Acts and Subordinate Statutes which Restrain Competition) (1) The head of the competent administrative agency shall seek prior consultation with the Fair Trade Commission, where he/she wishes to propose legislation or an amendment of enactments containing anti - competitive factors, such as the restrictions on the fixing of prices or the terms of transaction, entry to

markets, or business practices, unfair collaborative acts, prohibited practices of an enterpriser or an enterprisers' organization, etc. and where he/she wishes to grant approval or other measures containing anti - competitive factors against an enterpriser or an enterprisers' organization.

(2) The head of the competent administrative agency shall give advance notice to the Fair Trade Commission, where he/she intends to enact or amend any rules or regulations containing anti - competitive factors.

(3) In cases of approval or other measures containing anti - competitive factors under paragraph (1), the head of the competent administrative agency shall give notice to the Fair Trade Commission with regard to the details of the approval concerned or other measures.

(4) In relation to notice under paragraph (2), in cases where it is recognized that rules or regulations to be enacted or amended contain anticompetitive factors, the Fair Trade Commission may give advice to the head of the competent administrative agency as to the rectification of such anti - competitive factors. This shall also apply to Acts and subordinate statutes enacted or amended without consultation prescribed by paragraph (1), rules or regulations enacted or amended without notice, approval or other measures made without notice.

[This Article Wholly Amended by Act No. 5235, Dec. 30, 1996]

Article 64 (Cooperation from Heads of Competent Agencies, etc.) (1) If deemed necessary for the enforcement of this Act, the Fair Trade Commission may hear the opinions of the heads of competent administrative agencies, other authorities, or associations. <Amended by Act No. 5235, Dec. 30, 1996 >

(2) If deemed necessary for the enforcement of this Act, the Fair Trade Commission may entrust the heads of competent administrative agencies, other authorities, or associations with any necessary investigation, or request necessary materials. <Amended by Act No. 5235, Dec. 30, 1996 >

(3) If deemed necessary for securing fulfillment of a corrective measure under this Act, the Fair Trade Commission may request any necessary cooperation from the heads of the competent administrative agencies, other authorities, or associations. <Amended by Act No. 5235, Dec. 30, 1996 >

Article 64 - 2 (Payment of Rewards) (1) The Fair Trade Commission may pay a reward to any person who reports or provides information about violations of this Act or submits evidentiary materials of such violations within budgetary limits.

(2) Violations of this Act on which the whistle - blower is entitled to the reward under paragraph (1), the scope of persons entitled to the reward, standards and procedures for paying such reward, and other necessary matters, shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 7315, Dec. 31, 2004]

Article 64 - 3 (Restitution, etc. of Rewards) (1) Where any of the following facts is found after the Fair Trade Commission has paid a reward pursuant to Article 64 - 2 (1), it shall notify a recipient of the reward of an amount to be restituted, and such recipient shall pay the amount within 30 days from receipt of the notification:

1. Where the recipient has received the reward by fraudulent means, such as collecting evidence by unlawful or unfair means, filing a false report or statement, or forging evidence;
2. Where the recipient has received a reward, etc. pursuant to other Act for an identical cause;
3. Where a reward has been erroneously paid by mistake or by any other reason.

(2) Where a person obligated to retribute a reward pursuant to paragraph (1) fails to do so by the payment deadline, the Fair Trade Commission may collect the amount in the same manner as delinquent national taxes are collected.

[This Article Newly Inserted by Act No. 13071, Jan. 20, 2015]

Article 65 (Delegation and Entrustment of Authority)

The Fair Trade Commission may partially delegate his/her authority as prescribed by this Act to the head of an agency under his/her control, Special Metropolitan City Mayor, Metropolitan City Mayor, or Do Governor, or entrust it to the head of another administrative agency, as prescribed by Presidential Decree. <Amended by Act No. 5235, Dec. 30, 1996 >

Article 65 - 2 (Legal Fiction of Public Official in Application of Penalty Provisions) (1)

A commissioner who is not a public official from among the commissioners of the Fair Trade Commission shall be deemed a public official for the purposes of penalty

provisions under the Criminal Act or other Acts.

(2) A person who is, or used to be, in charge of mediation of disputes pursuant to Articles 48 - 3 through 48 - 9 shall be deemed a public official for the purposes of penalty provisions under Articles 129 through 132 of the Criminal Act.

[This Article Newly Inserted by Act No. 8631, Aug. 3, 2007]

CHAPTER XIV PENALTY PROVISIONS

Article 66 (Penalty Provisions) (1) Any of the following persons shall be punished by imprisonment for up to three years, or by a fine not exceeding 200 million won:

<Amended by Act No. 4513, Dec. 8, 1992; Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009; Act No. 11406, Mar. 21, 2012; Act No. 12095, Aug. 13, 2013; Act No. 12334, Jan. 24, 2014; Act No. 12708, May 28, 2014>

1. Any person who does an abusive act in violation of Article 3 - 2;
2. Any person who combines enterprises in violation of the main body of Article 7 (1);
3. Any person who violates Article 8 - 2 (2) through (5);
4. Any person who establishes a holding company or converts a company into a holding company in violation of Article 8 - 3;
5. Any person who acquires or owns stocks in violation of Article 9 or 9 - 2;
6. Any person who guarantees a debt in violation of Article 10 - 2 (1);
7. Any person who exercises his/her voting right in violation of Article 11 or 18;
8. Any person who engages in unlawful practices in violation of Article 15;
9. Any person who does or induces an unfair collaborative act in violation of Article 19 (1);
- 9 - 2. Any person who violates Article 23 (1) 7, or 23 - 2 (1) or (4);
- 9 - 3. Any person who violates Article 23 - 3;
10. Any person who engages in prohibited practices of entrepreneurs' organizations in violation of Article 26 (1) 1;

11. Any person who refuses, interferes with or evades an investigation under Article 50 (2) through verbal abuse, assault, deliberated blocking or delay of entering the site.

