

ENFORCEMENT DECREE OF THE FUTURES TRADING ACT

Presidential Decree No. 15083, Jun. 29, 1996
Amended by Presidential Decree No. 15759, Apr. 1, 1998
Presidential Decree No. 15941, Dec. 18, 1998
Presidential Decree No. 16287, May 10, 1999
Presidential Decree No. 16323, May 24, 1999
Presidential Decree No. 16709, Feb. 14, 2000
Presidential Decree No. 16896, Jul. 10, 2000
Presidential Decree No. 17031, Dec. 29, 2000
Presidential Decree No. 18312, Mar. 17, 2004
Presidential Decree No. 18688, Jan. 27, 2005
Presidential Decree No. 19160, Dec. 1, 2005
Presidential Decree No. 19301, Jan. 27, 2006
Presidential Decree No. 19422, Mar. 29, 2006
Presidential Decree No. 20120, Jun. 28, 2007
Presidential Decree No. 20451, Dec. 20, 2007
Presidential Decree No. 20552, Jan. 18, 2008
Presidential Decree No. 20653, Feb. 29, 2008
Presidential Decree No. 20776, Apr. 30, 2008

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Decree is to prescribe matters delegated by the Futures Trading Act and matters necessary for its enforcement. *<Amended by Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20776, Apr. 30, 2008>*

Article 2 (Definitions)

The definitions of the terms used in this Decree shall be as prescribed by the Futures Trading Act (hereinafter referred to as the “Act”). *<Amended by Presidential Decree No. 20776, Apr. 30, 2008>*

Article 2-2 (Overseas Futures Trading)

The term “transaction as prescribed by Presidential Decree” in subparagraph 2 of Article 3 of the Act means any transaction, prescribed by Ordinance of the Prime Minister, and effected according to internationally

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standardized terms or procedures. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 16896, Jul. 10, 2000]

Article 2-3 (Scope of Specially Related Person)

The term “person having special relations as prescribed by Presidential Decree” in subparagraph 11 (a) of Article 3 of the Act means a person having relations falling under any subparagraph of Article 2-8 of the Enforcement Decree of the Securities and Exchange Act (hereinafter referred to as a “specially related person”).

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 2-4 (Scope of Major Stockholders)

The term “person prescribed by Presidential Decree” in subparagraph 11 (b) of Article 3 of the Act means a person falling under any of the following subparagraph: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. A stockholder who has appointed the representative director or a majority of directors by himself/herself or with an agreement or contract with other stockholders; and
2. A stockholder prescribed by the Financial Services Commission who is deemed to exercise their influence over decision-making or business administration, such as management strategies or reorganization.

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

CHAPTER II FUTURES EXCHANGES

Articles 3 through 6 Deleted. *<by Presidential Decree No. 18688, Jan. 27, 2005>*

Article 6-2 (Accumulation of Common Fund)

(1) Total reserve scale, reserve ratio by each member and reserve method of the common funds for compensating losses as referred to in the provisions of Article 27 (1) of the Act (hereinafter referred to as the “Common Fund”) shall be provided for by the Korea Securities and Futures Exchange (hereinafter referred to as the “Exchange”) established under the Korea Securities and Futures Exchange Act as the Members Management Regulations (hereinafter referred to as “Members Management Regulations”) as referred to in Article 16 of the same Act by taking into account the risk of trade per member at futures markets and other conditions. *<Amended by Presidential Decree No. 18688, Jan. 27, 2005>*

(2) Where the Exchange deems that an amount reserved for the Common

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Fund is deficient to compensate for damages, it may reserve as the Common Fund such an amount as determined by the Members Management Regulations at a time. *<Amended by Presidential Decree No. 18688, Jan. 27, 2005>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 6-3 Deleted. *<by Presidential Decree No. 18688, Jan. 27, 2005>*

Article 6-4 (Management and Operation of Common Fund)

(1) The Exchange shall manage the Common Fund for each member separately and shall audit them independently of other asset.

(2) The Exchange shall operate the Common Fund using the following methods: *<Amended by Presidential Decree No. 18688, Jan. 27, 2005>*

1. Deposit in bank accounts;
2. Money trust (limited to that indemnifying the principal) in financial institutions which carry out trust operation;
3. Purchase of government and local bonds and bonds payment of the principal and interests of which are guaranteed;
4. Loan to or purchase of bonds issued by a securities finance company under Article 145 of the Securities and Exchange Act; and
5. Purchase of Bank of Korea monetary stabilization bonds as referred to in Article 69 of the Bank of Korea Act.

(3) The Exchange shall aggregate the proceeds from operation of the Common Fund under paragraph (2) in the principal of the Common Fund pursuant to the Members Management Regulations. *<Newly Inserted by Presidential Decree No. 18688, Jan. 27, 2005>*

(4) Matters necessary for the management and operation of the Common Fund other than paragraphs (1) through (3), shall be provided for by the Members Management Regulations. *<Newly Inserted by Presidential Decree No. 18688, Jan. 27, 2005>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 6-5 (Use of Common Fund)

Where the Exchange uses the Common Fund to compensate losses due to any default by a member, it shall preferentially use the Common Fund reserved by the member who has defaulted debts, and where the Common Fund is deficient to compensate for losses, it shall use another Common Fund reserved by other members in proportion to their ratio of reserve.

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 6-6 (Right to Indemnity and Compensation for Common Fund)

(1) Where the Exchange uses the Common Fund pursuant to Article 6-5,

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it shall have the right to indemnity against any defaulting member for the amount used, interest from the date on which the Common Fund has been used and necessary expenses.

(2) Where the Exchange intends to compensate for the Common Fund with an amount collected by the exercise of the right to indemnity, it shall first compensate it in proportion to the amount used of the Common Fund reserved by other members, and where any surplus remains, it shall compensate the amount used of the Common Fund reserved by a defaulting member.

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 6-7 (Refund of Common Fund)

The Exchange shall refund the member who withdraws from the Exchange the Common Fund reserved by said member, pursuant to the provisions of the Members Management Regulations. *<Amended by Presidential Decree No. 18688, Jan. 27, 2005>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 6-8 Deleted. *<by Presidential Decree No. 18688, Jan. 27, 2005>*

Article 7 (Unfair Trading Practices)

The term “conducts prescribed by Presidential Decree” mentioned in Article 31 (1) 6 of the Act means conducts falling under any of following subparagraphs: *<Amended by Presidential Decree No. 20451, Dec. 20, 2007>*

1. Entrustment or acceptance thereof with respect to trading activities set forth in Article 31 (1) 4 of the Act; and
2. In transactions of items subject to futures trading, fixing or changing market prices of futures for the improper benefit of oneself or a third party, alone or conspiring with others.

Article 8 (Restriction on Transactions, etc.)

The Financial Services Commission may determine any of the following matters for each type, item, month of settlement or category pursuant to Article 32 (1) of the Act: *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008; Presidential Decree No. 20776, Apr. 30, 2008>*

1. Maximum limit for futures trading effected by a futures company at its own account;
2. Maximum limit for futures trading which clients are permitted to commission; and
3. The limit of futures trading by every futures company which is a

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member of the Exchange and the limit of futures trading commissioned by clients to futures companies concerned, within the maximum limit referred to in subparagraphs 1 and 2.

[This Article Wholly Amended by Presidential Decree No. 15759, Apr. 1, 1998]

Article 8-2 (Report on Holding Large Quantity of Unsettled Contracts)

(1) The term “quantity as determined by Presidential Decree” as referred to in the main sentence of Article 32 (2) of the Act means as follows:

1. Futures trading for gold: 10 transactions;
2. Other futures trading: The quantity as determined and publicly notified by the Financial Services Commission, taking into account the characteristics of futures trading items, the scale of transactions, etc.

(2) A futures company or a trustor, who holds a larger quantity of unsettled contracts per item (referring to futures transaction contracts that have not been discharged as at the last day of transaction; hereinafter the same shall apply) than the quantity as referred to in paragraph (1) (hereinafter referred to as “large-quantity holding”), shall report the following matters to the Financial Services Commission and the exchange within five days (not including Saturdays, holidays under Article 2 of the Rules on Holidays of Public Agencies, and Workers’ Day under the Designation of Workers’ Day Act; hereafter the same shall apply in this Article), according to the procedures and methods prescribed and publicly notified by the Financial Services Commission; if the quantity of unsettled contracts changes and exceeds the quantity determined and publicly notified by the Financial Services Commission, he/she shall report such change to the Financial Services Commission and the exchange within five days from the date such change is made, according to the procedures and methods prescribed and publicly notified by the Financial Services Commission:

1. Matters on large-scale holders;
2. Types and items of the relevant futures trading;
3. The time, price, and quantity of unsettled contracts held of the relevant futures trading; and
4. Other matters related to subparagraphs 1 through 3, as prescribed and publicly notified by the Financial Services Commission.

(3) If a new ground to make a report of change occurs by the day prior to the day of reporting the status of holding large quantity of unsettled contracts or changes thereof pursuant to paragraph (2), such change shall

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be reported along with the status of large-scale holding of unsettled contracts or changes thereto.

[This Article Newly Inserted by Presidential Decree No. 20776, Apr. 30, 2008]

CHAPTER III FUTURES BUSINESS

Article 9 (Application for Futures Business License)

(1) Any person who seeks a license pursuant to Article 37 (1) of the Act to run a futures business shall submit to the Financial Services Commission documents falling under each of the following subparagraphs. In such cases, an officer in charge shall confirm a certified transcript of corporate registration (excluding a corporation currently in the process of establishment) through joint use of administrative information under Article 21 (1) or 22-2 (1) of the Electronic Government Act, and if an applicant does not consent to such confirmation, he/she shall submit such documents: *<Amended by Presidential Decree No. 15759, Apr. 1, 1998; Presidential Decree No. 16323, May 24, 1999; Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 18312, Mar. 17, 2004; Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20120, Jun. 28, 2007; Presidential Decree No. 20653, Feb. 29, 2008>*

1. A written application stating the following items:
 - (a) Name and location of the principal office;
 - (b) Name, resident registration number and address of its representative;
 - (c) Matters concerning capital; and
 - (d) Details of the futures business to be run;
2. Articles of incorporation;
3. Names or titles and domiciles of stockholders who own not less than 1/100 of the total stocks issued as at the date on which an application is filed for a futures business license and a document stating the number of stocks owned by them;
4. Deleted; *<by Presidential Decree No. 20120, Jun. 28, 2007>*
5. Business plans and a statement of estimated earnings and expenses for the first two years of operation;
6. Documents stating the present conditions of specialists, facilities and equipment; and
7. Other documents, prescribed by the Financial Services Commission, which are necessary to examine the requirements for granting any license

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under the Act or this Decree.

(2) and (3) Deleted. <by Presidential Decree No. 15759, Apr. 1, 1998>

Article 9-2 Deleted. <by Presidential Decree No. 16287, May 10, 1999>

Article 9-3 (Application by Foreign Futures Company for Domestic Futures Business License)

(1) Any foreign futures company which seeks a license referred to in Article 37 (3) of the Act to conduct its futures business in the Republic of Korea shall furnish documents falling under each of the following subparagraphs to the Financial Services Commission. In this case, an competent officer shall verify a certified transcript of corporate registration (limited to a corporation having a certified transcript of corporate registration) through joint use of administrative information under Article 21 (1) or 22-2 (1) of the Electronic Government Act, and if an applicant does not consent to such verification, the applicant shall submit such documents: <Amended by Presidential Decree No. 16287, May 10, 1999; Presidential Decree No. 16323, May 24, 1999; Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 18312, Mar. 17, 2004; Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20120, Jun. 28, 2007; Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>

1. An application for license stating the following items:
 - (a) Name and seat of its main office;
 - (b) Names and addresses of representatives (including the representatives of the branches or other business offices);
 - (c) Matters on capital stocks and equity capital;
 - (d) The details of futures trading business to be conducted in the Republic of Korea; and
 - (e) Name, seat and funds under management (referring to funds provided to the branch or any other business office by the main office to establish the branch or any other business offices or carry on business administration; hereinafter the same shall apply) of the branch or any other business offices;
2. Articles of incorporation or equivalent thereto;
3. Documents equivalent to a certified transcript of the corporate register (limited to cases where no corporate register exists);
4. Transcript of minutes of the board of directors which have resolved to establish the branch or other business office;
5. Balance sheets, income statements and documents relating to the state-

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ment of retained earnings or disposition of deficit of each fiscal year for the most recent two years;

6. Prospectus and estimated statements of receipts and disbursements for two years since the operation of branches or other relevant business offices commenced;
7. Documents stating names or titles, addresses and equities of major stockholders;
8. Documents stating the present conditions of specialists and equipment; and
9. Other documents proving that it meets the standards listed in any subparagraph of Article 10-2.

(2) Deleted. <by Presidential Decree No. 16896, Jul. 10, 2000>

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 10 (Detailed Requirements for Futures Business License)

(1) Any person who seeks a license for his/her futures business shall meet the detailed requirements falling under each of the following subparagraphs for human resources and physical facilities as prescribed in Article 38

(1) 2 of the Act: <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

1. Not less than three specialists falling under each of the following items:
 - (a) Persons who have been engaged in the business of futures trading and overseas futures trading (hereinafter referred to as "futures trading, etc.") for not less than two years;
 - (b) Persons who hold master's degrees or higher in futures-related fields; and
 - (c) Persons who have completed the prescribed courses of study in institutes designated by the Financial Services Commission; and
2. Facilities and equipment falling under each of the following items necessary to smoothly conduct the business of futures trading, etc. which is commissioned by clients or the business of intermediating or arranging consignments or acting as an agent (hereinafter referred to as "brokerage, etc."):
 - (a) Adequate office space and equipment to perform the business;
 - (b) Computer systems and means of communications necessary to manage asset, handle orders from clients, make settlements, etc.; and
 - (c) Security devices which are necessary to safely protect physical facilities such as asset and computer facilities and equipment.