(2) The punishment of imprisonment and fines referred to in paragraph (1) may be imposed concurrently.

Article 67 (Penalty Provisions)

Any of the following persons shall be punished by imprisonment for not more than 2 years, or by a fine not exceeding 150 million won: <Amended by Act No. 4513, Dec. 8, 1992; Act No. 4790, Dec. 22, 1994; Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6651, Jan. 26, 2002; Act No. 8631, Aug. 3, 2007; Act No. 9554, Mar. 25, 2009; Act No. 12095, Aug. 13, 2013; Act No. 14137, Mar. 29, 2016 >

1. Deleted; <by Act No. 5235, Dec. 30, 1996 >
2. Any person who engages in unfair trade practices in violation of Article 23 (1) (excluding subparagraph 7);
3. Any person who violates any provision of Article 26 (1) 2 through 5;
4. Any person who engages in any act maintaining a resale price in violation of Article 29 (1);
5. Deleted; <by Act No. 14137, Mar. 29, 2016 >
6. Any person who fails to comply with a corrective measure, or a prohibition order, that have been taken or issued under Article 5, 16 (1), 21, 24, 27, 30, or 31;
7. Any person who fails to undergo an audit by a certified public accountant in violation of Article 14 (5).

Article 68 (Penalty Provisions)

Any of the following persons shall be punished by a fine not exceeding 100 million won: <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5813, Feb. 5, 1999; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 8382, Apr. 13, 2007; Act No. 8631, Aug. 3, 2007 >

1. Any person who fails to file a report on the establishment of or conversion into a holding company or files a false report in violation of Article 8;
2. Any person who fails to file a report on the business activities of a holding company, etc., or files a false report in violation of Article 8 - 2 (7);
3. Any person who fails to file a report on the status of the stockholdings or the debt guarantee or files a false report in violation of Article 13 (1) and (2);

4. Any person who refuses to submit data requested under Article 14 (4) without justifiable grounds or submits false data;
5. Any person who files a false appraisal in violation of Article 50 (1) 2;
6. Deleted;<by Act No. 7315, Dec. 31, 2004>
7. Deleted;<by Act No. 4790, Dec. 22, 1994>
8. Deleted.<by Act No. 5813, Feb. 5, 1999>

[This Article Wholly Amended by Act No. 4513, Dec. 8, 1992]

Article 69 (Penalty Provisions) (1) In spite of failing to fall under the requirements provided in Article 50 (5), anyone who asks the head of the specific branch of any financial institution to submit information pertaining to financial transactions by abusing his/her authority or violates paragraph (9) of the same Article shall be punished by imprisonment with prison labor for not more than five years, or by a fine not exceeding 30 million won. <Newly Inserted by Act No. 7315, Dec. 31, 2004>

(2) Anyone who violates Article 62, shall be punished by imprisonment for not more than two years, or by a fine not exceeding two million won. <Amended by Act No. 5235, Dec. 30, 1996>

Article 69 - 2 (Administrative Fines) (1) An enterpriser or enterprisiers' organization shall be punished by an administrative fine not exceeding 100 million won in cases falling under subparagraphs 1 through 6 and 8, and not exceeding 200 million won in cases falling under subparagraph 7, and the executives, employees and other interested parties of a company or enterprisiers' organization shall be punished by an administrative fine not exceeding ten million won in cases falling under subparagraphs 1 through 6 and 8, and of not exceeding 50 million won in cases falling under subparagraph 7: <Amended by Act No. 5235, Dec. 30, 1996; Act No. 5528, Feb. 24, 1998; Act No. 5813, Feb. 5, 1999; Act No. 6043, Dec. 28, 1999; Act No. 6371, Jan. 16, 2001; Act No. 6651, Jan. 26, 2002; Act No. 7315, Dec. 31, 2004; Act No. 9554, Mar. 25, 2009; Act No. 11406, Mar. 21, 2012>

1. In making a publication pursuant to Articles 11 - 2 through 11 - 4, a person who fails to undergo a resolution by the board of directors or fails to make a publication, or a person who omits major details of such publication or made a false publication;
2. A person who fails to file a report on the combination of enterprises under Article 12 (1) or (6) or files a false report or a person who violates paragraph (8) of the

said Article;

3. In relation to a request for documents under Article 14 - 2 (2), a person who fails to submit the documents without justifiable grounds, or submits false documents;

4. Deleted; <by Act No. 9554, Mar. 25, 2009 >

5. A person who fails to attend without justifiable grounds in violation of Article 50 (1) 1;

6. A person who fails to file a report or present necessary materials or things as prescribed in Article 50 (1) 3 or (3), or files a false report or who presents false materials or things;

7. A person who refuses, interferes with or evades an investigation under Article 50 (2) by concealing, destroying, refusing to access to, forging or altering data;

8. A person who refuses to submit the information pertaining to financial transactions required under Article 50 (5).

(2) A person who fails to comply with orders for the maintenance of good order in violation of Article 43 - 2 shall be punished by an administrative fine not exceeding one million won. <Newly Inserted by Act No. 5235, Dec. 30, 1996 >