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(2) Business plans under Article 38 (1) 3 of the Act shall meet each of the following requirement:

1. Appropriate and attainable profitability outlook;
2. Appropriate methods of securing financial resources necessary to implement such business plan;
3. Suitable composition plans for the internal organization to control any risk arising from futures trading;
4. Secure internal control mechanism to control any risk arising from futures trading and prevent any financial incident; and
5. Appropriate plans for securing the specialists referred to in paragraph (1).

(3) The term “person prescribed by Presidential Decree” in Article 38 (1) 4 of the Act means any of the following persons: *<Amended by Presidential Decree No. 20552, Jan. 18, 2008>*

1. The largest stockholder of the corporation that is a largest stockholder (including the person who actually controls the corporation, if he/she is distinctly different from the largest stockholder of the corporation that the largest stockholder); and
2. The representative of the corporation that is the largest stockholder.

(4) Major stockholders shall meet the requirements prescribed in the attached Table 1: *Provided*, That in cases where the securities company under the Securities and Exchange Act seeks a license for a futures business in order to concurrently conduct a futures trading (limited to the futures trading subjected to the stock certificates and to the indexes based thereupon, the Financial Services Commission may vary set the relevant requirements. *<Amended by Presidential Decree No. 17031, Dec. 29, 2000; Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 19301, Jan. 27, 2006; Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>*

(5) The Financial Services Commission may set specific standards for the detailed requirements for the business licence under paragraphs (1) through (4). *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Wholly Amended by Presidential Decree No. 16896, Jul. 10, 2000]

Article 10-2 (Requirements for Permitting Establishment of Branch Office and Other Business Offices by Foreign Futures Company)

(1) Detailed requirements for granting permission for any foreign futures company to open its branch office and other business offices in the Republic of Korea under Article 38 (3) of the Act shall be as follows: *<Amended*

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by Presidential Decree No. 19301, Jan. 27, 2006; Presidential Decree No. 20552, Jan. 18, 2008>

1. The home country of such foreign futures company should be one which allows any futures company of the Republic of Korea to conduct its futures business in such country; and
2. The foreign futures company should be one which meets the requirements prescribed in subparagraph 4 (b) through (e) of attached Table 1.

(2) The Financial Services Commission may set specific standards for granting the permission referred to in paragraph (1). <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

[This Article Wholly Amended by Presidential Decree No. 16896, Jul. 10, 2000]

Article 10-3 (Approval, etc. of Change of Controlling Stockholder)

(1) Deleted. <by Presidential Decree No. 20552, Jan. 18, 2008>

(2) The term “person prescribed by Presidential Decree” in Article 38-2 (1) of the Act means as follows: <Amended by Presidential Decree No. 20552, Jan. 18, 2008>

1. The State;
2. Korea Deposit Insurance Corporation under the Depositor Protection Act; or
3. A stockholder who is a specially related person to the largest stockholder, and owns less than 1/100 of total voting stocks issued, as a result of acquisition of stocks.

(3) The term “requirements as prescribed by Presidential Decree” in Article 38-2 (1) of the Act means the requirements provided for in attached Table 2.

(4) A person who seeks approval under Article 38-2 (1) of the Act shall submit written application for approval for change of major stockholders to the Financial Services Commission, stating the following matters: <Amended by Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>

1. Information on the applicant;
2. Current status of ownership of the stocks issued by the futures company that intends to become a major stockholder; and
3. Plans to acquire the stocks issued by the futures company that intends to become a major stockholder.

(5) The written application under the provisions of paragraph (4) shall be accompanied by the following documents: <Amended by Presidential Decree

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No. 20120, Jun. 28, 2007; Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>

1. Articles of incorporation (limited to the cases of a corporation);
 2. For a foreign corporation, documents equivalent to a certified transcript of the corporate register;
 3. and 4. Deleted; *<by Presidential Decree No. 20120, Jun. 28, 2007>*
 5. Financial statements as at the end of the most recent business year and the half year financial statements after the end of the most recent business year (limited to cases of a corporation);
 6. Outside auditors' audit report and investigation report on financial statements under the provisions of subparagraph 5;
 7. Where the person intending to become a major stockholder is a financial institution, the financial status computed under the criteria for financial soundness to be applied to the relevant financial institution, and the outside auditors' investigation report thereon; and
 8. Other documents necessary for an examination of approval requirements, which are provided for by the Financial Services Commission.
- (6) Where the written application submitted under the provisions of paragraph (4) contains any defect, the Financial Services Commission may demand a supplement to the relevant written application. In this case, the period for making a supplement thereto shall not be counted toward the period under paragraph (7). *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*
- (7) When the Financial Services Commission has accepted a written application under the provisions of paragraph (4), it shall verify whether the requirements under paragraph (3) are met, decide whether it will grant an approval within 60 days from the date of receipt of such application, and notify the applicant in writing without delay. In this case, when it grants no approval, the reasons therefor shall be clearly stated. *<Amended by Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>*
- (8) A competent officer, who receives documents pursuant to paragraph (4), shall verify such administrative information in the following subparagraphs through joint use of administrative information under Article 21 (1) or 22-2 (1) of the Electronic Government Act, and if an applicant does not consent to such verification, the applicant shall submit such documents. *<Newly Inserted by Presidential Decree No. 20120, Jun. 28, 2007; Presidential Decree*

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1. Certified transcript of the corporate register (limited to corporations);
2. Certified transcript of resident registration; and
3. Certified transcript of the corporate register of the futures company that intends to become a major shareholder.

(9) Other detailed matters necessary for the application methods and procedures for approval under the provisions of Article 38-2 (1) of the Act and the detailed criteria, etc. for the requirements under the provisions of paragraph (3) shall be provided for by the Financial Services Commission. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 19301, Jan. 27, 2006]

Article 10-4 (Restrictions on Business with Major Stockholders)

(1) The term “business prescribed by Presidential Decree” as referred to in the main sentence of Article 38-3 (1) of the Act with the exception of each subparagraph means any of the following business: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. Providing a guaranty for a major stockholder;
2. Involving endorsement of a bill for a major stockholder (excluding endorsement without validity as a guaranty under Article 15 (1) of the Bills of Exchange and Promissory Notes Act);
3. Promising contribution of investment;
4. The following business intended to avoid the extension of credit for a major stockholder (referring restrictions on lending assets of economic value such as money or securities, providing a guaranty for fulfillment of liabilities, purchasing securities to supply funds, or other transactions falling under subparagraphs 1 through 3):
 - (a) Business conducted by means of exchanging securities under a contract or conspiring with a third party; or
 - (b) Business using over-the-counter financial derivatives transactions (referring to over-the-counter financial derivatives transactions under Article 36-2 (1) 1-2 of the Enforcement Decree of the Securities Exchange Act; hereinafter the same shall apply), trust contracts or hedging transactions. In this case, the Financial Services Commission shall determine and announce specific means, types, standards, etc.; and
5. Other business involving credit risk, such as the assumption of obligations, which are prescribed and announced by the Financial Services

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Commission.

(2) The term “cases prescribed by Presidential Decree” as referred to in proviso to the portion with the exception of each subparagraph of Article 38-3 (1) of the Act means any of the following cases. In this case, the Financial Services Commission may determine the period of restriction on ownership etc. and announce it: <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

1. Extension of credit for an officer limited to the lesser of his/her annual salary and 100 million won;
2. Securities currently owned by a stockholder become securities issued by a major stockholder, resulting from change of major stockholders;
3. Acquisition of securities as a deposit from persons other than the issuer himself/herself, in order to run a futures business;
4. A futures company’s purchase or acquisition of securities issued by major stockholders, in order to exercise his/her rights; or
5. Other cases determined and announce by the Financial Services Commission, as not interfering with the soundness of asset management.

(3) The “activities prescribed by Presidential Decree” as referred to in Article 38-3 (1) 3 of the Act means any of the following activities: <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

1. In transactions with a specially related person, conducting business under conditions more disadvantageous for the relevant futures company than those with a person who is not a specially related person;
2. Retaining a blank check to secure rights as a creditor: and
3. Activities which fall under any of the following items, to avoid the restrictions pursuant to Article 38-3 (1) 1 through 3 of the Act, or subparagraph 1 or 2 of this paragraph:
 - (a) Business conducted by means of exchanging securities under a contract or conspiring with a third party; or
 - (b) Business using over-the-counter financial derivatives transactions, trust contracts or hedging transactions. In this case, the Financial Services Commission shall determine and announce specific means, types, standards, etc.

(4) The term “activities prescribed by Presidential Decree” as referred to in the first sentence of Article 38-3 (2) of the Act means a futures company’s actions to own or acquire, or a credit extension of the lesser

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of the amount of a single transaction determined and announced by the Financial Services Commission corresponding to 10/10,000 of its own assets and one billion won: *Provided*, That the amount of transaction pursuant to standardized contracts under Article 2 of the Regulation of Standardized Contracts Act shall be excluded from the amount of the single transaction, among the ordinary business transactions of the relevant futures company.
<Amended by Presidential Decree No. 20653, Feb. 29, 2008>

(5) The term “matters prescribed by Presidential Decree” as referred to Article 38-3 (4) of the Act means the following: <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

1. Credit extension pursuant to subparagraph 1 or 5 of paragraph (2):
 - (a) Extent of current credit extension, as at the end of a quarter;
 - (b) Increase or decrease of the amount of credit extended during a quarter;
 - (c) Conditions for extensions of credit; and
 - (d) Other matters determined and announced by the Financial Services Commission; and
2. Owning or acquiring securities or bills pursuant to subparagraph 2 or 3 of paragraph (2):
 - (a) Extent of current ownership or acquiring securities or bills, as at the end of a quarter;
 - (b) Increase or decrease of securities or bills during a quarter;
 - (c) Prices of acquisition or disposition; and
 - (d) Other matters determined and announced by the Financial Services Commission.
- (6) The term “cases prescribed by Presidential Decree” as referred to Article 38-3 (6) of the Act means any of the following cases:
 1. Where the major stockholder’s liabilities exceed his/her assets; and
 2. Where the major stockholder has been rated as non-investment grade by two or more credit ratings agencies under the Use and Protection of Credit Information Act.

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 10-5 (Scope of Unjust Influence)

The term “activities prescribed by Presidential Decree” as referred to in Article 38-4 (1) 3 of the Act means any of the following activities:

1. Demanding futures business operators to engages in illegal behavior;
- or

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2. Demanding business under conditions different from ordinary business conditions regarding interest rates, fees, guaranties, with a major stockholder himself/herself or a third party.

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 10-6 (Regulatory Ratio of Equity Capital)

(1) Any futures company shall, pursuant to Article 39-2 (1) of the Act, always maintain the ratio (hereinafter referred to as the “regulatory ratio of equity capital”), which is derived from dividing the amount computed by subtracting the amount of subparagraph 3 from the total sum of the amounts of subparagraphs 1 and 2, by the total amount of risk (referring to the total sum obtained by converting risks involved in the assets and liabilities of the futures company or those accompanying its business, into the amount), higher than 10/100, and also exceeding the ratio set by the Financial Services Commission: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. The amount obtained by subtracting the gross amount of debts from the gross amount of assets;
2. The amount prescribed by the Financial Services Commission such as reserve against bad debts in current assets and low priority borrowings and others corresponding thereto; and
3. The amount prescribed by the Financial Services Commission such as the appraised amount of fixed assets, cash in advance and others corresponding thereto.

(2) Any futures company shall compute its regulatory ratio of equity capital as at the last day of each quarter (hereafter in this Article referred to as the “base date”) and file a report thereof with the Financial Services Commission within one month from the base date. It shall also keep and provide such regulatory ratio of equity capital for public access in its principal office, branch offices or other business office, and the Futures Association established pursuant to Article 75 of the Act (hereinafter referred to as the “Futures Association”) for three months beginning from the date on which one month has elapsed since the base date. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

(3) Specific standards for computing the regulatory ratio of equity capital such as the method of computing the total amount of risk, shall be determined by the Financial Services Commission. *<Amended by Presidential Decree No.*

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20653, Feb. 29, 2008>

[This Article Newly Inserted by Presidential Decree No. 16896, Jul. 10, 2000]

Article 10-7 (Grounds, etc. for Disqualification of Officers)

(1) The term “Acts and subordinate statutes related to the finance, which are prescribed by Presidential Decree” in subparagraph 5 of Article 39-3 of the Act means the following Acts and subordinate statutes: <Amended by Presidential Decree No. 20653, Feb. 29, 2008; Act No. 20776, Apr. 30, 2008>