(3) Administrative fines referred to in paragraph (1) or (2) shall be imposed and collected by the Fair Trade Commission, as prescribed by Presidential Decree. <Amended by Act No. 5335, Dec. 30, 1996 >

(4) through (6) Deleted. <by Act No. 9554, Mar. 25, 2009 >

[This Article Newly Inserted by Act No. 4513, Dec. 8, 1992]

Article 70 (Joint Penalty Provisions)

If the representative of a juristic person (including an unincorporated organization; hereafter the same shall apply in this Article), or an agent, employee or any other person working for a juristic person or individual has committed a violation falling under any of Articles 66 through 68 with respect to duties of the said juristic person or individual, not only shall such violator be punished accordingly, but the juristic person or individual shall be punished by a fine prescribed in the relevant provisions: Provided, That the same shall not apply where the juristic person or individual has not neglected to exercise due diligence and supervision for the relevant duties in order to prevent such violation.

[This Article Wholly Amended by Act No. 9554, Mar. 25, 2009]

- Article 71 (Filing of Complaint)** (1) Any offense as prescribed in Articles 66 and 67 shall be prosecuted by a public action only after a complaint is filed by the Fair Trade Commission. <Amended by Act No. 5235, Dec. 30, 1996>
- (2) The Fair Trade Commission shall file with the Prosecutor General the complaints under Articles 66 and 67 where it is deemed that such violations may substantially hamper competition, because the degree of violations is obvious from an objective point of view and serious. <Newly Inserted by Act No. 5235, Dec. 30, 1996>
- (3) The Prosecutor General may notify the Fair Trade Commission of the existence of facts corresponding to prosecution requirements under paragraph (2), and may request the Fair Trade Commission to file with him/her. <Newly Inserted by Act No. 5235, Dec. 30, 1996>
- (4) Even if the Fair Trade Commission concludes that a case does not fall under the requirements for filing a complaint under paragraph (2), the Chairperson of the Board of Audit and Inspection, the Administrator of the Supply Administration, or the Administrator of Small and Medium Business Administration may request the Fair Trade Commission to file a complaint for other reasons, such as the ripple effect on the society, influence on the national finance, and the degree of the damage caused to small and medium enterprises. <Newly Inserted by Act No. 11937, Jul. 16, 2013>
- (5) Upon receiving a request for filing a complaint under paragraph (3) or (4), the chairperson of the Fair Trade Commission shall file the complaint with the Prosecutor General. <Newly Inserted by Act No. 11937, Jul. 16, 2013>
- (6) The Fair Trade Commission may not withdraw the filing of a complaint after the prosecution has commenced. <Newly Inserted by Act No. 5235, Dec. 30, 1996; by Act No. 11937, Jul. 16, 2013>

[This Article Wholly Amended by Act No. 4513, Dec. 8, 1992]

ADDENDA <No. 4198, 13. Jan, 1990>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 1990.

Article 2 (General Transitional Measures)

(1) Any authorization, approval, recognition, designation, corrective measures, etc. granted or taken by the Minister of Economic Planning Board pursuant to the former provisions as at the time this Act enters into force, shall be deemed authorization, approval, recognition, designation, corrective measures, etc. granted or taken by the Fair Trade Commission under this Act.

(2) Any report, application, or notice filed with or given to the Minister of Economic Planning Board pursuant to the former provisions as at the time this Act enters into force, shall be deemed a report, an application, or notice filed with or given to the Fair Trade Commission under this Act.

(3) Any public announcement made by the Minister of Economic Planning Board pursuant to the former provisions as at the time this Act enters into force, shall be deemed a public announcement made by the Fair Trade Commission under this Act.

Article 3 (Transitional Measures concerning Prohibition of Mutual Contribution)

If a company, which belongs to an enterprise group designated as a conglomerate, and operates finance or insurance business as at the time this Act enters into force, violates Article 9 (1), the provisions of said Article shall not apply to the company for one year from the date this Act enters into force.

Article 4 (Transitional Measures concerning Total Amount of Contributions)

(1) If a company, which belongs to an enterprise group designated as a conglomerate as at the time this Act enters into force or within two years from the date this Act enters into force, and which received a notification as prescribed in Article 14 (1) at the time of designation, has made a contribution in excess of the maximum contribution amount at the time of the notification, the total contribution existing on the date of such notification (hereinafter referred to as "special maximum amount") shall be deemed the maximum contribution amount for two years from the date this Act enters into force for the purposes of Article 10 (1): Provided, That the same shall apply where the maximum contribution amount exceeds the special maximum amount due to an increase of the net assets value, this provision shall not be applicable; and if any period shorter than the period prescribed in Article 14 (3) 2 shall be deemed one year.

(2) If necessary, the Fair Trade Commission may require a company for which the special maximum amount is recognized, to prepare and submit a yearly plan to settle

the excess of the maximum contribution amount.

(3) Notwithstanding Article 10 (1), if a company belonging to a conglomerate owns the stocks of a company, not less than 30 percent of the total outstanding stocks of which is owned by the Government, a local government, or a government - invested institution under the Framework Act on the Management of Government - Invested Institutions as of April 1, 1987 with the approval of the Fair Trade Commission, the company may own such stocks after the expiration of the period specified in paragraph (1). In such cases, the Fair Trade Commission may separately determine the period during which the company may own such stocks.

(4) Notwithstanding Article 10 (1), if a company belonging to a conglomerate owns the stocks issued by a foreign - invested enterprise under the Foreign Capital Inducement Act as of April 1, 1987 with the approval of the Fair Trade Commission, the company may own such stocks for up to three years after the expiration of the period specified in paragraph (1).

Article 5 Omitted.

ADDENDA <No. 4501, 25. Nov, 1992 >

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 8 Omitted.

ADDENDA <No. 4513, 08. Dec, 1992 >

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 1993.

Article 2 (Transitional Measures concerning Total Contribution)

In application of the proviso to Article 10 (1), the revised provisions of subparagraph 5 of the said paragraph shall apply exclusively to stocks to be acquired or owned after this Act enters into force.

Article 3 (Transitional Measures concerning Debt Guarantee)

(1) If a company which belongs to an enterprises group is designated as a large enterprise group subject to limitations on debt guarantee as at the time this Act

enters into force, or within three years after this Act enters into force, and which has received the notification as prescribed in Article 14 (1), has guaranteed any debt in excess of the maximum debt guarantee amount at the time of the notification thereof, the total debt guarantee on the day the notification is made (hereinafter referred to as "special maximum debt guarantee amount") shall, in application of the provisions of Article 10 - 2 (1), be deemed the maximum debt guarantee amount for three years after this Act enters into force: Provided, That this shall not apply where the maximum debt guarantee amount exceeds the special maximum debt guarantee amount due to the increase of the owner's capital.

(2) The Fair Trade Commission may, if necessary, have a company having the special maximum debt guarantee amount recognized under paragraph (1), prepare and submit a yearly plan to solve the excess maximum debt guarantee amount through a consultation with domestic financial institutions.

ADDENDA <No. 4790, 22. Dec, 1994 >

(1) (Enforcement Date) This Act shall enter into force on April 1, 1995.

(2) (Transitional Measures concerning Total Contribution) If a company which belongs to an enterprise group designated as a large enterprise group as at the time this Act enters into force, or within three years after this Act enters into force, and which has received the notification as prescribed in Article 14 (1) at the time of such designation, holds a contribution in excess of the maximum contribution at the time it receives the notification, the total contribution existing on the day it receives the notification (hereinafter referred to as "special ceiling") shall be deemed the ceiling of contribution for three years after this Act enters into force: Provided, That if the ceiling of contribution exceeds the special ceiling due to an increase in the net assets, this shall not apply, and if the period is shorter than that prescribed in the main sentence of Article 14 (3) 2, it shall be one year.

(3) (Applicability) The revised provisions of Article 10 (2) shall apply exclusively to stocks acquired or owned after this Act enters into force.

ADDENDA <No. 4831, 23. Dec, 1994 >

Article 1 (Enforcement Date)

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

Articles 2 through 4 Omitted.

ADDENDA <No. 5235, 30. Dec, 1996 >

(1) (Enforcement Date) This Act shall enter into force on April 1, 1997.

(2) (Transitional Measures concerning Total Amount of Contributions) In applying amended Article 10, where the book value of shares acquired before this Act enters into force is below the purchase price of the shares, the book value of such shares shall be deemed the purchase price of such shares.

(3) (Transitional Measures concerning Debt Guarantees) Where a company belonging to a conglomerate subject to limitations on debt guarantees as at the time this Act enters into force has provided a debt guarantee in total for its domestic affiliated companies as at the time this Act enters into force in excess of the maximum debt guarantee prescribed by amended Article 10 - 2 (1), the aggregate debt guarantee shall be deemed the maximum debt guarantee for that company until March 31, 1998: Provided, That the same shall not apply where the aggregate debt guarantee has exceeded the maximum debt guarantee for the company due to an increase in its own equity.

(4) (Transitional Measures concerning Penalty Provisions) The application of the penalty provisions to any act committed before this Act enters into force shall be governed by the former provisions.

ADDENDA <No. 5403, 30. Aug, 1997 >

Article 1 (Enforcement Date)

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

Articles 2 through 8 Omitted.

ADDENDA <No. 5454, 13. Dec, 1997 >

This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

ADDENDA <No. 5491, 31. Dec, 1997 >

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 1998.

Articles 2 through 8 Omitted.

ADDENDA <No. 5498, 08. Jan, 1998 >

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 1998. (Proviso Omitted.)

Articles 2 through 15 Omitted.

ADDENDA <No. 5503, 13. Jan, 1998 >

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 1998. (Proviso Omitted.)

Articles 2 through 12 Omitted.

ADDENDA <No. 5528, 24. Feb, 1998 >

(1) (Enforcement Date) This Act shall enter into force on April 1, 1998: Provided, That the amended provisions of Article 10 shall enter into force on the date of its promulgation.

(2) (Transitional Measures on Debt Guarantee) If the total debt guarantees for domestic affiliated companies which a company belonging to an enterprise group designated in the year 1998 as a large enterprise group subject to the limitations on debt guarantee, which was designated in the year 1997, guarantees for domestic affiliated companies at the time of its designation, exceed the limitations on debt guarantee pursuant to the previous provisions of Article 10 - 2 (1), the previous provisions shall apply: Provided, That the period exceptionally recognized pursuant to the decrease of shareholder's equity referred to in the previous provisions of

Article 10 - 2 (4) shall not expire on or before March 31, 2000.

ADDENDA <No. 5529, 28. Feb, 1998 >

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

ADDENDA <No. 5559, 16. Sep, 1998 >

Article 1 (Enforcement Date)

This Act shall enter into force two months after the date of its promulgation.

Articles 2 through 9 Omitted.