1. The Bank of Korea Act;
2. The Banking Act;
3. The Indirect Investment Asset Management Business Act;
4. The Insurance Business Act;
5. The Merchant Banks Act;
6. The Mutual Savings Banks Act;
7. The Act on Real Name Financial Transactions and Guarantee of Secrecy;
8. The Securities and Exchange Act;
9. The Korea Securities and Futures Exchange Act;
10. The Act on the Establishment, etc. of Financial Services Commission;
11. The Depositor Protection Act;
12. The Act on the Efficient Disposal of Non-Performing Assets, etc. of Financial Institutions and the Establishment of the Korea Asset Management Corporation;
13. The Specialized Credit Financial Business Act;
14. The Korea Development Bank Act;
15. The Industrial Bank of Korea Act;
16. Deleted; <by Presidential Decree No. 20776, Apr. 30, 2008>
17. The Export-Import Bank of Korea Act;
18. The Credit Unions Act;
19. The Trust Business Act;
20. The Credit Guarantee Fund Act;
21. The Korea Technology Credit Guarantee Fund Act;
22. The Community Credit Cooperatives Act;
23. The Support for Small and Medium Enterprise Establishment Act;
24. The Use and Protection of Credit Information Act;
25. The Foreign Exchange Transactions Act;
26. The Foreign Investment Promotion Act;
27. The Asset-Backed Securitization Act;

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28. The Special Purpose Companies for Mortgage-Backed Bonds Act;
29. The Act on the Structural Improvement of the Financial Industry;
30. The Secured Debentures Trust Act;
31. The Financial Holding Companies Act;
32. The Corporate Restructuring Investment Companies Act; and
33. The Korea Housing Finance Corporation Act.

(2) The term “persons as prescribed by Presidential Decree” in subparagraph 7 of Article 39-3 of the Act means the officers and staff members at the time of occurrence of grounds to revoke permission or authorization, etc. for business (in cases of a corporation or company whose permission or authorization, etc. has been cancelled as referred to in Article 14 (2) of the Act on the Structural Improvement of the Financial Industry, the officers or staff members at the time of occurrence of grounds for taking timely corrective measures as referred to in Article 10 of the same Act), who fall under any of the following subparagraphs: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. Auditors or members of the audit committee;
2. Officers subject to the warning, caution, censure, suspension from office or request for dismissal by the Financial Services Commission or the Governor of Financial Supervisory Service established under the Act on the Establishment, etc. of Financial Services Commission (hereinafter referred to as the “Governor of Financial Supervisory Service”) due to the illegal or unlawful activities related to occurrence of grounds to revoke permission or authorization, etc.;
3. Staff members subject to the measures heavier than the request for suspension of office by the Financial Services Commission or the Governor of the Financial Supervisory Service due to the illegal or unlawful activities related to occurrence of grounds to revoke permission or authorization, etc.; and
4. Persons subject to punishment as referred to in the provisions of subparagraph 2 or 3, who have retired or resigned prior to being subject to such punishment.

[This Article Newly Inserted by Presidential Decree No. 18688, Jan. 27, 2005]

Article 10-8 (Internal Control Standards)

- (1) The internal control standards (hereinafter referred to as “internal control standards”) under Article 40 of the Act shall include each of the

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following matter relating to: <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

1. The division of work and organizational structure;
2. The control of risks arising in the course of managing assets and conducting the business;
3. The procedures for officers and employees to observe in performing their duties;
4. The building of a system under which necessary information for making decisions to transmit business efficiently and on an information system;
5. The procedures and methods of verifying whether the internal control standards are observed and the handling of any officer or employee who has violated the internal control standards;
6. The report on details of futures trading by any officer or employee and procedures or standards for preventing any officer or any employee from being engaged in unfair futures trading;
7. The procedures for setting or altering the internal control standards; and
8. Other matters prescribed by the Financial Services Commission as specific standards for the matters under subparagraphs 1 through 7.

(2) The Financial Services Commission may recommend that any futures company, which is found to have violated Acts or subordinate statutes as a result of examination by the Financial Supervisory Service under Article 81 (1) of the Act, shall alter its internal control standards to prevent a subsequent violation of Acts or subordinate statutes. <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

[This Article Newly Inserted by Presidential Decree No. 16896, Jul. 10, 2000]

Article 10-9 (Outside Directors of Futures Company)

(1) Futures companies that must have outside directors pursuant to Article 40-2 of the Act shall be those whose current assets exceed two trillion won, as at the end of the most recent business year: *Provided*, That a futures business company falling under the following subparagraphs shall be excluded:

1. Domestic branches or business offices of a foreign futures company;
2. A futures company which was resolved to cease due to a merger, etc., within six months from a regular meeting of stockholders;
3. A futures company in the process of rehabilitation under the Debtor

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Rehabilitation and Bankruptcy Act;

4. A futures company that has been declared bankrupt; or
 5. A futures company that has resolved determined to dissolve.
- (2) The term “corporation, which has important business relations prescribed by Presidential Decree with the company, or which is a competitor or collaborator of the company”, as referred to in Article 40-2 (4) 10 of the Act, means a corporation falling under any of the following subparagraphs (excluding investment companies under Article 17-2 (8) of the Enforcement Decree of the Corporate Tax Act and foreign financial institutions corresponding thereto):
1. A corporation whose total amount of results of trades with the relevant futures company in the most recent three years exceeds 10/100 or more of the total assets (referring to the relevant futures company’s total assets on the current balance sheet, as at the end of the most recent business year) or the total sales (referring to the relevant futures company’s total sales on the current statement of profits and losses, as at the end of the most recent business year; hereafter the same shall apply in this Article);
 2. A corporation that agreed on a single trade contract of an amount exceeding 10/100 of the total sales with the relevant futures company, in the most recent business year;
 3. A corporation that the sum of the amount leased or borrowed money, securities and other stocks or bonds, and the amount of guaranty of obligations, such as a guaranty provided by the relevant futures company exceeds 10/100 of the corporation’s assets (referring to the relevant company’s assets on its current balance sheet, as at the end of the most recent business year);
 4. A corporation, for which the relevant futures company made an investment of 5/100 or more of the corporation’s assets (referring to the assets on the corporate’s current balance sheet which are invested by the relevant company, as at the end of the most recent business year), as at the date of the relevant futures company’s regular meeting of stockholders;
 5. A corporation under a contract of technical cooperation with the relevant futures company;
 6. An accounting firm that is appointed as an auditor of the relevant

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futures company; and

7. A corporation under a contract such as legal consulting or management consulting with the relevant futures company.
- (3) The term “person prescribed by Presidential Decree” as referred to Article 40-2 (4) 12 means any of the following persons:
 1. A person serving as an outside director, non-standing director or non-standing auditor, for two or more listed corporations on the stock market or on KOSDAQ, other than the relevant futures company;
 2. An attorney, Certified Public Accountant, licensed tax accountant or other person offering consulting services for the relevant futures company, as an auditor or a tax agency of such company;
 3. A stockholder who is holding (referring to holding under Article 21 (1) of the Securities Exchange Act) 1/100 or more stocks of the total stocks issued by the relevant futures company; and
 4. A person whose remaining balance from a transaction (excluding a standardized transaction conducted pursuant to standardized contracts under Article 2 (1) of the Regulation of Standardized Contracts Act, with the relevant futures company), other than those in subparagraph 3, is 100 million or more.