ADDENDA <No. 5813, 05. Feb, 1999 >

(1) (Enforcement Date) This Act shall enter into force on April 1, 1999: Provided, That amended Article 50 (5), (6), (7) and (8), subparagraph 6 of Article 68, Articles 69 (1) and 69 - 2 (1) 7 shall enter into force on the date of its promulgation.

(2) (Term of Validity) Amended Article 50 (5), (6), (7) and (8), subparagraph 6 of Article 68, Articles 69 (1) and 69 - 2 (1) 7 shall remain in force for five years from the date of promulgation of this Act. <Amended by Act No. 6371, Jan. 16, 2001 >

(3) (Transitional Measures following Expiration of Term of Validity) The application of the penalty provisions or administrative fines to any act committed before the term of validity specified in paragraph (2) expires shall be governed by the former provisions.

(4) (Transitional Measures concerning Penalty Provisions) The application of the penalty provisions to any act committed before this Act enters into force shall be governed by the former provisions.

ADDENDA <No. 5814, 05. Feb, 1999 >

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1999.

Article 2 (Transitional Measures concerning Corrective Measures, Surcharges, and Penalty Provisions)

The application of the corrective measures, surcharges, and penalty provisions to any act committed in violation of Articles 23 (1) 6 and 26 (1) 5 of the former Monopoly Regulation and Fair Trade Act before this Act enters into force shall be governed by the previous provisions.

Article 3 (Transitional Measures concerning Fair Competition Code)

The fair competition code on indication and advertisement examined by the Fair Trade Commission pursuant to Article 23 (4) and (5) of the former Monopoly Regulation and Fair Trade Act as at the time this Act enters into force shall be deemed the self-governing code on indication and advertisement examined pursuant to Article 14.

Articles 4 and 5 Omitted.

ADDENDA <No. 5825, 08. Feb, 1999>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 10 Omitted.

ADDENDA <No. 6043, 28. Dec, 1999>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 2000: Provided, That the amended provisions of Articles 10 and 14 (3) 2 shall enter into force on April 1, 2001.

Article 2 (Special Case for Application concerning Investment for Corporate Restructuring)

Of the amended provisions of Article 10 (1) 4, where acquiring or owning stocks for the purpose of corporate restructuring, with regard to the stocks that may be acquired or owned in excess of the amount of investment limit, the provisions of the same Article, same paragraph, and same subparagraph shall also be applicable to the stocks that were acquired or owned during a period from January 1, 1998 to March

31, 2002. In such cases, in calculating the period according to the provisions of the same subparagraph, what have been acquired or owned during the period from January 1, 1998 to March 31, 2001 shall be deemed to have been acquired or owned on April 1, 2001. <Amended by Act No. 6651, Jan. 26, 2002>

Article 3 (Transitional Measures concerning Total Amount of Investment)

In applying the amended provisions of Article 10 (1) to cases where a company belonging to an enterprise group designated as a large enterprise group makes investment in excess of the investment limit amount as at the time this Act enters into force, the total amount of investment made by such company as of the date this Act enters into force shall be deemed the investment limit amount for one year from the date this Act enters into force: Provided, That the same shall not apply where the investment limit amount exceeds an amount deemed the total amount of investment limit following an increase in the net asset value.

Article 4 (Transitional Measures concerning Investment in Infrastructure)

Any person who has acquired or owned, or received recognition of period extension with respect to, stocks of a company incorporated to carry on the first - class facility business as prescribed in the provisions of subparagraph 2 of Article 2 of the previous Promotion of Private Capital into Social Overhead Capital Investment Act (referring to the Act before it was amended by Act No. 5377) in accordance with the provisions of Article 10 (2) of the previous Monopoly Regulation and Fair Trade Act (referring to the Act before it was amended by Act No. 5528) before this Act enters into force shall be deemed to have acquired or owned such stocks or have received recognition of period extension under the amended provisions of Article 10 (1) 3 for a period recognized by the Fair Trade Commission at the time of recognition.

Article 5 (Transitional Measures concerning Investment Made to Attract Foreign Investment)

Where any stocks acquired or owned to attract foreign investment before this Act enters into force fall under the amended provisions of Article 10 (1) 4, such stocks shall be deemed to have been acquired or owned on April 1, 2001.

ADDENDA <No. 6371, 16. Jan, 2001 >

(1) (Enforcement Date) This Act shall enter into force on April 1, 2001: Provided, That the amendments to Article 2 of Addenda of the Monopoly Regulation and Fair Trade Act (Act No. 5813) shall enter into force on the date of its promulgation.

(2) (Applicability to Additional Payment for Refund of Surcharge)

The amendments to Article 55 - 6 shall be applicable from the portion of incurrence of the causes for refund for the first time after this Act enters into force.

(3) (Transitional Measures on Application of Penalty Provisions) In applying the penalty provisions against the activities committed before this Act enters into force, the previous provisions shall govern.

ADDENDA <No. 6651, 26. Jan, 2002 >

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 2002: Provided, That the amended provisions of Article 11, and of Article 2 of the Addenda of the amended Monopoly Regulation and Fair Trade Act (Act No. 6043) shall enter into force on the date of its promulgation.

Article 2 (Period of Validity)

Matters related to corporate restructuring in Article 10 (1) 4 shall be valid by not later than March 31, 2003.

Article 3 (Retroactive Application in Relation to System of Limitation on Total Amount of Investments)

(1) The amended provisions of Article 10 shall also be applicable to the stocks acquired or owned as at the time this Act enters into force. In such cases, the stocks acquired or owned under the amended provisions of Article 10 (6) 2 shall be limited to those acquired or owned after January 1, 1998.