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 10-10 (Audit Committee of Futures Company)

- (1) A futures company that must have an audit committee pursuant to Article 40-3 (1) of the Act shall be a futures company whose current assets are exceed 2 trillion won, as at the end of the most recent business year.
- (2) The term “specialist in accounting or finance, prescribed by Presidential Decree” as referred in Article 40-3 (2) 2 of the Act means any of the following persons: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*
 1. A licensed Certified Public Accountant who has been engaged in work related to the license for at least five years;
 2. A person who has a master’s degree, or higher, in finance or accounting, and has worked as a researcher or a full-time lecturer in fields related to finance or accounting at research institutes or universities for five years or more upon receiving such degree;
 3. A person who has worked in a role related to finance or accounting at a corporation listed on the stock market or on KOSDAQ, for five years as an officer or ten years as an employee;

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4. A person who has worked in a role related to finance or accounting, or supervision thereof, for five years or more, at the State or local governments, public agencies under the Act on the Management of Public Agencies, the Financial Services Commission, Korea Securities and Futures Exchange under the Korea Securities and Futures Exchange Act, securities-related agencies pursuant to Article 2 (17) of the Securities Exchange Act, futures companies or futures associations; or
5. A person who has worked in a role related to finance or accounting for five years or more, for agencies subject to inspection under Article 38 of the Act on the Establishment, etc. of Financial Services Commission (including foreign financial institutes corresponding thereto).

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 11 (Matters to be Reported)

(1) Any futures company shall, where it falls under any subparagraph of Article 41-2, promptly report the details thereof to the Financial Services Commission: *Provided*, That the Financial Services Commission may determine the period of reporting depending on the importance of such fact. *<Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>*

(2) The term “in cases the matters prescribed by Presidential Decree occur” as referred to in subparagraph 6 of Article 41-2 of the Act means any of the following cases: *<Amended by Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 19422, Mar. 29, 2006; Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>*

1. Where an application for the commencement of rehabilitation procedures is filed, a decision on the commencement of rehabilitation procedures is made or a decision on the commencement of rehabilitation procedures loses its validity under the Debtor Rehabilitation and Bankruptcy Act;
2. Where it is subject to a disposition taken by a financial institution to suspend its current account transactions under the Banking Act;
3. Where an illegal or unfair act conducted by any officer or employee, such as the embezzlement or the arbitrary or discretionary transaction of company asset or clients' asset, exists;
4. Where a resolution of the board of directors has been passed for conducting other business than the futures business;

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5. Where a ground for business suspension or the ground for dissolution accrues; or
6. Other cases, prescribed by the Financial Services Commission, which are necessary to protect clients.

[This Article Newly Inserted by Presidential Decree No. 16896, Jul. 10, 2000]

Article 11-2 (Matters to be Stated in Notification of Risk in Futures Trading)

(1) The following matters shall be stated in a document sent from a futures company to a client prior to the conclusion of a contract (meaning the conclusion of an account-establishment contract made between a futures company and a client in connection with futures trading, etc.; hereafter in this Article and Article 11-3, the same shall apply) pursuant to Article 43 (3) of the Act (hereinafter referred to as a “notification of risk in futures trading”): *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008>*

1. Potential losses incurrence exceeding client margins;
2. Potential additional payment of client margins;
3. Futures company’s revocability of an unsettled contract where the additional client margins remain unpaid;
4. Possible increase of client margins according to circumstances in futures markets or overseas futures markets;
5. Difficulty of revoking open contract according to circumstances in futures markets or overseas future markets; and
6. Matters that the Financial Services Commission deems necessary for the protection of clients other than those listed in subparagraphs 1 through 5.

(2) Where any futures company sends a notification of risk in futures trading to a client, it shall explain such matter in detail and receive a document to the effect that the client acknowledges he/she trades in futures on his/her own judgement and responsibility, and which is signed or sealed by the client. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 11-3 (Matters to be Stated in Contract Conclusion Documents)

(1) The following matters shall be stated in a document pertaining to conclusion of contract sent from a futures company to a client pursuant to Article 43 (3) of the Act: *<Amended by Presidential Decree No. 16896, Jul. 10, 2000>*

1. Matters on a futures company’ refusal to receive commission;

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2. Matters on the collection of client margins;
3. Matters on the measures in the event of failure to pay client margins and clearing amount;
4. Matters on commission fees or other general expenses; and
5. Matters which violate related provisions other than those listed in subparagraphs 1 through 4, which are deemed necessary by a futures company.

(2) A document listed in paragraph (1) shall be signed or sealed by the futures company and the clients, respectively. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 11-4 (Communication, etc. of Account Sale)

(1) Where any transaction of futures contract, etc. commissioned by a client is completed, a futures company shall promptly notify the client of such fact. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000>*

(2) Each futures company shall notify the details and balance status of futures trading, etc. as at the end of a month to a client who has attained results of futures trading, etc. on the basis of the end of every month by the twentieth day of the following month, and shall notify the balance status of a half year to a client who has not attained results of futures trading, etc. on the basis of the end of each half year by the twentieth day after the closure of such half year. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000>*

(3) Where any futures company sends the account sale and balance status of futures trading, etc. referred to in paragraphs (1) and (2) by mail or by e-mail to the address designated by the client, such notification shall be deemed to have been given. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000>*

(4) The necessary details in connection with a futures company's notification of the details and balance status of futures trading, etc. shall be determined by the Financial Services Commission. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 12 (Prohibited Conducts)

The term "conducts prescribed by Presidential Decree" in Article 45 (1) 6 of the Act means any of the following: *<Amended by Presidential Decree No. 20451, Dec. 20, 2007>*

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1. Use of information obtained in the course of performing one's duties, such as the trend of clients' purchase orders, for the benefit of oneself or a third party; or
2. Failure to make an application for the pertinent entrustment to the Exchange or foreign futures market or to perform brokerage, etc. of such entrustment but instead involving a third party as its counter party and entering into a trade with such third party, in cases where an entrustment of futures trading, etc. or brokerage, etc. of such entrustment was given exists.

Article 12-2 (Stated Matters in Business Report)

The term "other matters prescribed by Presidential Decree" in Article 47 (1) of the Act means each of the following matter on: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. History, organization, etc. of a futures company;
2. The details of business conducted by a futures company;
3. Officers and staff members, such as current status of securing specialists under the provisions of Article 10 (1) 1;
4. The largest stockholder and major stockholders (including their specially related persons);
5. Trades with the specially related persons of the futures company;
6. Current status of deposited asset, such as deposited funds and deposited securities, etc. from clients;
7. The management of stores and human resources;
8. Where the futures company or officers and staff members have been subject to any disposition under the provisions of Article 25-4 for the most recent five years from the Financial Services Commission, the Governor of the Financial Supervisory Service, etc., the details thereon; and
9. Other matters related to the business and management of a futures company and determined by the Financial Services Commission where necessary to notify them to the public.