(2) In applying the provisions of paragraph (1), where the stocks acquired or owned as at the time this Act enters into force in order to induce foreign investments (excluding the stocks falling under Article 5 of the Addenda of the amended Act of the Monopoly Regulation and Fair Trade Act (Act No. 6043)) fall under the amended provisions of Article 10 (1) 3, and were acquired or owned before March 31, 2001, they shall be deemed to have been acquired or owned on April 1, 2001.

Article 4 (Retroactive Application to Enterprises Exceeding Investment Limit)

The amended provisions of Article 17 - 2 and subparagraph 6 of Article 67 shall apply to cases where the affiliate of any enterprise group that is designated as a large enterprise group as at the time this Act enters into force acquires and holds stocks of other domestic company that holds such stocks in excess of the investment limit amount as of April 1, 2001 (in cases of the affiliate of any enterprise group that is designated as a large enterprise group in 2001, referring to the date on which the enterprise group is designated as a large enterprise group; hereafter the same shall apply in this Article) and continues to hold such stocks after the lapse of one year from April 1, 2001 and violates the provisions of the proviso to Article 10 (1) by continuously holding such stocks even after the lapse of the deadline prior to which the exception of restrictions on the total investment amount is recognized pursuant to the main sentence of the same Article and the same paragraph.

[This Article wholly Amended by Act No. 7315, Dec. 31, 2004]

Article 5 (Transitional Measures for Designation, etc. of Enterprise Group subject to Limitations on Mutual Investment)

An enterprise group designated as a large enterprise group or that subject to limitations on debt guarantee under the previous provisions of Article 14 (1) as at the time this Act enters into force, shall be deemed to have been designated as an enterprise group subject to limitations on mutual investment, etc. under the amended provisions of Article 14 (1).

Article 6 (Transitional Measures for Application of Penalty Provisions)

An application of penalty provisions to the acts committed before this Act enters into force shall be governed by the previous provisions.

ADDENDA <No. 6705, 26. Aug, 2002 >

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.

Articles 2 through 4 Omitted.

ADDENDA <No. 7289, 31. Dec, 2004 >

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDA <No. 7315, 31. Dec, 2004 >

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 2005: Provided, That amended Articles 50 (5) through (9), 69 (1) and 69 - 2 (1) 8 shall enter into force on the date of promulgation of this Act.

Article 2 Deleted. <by Act No. 8382, Apr. 13, 2007 >

Article 3 (Applicability, etc. to Reporting on Corporate Combination)

(1) The corporate combination on which the obligation to report accrues pursuant to the former provisions as at the time this Act enters into force shall be governed by the former provisions, notwithstanding amended Article 12 (1), (2) and (5) through (7).

(2) Amended Article 12 (1) 2 shall also apply to the corporate combination on which the obligation to report accrues pursuant to former Article 12 (1) 1 as at the time this Act enters into force even if the corporate combination falls under amended Article 12 (1) 2 after this Act enters into force.

(3) Where the corporate combination on which no obligation to report accrues, the corporate combination falls under amended Article 12 (1) 1 and not less than one company are large - scale companies from among companies involving the corporate combination as at the time this Act enters into force, amended Article 12 (2), (5) and (7) shall apply to such case and a report on the corporate combination shall be filed within 30 days from the date of such corporate combination, notwithstanding amended paragraph (6) of the same Article.

(4) Amended Article 12 (9) shall begin to apply from the first corporate combination to be applied for examination with the Fair Trade Commission after this Act enters into force.

Article 4 (Transitional Measures concerning Restrictions on Holding of Stocks of Domestic Companies, other than Subsidiaries of General Holding Companies)

Where a holding company, which has filed a report with the Fair Trade Commission as at the time this Act enters into force, holds the stocks of a domestic company, other than its subsidiaries in excess of 5/100 of the total number of stocks issued by the domestic company, the stocks of that domestic company shall be brought into conformity with amended Article 8 - 2 (2) 3 within two years from the date this Act enters into force.

Article 5 (Transitional Measures concerning Restrictions on Stockholding Ratio on Business - Related Second - Tier Companies of Subsidiaries of General Holding Companies)

Where a subsidiary of any general holding company, which has filed a report with the Fair Trade Commission as at the time this Act enters into force, holds the stocks of its business - related second - tier company, the stocks of such business - related second - tier company shall be brought into conformity with amended Article 8 - 2 (3) 1 within two years from the date this Act enters into force.

Article 6 (Transitional Measures concerning Prohibition on Investments Made by Subsidiaries of General Holding Companies in other Subsidiaries)

Where any subsidiary of a general holding company, which has filed a report with the Fair Trade Commission as at the time this Act enters into force, holds the stocks of another subsidiary in control of the general holding company, the stocks of such subsidiary shall be brought into conformity with amended Article 8 - 2 (3) 2 within two years from the date this Act enters into force.

Article 7 (Transitional Measures concerning Total Amount of Contributions)

(1) The stocks acquired or held by any company pursuant to former Article 10 (1) 3, which belongs to an enterprise group designated as an enterprise group subject to limitations on total contributions as at the time this Act enters into force shall be governed by the former provisions although such stocks do not meet the requirements provided in amended Article 10 (1) 3.

(2) The stocks acquired or held by any company pursuant to former Article 10 (1) 4, which belongs to an enterprise group designated as an enterprise group subject to limitations on total contributions as at the time this Act enters into force shall be governed by amended Article 10 (1) 4.