[This Article Newly Inserted by Presidential Decree No. 19160, Dec. 1, 2005]

Article 13 (Restriction on Trading by Officers and Employees)

- (1) The term "cases where determined by Presidential Decree" in Article 48 (1) of the Act means the following: *<Amended by Presidential Decree No.*

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15759, Apr. 1, 1998; Presidential Decree No. 16287, May 10, 1999; Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 19160, Dec. 1, 2005>

1. Where they entrust overseas futures trading;
2. Where they close futures trading performed before becoming officers and employees;
3. Where they acquire beneficiary certificates issued by an asset management company under the Act on Business of Operating Indirect Investment and Assets; and
4. Where they acquire the stocks issued by the investment company under the Act on Business of Operating Indirect Investment and Assets.

(2) Deleted. *<by Presidential Decree No. 15179, Apr. 1, 1998>*

Article 13-2 (Scope of Client Deposits)

(1) The scope of client deposits which a futures company under Article 49-2 (1) of the Act must deposit in a securities finance company referred to in Article 145 of the Securities and Exchange Act (hereinafter referred to as “depository”) shall be an amount obtained by deducting the amount under subparagraph 2 from the amount under subparagraph 1: *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20653, Feb. 29, 2008>*

1. The total amount of:
 - (a) An amount entrusted by clients for futures trading, etc.;
 - (b) An amount of profits accrued from futures trading, etc. of clients;
 - (c) An amount which a futures company has promised to pay to clients such as interest on client deposits; and
 - (d) Other amount determined by the Financial Services Commission from among the amount which is entrusted by clients to a futures company or which is to be paid by a futures company to clients; and
2. The total amount of:
 - (a) An amount which a futures company deposits with a futures exchange or another futures company for clients’ futures trading;
 - (b) An amount deposited with an overseas futures market (including its settlement agencies; hereinafter the same shall apply) and a person who runs the business falling under futures business abroad by a futures company for clients’ overseas futures trading;
 - (c) An amount of losses incurred from clients’ futures trading;
 - (d) Overall expenses related to clients’ futures trading such as client

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commission, etc.; and

(e) Other amount as determined by the Financial Services Commission among the amount which a futures company is expected to receive from a client or an amount required for clients' futures trading.

(2) The specific standards for calculating amounts referred to in any subparagraph of paragraph (1) shall be determined by the Financial Services Commission. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

(3) Each futures company shall deposit above the amount which is calculated pursuant to paragraph (2). In this case, the time of deposit shall be determined by the Financial Services Commission, taking into account the time of client deposit and time of settlement, etc. pursuant to paying in and withdrawal, and such period of deposit shall not exceed seven days. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-3 (Exceptional Assignment of Client Deposits)

A futures company which has deposited client deposits (hereinafter referred to as a "depository futures company") may assign a part or all of client deposits with the depository pursuant to Article 49-2 (3) of the Act in any of the following cases: *<Amended by Presidential Decree No. 16896, Jul. 10, 2000>*

1. Where a depository futures company is merged with or consolidated into another company; and
2. Where a depository futures company assigns all or a part of its futures business.

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-4 (Withdrawal of Client Deposits)

Any depository futures company may withdraw client deposits deposited with the depository according to the following standards: *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008>*

1. Where client deposits already deposited exceed the client deposits to be deposited: the difference between deposited client deposits and client deposits to be deposited;
2. Where a cause for preferential payment referred to in Article 49-2 (4) of the Act occurs: deposited client deposits; and
3. Where the Financial Services Commission approves as necessary such as large-scale request from clients for payment of client deposits simulta-

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neously: approved amount.

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-5 (Time for Announcement for Payment of Client Deposits)

The term “period as determined by Presidential Decree” in Article 49-2 (4) of the Act means two months from the date on which a cause of any subparagraphs of paragraph (4) of the said Article occurs: *Provided*, That where it is impossible to announce within the said period due to the occurrence of any inevitable causes, such period may be extended by up to one month upon approval of the Financial Services Commission. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-6 (Operation of Client Deposits)

(1) Financial institutions referred to in Article 49-2 (6) 2 of the Act means: *<Amended by Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20776, Apr. 30, 2008>*

1. Financial institutions under the Banking Act;
2. The Korea Development Bank under the Korea Development Bank Act;
3. The Industrial Bank of Korea under the Industrial Bank of Korea Act;
4. Deleted; *<by Presidential Decree No. 20776, Apr. 30, 2008>*
5. Merchant banks under the Merchant Bank Act;
6. Insurers under the Insurance Business Act;
7. The Credit Guarantee Fund under the Credit Guarantee Fund Act;
and
8. Securities companies under the Securities and Exchange Act.

(2) The term “other methods determined by Presidential Decree” in Article 49-2 (6) 3 of the Act means the following: *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20653, Feb. 29, 2008>*

1. Loans to a depository futures company secured on securities (including certificates of deposits) referred to in Article 2 (1) of the Securities and Exchange Act;
2. Purchase of the Bank of Korea monetary stabilization bonds under Article 69 of the Bank of Korea Act; and
3. Other methods determined by the Financial Services Commission, deemed capable of safe operation of client deposits.

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-7 (Management of Client Deposits)

Any depository shall manage deposited client deposits in good faith and

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with sincerity, separately from his/her own asset.

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-8 (Detailed Matters on Management, etc. of Client Deposits)

Detailed matters necessary for the deposition, withdrawal payment and management of client deposits shall be determined by the Financial Services Commission. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-9 (Deposit of Securities by Futures Companies)

(1) The term “bonds or deeds as determined by Presidential Decree” in Article 49-3 (1) of the Act means the following: *<Amended by Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20653, Feb. 29, 2008>*

1. Certificates of deposits; and
2. Foreign currency bonds referred to in the Foreign Exchange Transactions Act, which the Financial Services Commission may determine.

(2) The term “those as determined by Presidential Decree” in Article 49-3 (2) of the Act means any of the following securities, bonds or deeds: *<Amended by Presidential Decree No. 18688, Jan. 27, 2005; Presidential Decree No. 20653, Feb. 29, 2008>*

1. Securities (including certificates of deposits) referred to in Article 2 (1) of the Securities and Exchange Act; and
2. Foreign currency bonds referred to in the Foreign Exchange Transactions Act, which the Financial Services Commission may determine.

(3) Where a futures company keeps securities, bonds or deeds in custody, other than securities to be deposited referred to in Article 173-7 of the Securities and Exchange Act with the Korea Securities Depository and Settlement by deposit in custody or other methods, it shall be deemed to have them deposited pursuant to Article 49-3 of the Act. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 18688, Jan. 27, 2005>*

[This Article Newly Inserted by Presidential Decree No. 16287, May 10, 1999]

Article 13-10 (Reserve Fund)

(1) Each futures company shall accumulate disposable profits as a reserve fund each fiscal year in accordance with Article 50 of the Act. In this case, where such disposable profits exceed 1/1,000 of the amount of consignment fees (including overseas consignment fees; hereafter in this Article the same shall apply), the reserve fund shall be the amount equivalent to 1/1,000 of the consignment fees.