Article 8 (Transitional Measures concerning Penalty Surcharges Imposed on Unfair Collaborative Acts)

The imposition of a penalty surcharge on an act which was committed before this Act enters into force and terminated on or before the expiration of the three - month period after the partially amended Monopoly Regulation and Fair Trade Act (Act No. 8631) is promulgated shall be governed by the former provisions. <Amended by Act No. 8631, Aug. 3, 2007 >

Article 9 (Special Cases concerning Restrictions on Voting Rights Held by Finance Companies or Insurance Companies)

The number of stocks on which the voting rights can be exercised from among the stocks of the domestic affiliates of a company, which are acquired or held by the company pursuant to the proviso to Article 11 and former subparagraph 3 of Article 11, which belongs to an enterprise group subject to limitations on mutual investment and runs finance business or insurance business, plus the number of stocks on which persons can exercise the voting right, with the exception of persons prescribed by Presidential Decree, from among persons who are specially related to the domestic affiliates, notwithstanding amended subparagraph 3 of Article 11, shall not exceed 30/100 of the total number of stocks issued by the domestic affiliates by March 31, 2006; 25/100 from April 1, 2006 to March 31, 2007; 20/100 from April 1, 2007 to March 31, 2008; and 15/100 from April 1, 2008, respectively.

Article 10 Omitted.

ADDENDA <No. 7386, 27. Jan, 2005 >

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)
Articles 2 through 6 Omitted.

ADDENDA <No. 7428, 31. Mar, 2005 >

Article 1 (Enforcement Date)

This Act shall enter into force one year after the date of its promulgation.
Articles 2 through 6 Omitted.

ADDENDA <No. 7492, 31. Mar, 2005>

This Act shall enter into force three months after the date of its promulgation.

ADDENDA <No. 7796, 29. Dec, 2005>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2006.

Articles 2 through 6 Omitted.

ADDENDA <No. 8382, 13. Apr, 2007>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation: Provided, That the amended provisions of Articles 8 - 2, 10 (1), (2) and (8), 17 (4), 50 (5) and 68, Article 2 of the Addenda, and Article 2 of the Addenda of the amended Monopoly Regulation and Fair Trade Act (Act No. 7315) shall enter into force on the date of its promulgation.

Article 2 (Validity Period)

The validity period of the amended provisions of Article 50 (5) shall be until December 31, 2010.

Article 3 (Special Example on Exemption of Designation of Enterprise Group subject to Limitations on Total Investment Amount)

For an enterprise group to which domestic companies whose total sum of assets calculated in accordance with the amended provisions of Article 10 (2) is less than ten trillion won belongs as of the designation date of the year 2007, from among enterprise groups designated as an enterprise group subject to limitations on total investment amount in accordance with Article 14 (1) as at the time this Act enters into force, shall be deemed to have been exempted from the designation of an enterprise group subject to limitations on total investment amount on the promulgation date of this Act.

Article 4 (Transitional Measures concerning Penalty Provisions and Administrative Fines)

The act performed before this Act enters into force shall be governed by the previous penalty provisions and provisions on administrative fines.

ADDENDA <No. 8387, 27. Apr, 2007 >

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.
Articles 2 through 9 Omitted.

ADDENDA <No. 8572, 03. Aug, 2007 >

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation.
Articles 2 through 5 Omitted.

ADDENDA <No. 8631, 03. Aug, 2007 >

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation: Provided, That the amended provisions of Article 50 (5) and Article 8 of Addenda of the amended Monopoly Regulation and Fair Trade Act (Act No. 7315) shall enter into force on the date of its promulgation, and the amended provisions of Articles 48 - 3 through 48 - 9 shall enter into force six months after the date of its promulgation.

Article 2 (Validity Period)

The validity period of the amended provisions of Article 50 (5) shall be until December 31, 2010.

Article 3 (Applicability to Report of Combination of Enterprises)

The amended provisions of Articles 7 (4) 1 and 12 (1) 2 and 5 shall apply beginning with the case for which the date of report of combination of enterprises from which a reckoning is made for the first time after this Act enters into force.

Article 4 (Transitional Measures concerning Combination of Enterprises)

The previous provisions shall govern the combination of enterprises for which the date of report of combination of enterprises from which a reckoning is made has

arrived, notwithstanding the amended provisions of Articles 7 (4) 1 and 12 (1) 2 and 5.

Article 5 (Transitional Measures concerning Presumption of Unjust Collaborative Acts)

The previous provisions shall govern the presumption of unjust collaborative act for an act falling under any subparagraph of former Article 19 (1) which was completed before this Act enters into force, notwithstanding the amended provisions of Article 19 (5).

Article 6 (Transitional Measures concerning Penalty Provisions and Administrative Fines)

The application of penalty provisions and administrative fines to an act before this Act enters into force shall be governed by the former provisions.

Article 7 Omitted.

ADDENDA <No. 8635, 03. Aug, 2007 >

Article 1 (Enforcement Date)

This Act shall enter into force one and a half year after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 44 Omitted.

ADDENDA <No. 8666, 17. Oct, 2007 >

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

(2) (Applicability) The amended provisions of Article 10 (1) 7 shall apply with respect to the acquisition of stocks of a company established on or after this Act enters into force, and the amended provisions of subparagraph 8 of the same paragraph shall apply with respect to the acquisition of stocks of a company relocated to an area, other than the Seoul Metropolitan Area, on or after this Act enters into force.

ADDENDA <No. 8863, 29. Feb, 2008 >

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <No. 9357, 30. Jan, 2009>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 4 Omitted.

ADDENDA <No. 9554, 25. Mar, 2009>

This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of Articles 11 - 4 and 12 (6) shall enter into force three months after the date of its promulgation.

ADDENDA <No. 10166, 22. Mar, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 9 Omitted.

ADDENDA <No. 10303, 17. May, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 10 Omitted.

ADDENDA <No. 11119, 02. Dec, 2011>

This Act shall enter into force three months after the date of its promulgation.

ADDENDA <No. 11406, 21. Mar, 2012>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation: Provided, That the amended provisions of Article 37 (2) shall enter into force on May 30, 2012.

Article 2 (Applicability to Period for Evaluation of Combination of Enterprises)

The amended provisions of Article 12 (7) and (8) shall apply from the first reporting on the combination of enterprises under paragraph (6) of the same Article after this Act enters into force.

Article 3 (Applicability to Period for Disposition)

The amended provisions of Article 49 (4) shall apply from the first case which is investigated pursuant to paragraph (1) or (2) of the same Article after this Act enters into force.

Article 4 (Transitional Measures concerning Imposition of Penalty Surcharges against Unlawful Acts by Enterprisers' Group)

The imposition of a penalty surcharge against an act that is ended before this Act enters into force shall be governed by the previous provisions notwithstanding the amended provisions of Article 28 (2) and (3).

ADDENDA <No. 11758, 05. Apr, 2013>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation. (Proviso Omitted.)
Articles 2 and 3 Omitted.

ADDENDA <No. 11845, 28. May, 2013>

Article 1 (Enforcement Date)

This Act shall enter into force three months after the date of its promulgation. (Proviso Omitted.)
Articles 2 through 17 Omitted.

ADDENDA <No. 11937, 16. Jul, 2013>

This Act shall enter into force six months after the date of its promulgation.

ADDENDA <No. 12095, 13. Aug, 2013>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Article 2 (Transitional Measures)

(1) Transactions terminated before this Act enters into force shall be governed by the former provisions notwithstanding the amended provisions of this Act.

(2) Transactions being continued as at the time this Act enters into force shall be governed by the former provisions for one year from the date of the enforcement date of this Act.

ADDENDA <No. 12334, 24. Jan, 2014>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Article 2 (Applicability to Prohibition of Circular Equity Investment)

(1) The amended provisions of Article 9 - 2 shall apply only to stocks acquired or owned, after this Act enters into force, by a company belonging to an enterprise group designated as an enterprise group subject to limitations on mutual investment under Article 14 as at the time this Act enters into force.

(2) The amended provisions of Article 9 - 2 shall apply only to stocks acquired or owned by a company belonging to an enterprise group designated as an enterprise group subject to limitations on mutual investment under Article 14 after the designation date, after this Act enters into force.

ADDENDA <No. 12708, 28. May, 2014>

This Act shall enter into force six months after the date of its promulgation.

ADDENDA <No. 13071, 20. Jan, 2015>

Article 1 (Enforcement Date)

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

Article 2 (Applicability to Revocation of Extension of Deadlines for Payment and Payment in Installments)

The amended provisions of Article 55 - 4 (3) 4 shall apply from the first application for an extension of a deadline for payment or payment in installments filed after this Act enters into force.

Article 3 (Applicability to Restitution of Rewards)

The amended provisions of Article 64 - 3 shall apply from the first restitution of a reward to be paid after this Act enters into force.

ADDENDA <No. 13450, 24. Jul, 2015>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 37 (3) shall enter into force two months after the date of its promulgation.

Article 2 (Transitional Measures concerning)

A public official in special service, who serves as a standing commissioner of the Fair Trade Commission under the former Article 37 (3) at the time the amended provisions of Article 37 (3) enter into force, shall be deemed to be appointed as a public official in a fixed term position pursuant to Article 26 - 5 of the State Public Officials Act on the date the same amended provisions enter into force. In such case, the term of office shall be the remaining period of the term of office as at the time of his/her appointment as a standing commissioner.

ADDENDA <No. 14075, 18. Mar, 2016>

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

ADDENDA <No. 14122, 29. Mar, 2016 >

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDA <No. 14127, 29. Mar, 2016 >

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 11 Omitted.

ADDENDA <No. 14137, 29. Mar, 2016 >

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That amended Articles 11 - 4 (1), 22 - 2 (2) through (4), and proviso to Article 28 (3) shall enter into force six months after the date of its promulgation.

Article 2 (Applicability to Effect of Interruption of Prescription)

Amended Article 48 - 6 (4) through (6) shall begin to apply from the first dispute to be applied for mediation after this Act enters into force.

Article 3 (Applicability to Effect of Court Settlement)

Amended Article 48 - 8 shall begin to apply from the first dispute to be applied for mediation after this Act enters into force.

Article 4 (Applicability to Additional Refunds of Penalty Surcharges)

Amended proviso to Article 55 - 7 shall begin to apply from the first case where the imposition of a penalty surcharge is cancelled by a ruling of the court after this Act enters into force.

Article 5 (Transitional Measures concerning Imposition of Penalty Surcharges against Enterprisers' Organizations Engaging in Prohibited Activities) Notwithstanding the amended proviso to Article 28 (3)

Article 6 (Transitional Measures concerning Conclusion of Unfair International Contracts)

The imposition of a penalty surcharge against concluding an unfair international contract before this Act enters into force shall be governed by the former provisions.

Article 7 (Transitional Measures concerning Penalty Provisions)

The application of penalty provisions to acts committed before this Act enters into force shall be governed by the former provisions.