(2) Any futures company shall be permitted to use the reserve fund only

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in cases falling under any of the following subparagraphs:

1. Where any futures company or its officer or employee is found to be responsible for a loss suffered by a client and accordingly the futures company intends to compensate such loss; and
2. Where a reserve fund has been unused for three fiscal years after such reserve was accumulated and that the reserve funds are carried over.

[This Article Newly Inserted by Presidential Decree No. 16896, Jul. 10, 2000]

Article 14 (Matters to be Observed in Overseas Futures Trading)

Any futures company entrusted with overseas futures trading pursuant to Article 51 (1) of the Act shall comply with the following matters as prescribed by the Financial Services Commission: *<Amended by Presidential Decree No. 15759, Apr. 1, 1998; Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008>*

1. Client classification and the scope of the respective entrustment and duties of a broker, etc.;
2. Matters concerning account types and the management of accounts;
3. Matters concerning receipt and management of consignment guarantee funds; and
4. Other matters concerning the acceptance of entrustments and duties of a broker, etc. of such entrustments.

Articles 15 through 21 Deleted. *<by Presidential Decree No. 15287, May 10, 1999>*

CHAPTER IV FUTURES ASSOCIATION, ETC.

Articles 22 through 24 Deleted. *<by Presidential Decree No. 15759, Apr. 1, 1998>*

Article 25 (Matters to be Stated in Articles of Association of Futures Association)

(1) Matters falling under each of the following subparagraphs shall be stated in the articles of association of the Futures Association: *<Amended by Presidential Decree No. 16287, May 10, 1999; Presidential Decree No. 16896, Jul. 10, 2000>*

1. Purpose;
2. Name;
3. Business duties;
4. Location of offices;
5. Matters concerning admission and expulsion of members;
6. Matters concerning rights and obligations of members;

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7. Matters concerning membership fees;
8. Matters concerning assets;
9. Matters concerning appointment and removal of officers;
10. Matters concerning the general members' meeting and the board of directors;
11. Matters concerning accounting;
12. Matters concerning futures trading and the entrustment thereof;
13. Matters concerning the protection of clients and investors;
14. Matters concerning education of persons engaged in futures trading;
and
15. Matters concerning the maintenance of order among futures companies.

(2) The Futures Association established pursuant to Article 75 (3) of the Act shall, when it intends to alter any matter under paragraph (1) 1 through 3 and 5, obtain approval from the Financial Services Commission: *Provided*, That the same shall not apply to cases where the details of such alteration are based on the amendment of Acts and subordinate statutes or are immaterial. <Newly Inserted by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008>

Article 25-2 (Other Work)

The term "other work prescribed by Presidential Decree" in Article 77 (1) 6 of the Act means any of the following:

1. Surveying and analyzing secondary commodity transactions by any futures company;
2. Setting and enforcing standards for maintaining business order by each futures company;
3. Keeping and managing disciplinary records of officers and employees of any futures company; and
4. Publishing the regulatory ratio of equity capital of each futures company.

[This Article Newly Inserted by Presidential Decree No. 16896, Jul. 10, 2000]

Article 25-3 (Request for Submission of Data)

Where the Financial Services Commission (referring to the Securities Futures Commission in cases where the provisions of Articles 31 through 33, 44, 45, 48, 51, 93 and 94 of the Act are violated; hereafter in this Article and Article 25-4, the same shall apply) requests any futures-related agency to submit data under Article 81-2 (3) of the Act, it shall make such request in writing, stating the purposes for use, types, items and catego-

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ries of futures trading, trading hours or other matters. *<Amended by Presidential Decree No. 16287, May 10, 1999; Presidential Decree No. 19160, Dec. 1, 2005; Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 25-4 (Measures as Results of Investigation)

The term “measures as determined by Presidential Decree” in Article 81-2 (4) of the Act means any of the following measures: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. Where a violator is a futures-related agency or its officer and employee:

Measures falling under any of the following items:

- (a) Warning or caution against the futures-related agency;
- (b) Request for censure of any officer or employee in question;
- (c) Request for or recommendation to the improvement of management or business methods;
- (d) Accusation or notification to any investigation authority for a case subject to penal punishment;
- (e) Notification to any related agency or investigation authority where any other Act is violated; or
- (f) Measures which the Financial Services Commission may take under the Act and this Decree and other related Acts and subordinate statutes other than those listed in items (a) through (e); and

2. Where a violator is any person other than one listed in subparagraph 1:

Measures falling under subparagraph 1 (d) through (f).

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 26 Deleted. *<by Presidential Decree No. 15759, Apr. 1, 1998>*

CHAPTER V Deleted.

Articles 27 through 34 Deleted. *<by Presidential Decree No. 15759, Apr. 1, 1998>*

CHAPTER VI SUPPLEMENTARY PROVISIONS

Article 35 (Application of Foreign Exchange Transactions Act)

The term “cases prescribed by Presidential Decree” in Article 92 (2) of the Act shall refer to monetary loans or guarantee of liabilities for futures trading, etc. from among foreign exchange transactions involved in futures

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trading, etc. *<Amended by Presidential Decree No. 16287, May 10, 1999>*

Article 35-2 (Order for Over-the-Counter Trading)

(1) The Financial Services Commission may order a futures company to perform any of the following matters in relation to over-the-counter trading under the provisions of Article 93 (1) of the Act: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. Restrictions on specific over-the-counter trading and trading partners;
2. Risk management attendant on over-the-counter trading, such as the establishment of an internal control system;
3. Public notification attendant on over-the-counter trading; and
4. Regular or irregular reports such as accounting reports on over-the-counter trading.

(2) Any order referred to in paragraph (1) shall be issued in writing, specifying its purport.

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 36 (Delegation and Entrustment of Authorities)

(1) The Financial Services Commission shall, under Article 95 (1) of the Act, delegate the Securities Futures Commission with authorities of the restrictions on futures trading by foreigners pursuant to Article 94 of the Act. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

(2) The Financial Services Commission shall, under Article 95 (3) of the Act, entrust the Exchange with authorities of the restrictions on futures trading by each futures company and the restrictions on futures trading by each client pursuant to subparagraph 3 of Article 8. *<Amended by Presidential Decree No. 16896, Jul. 10, 2000; Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Wholly Amended by Presidential Decree No. 15759, Apr. 1, 1998]

Article 36-2 (Classification into Urgent or Minor Matters)

(1) Urgent matters, which can be entrusted to the Chairman of the Financial Services Commission and the Chairman of the Securities Futures Commission, respectively, from among the authorities of the Financial Services Commission and the Securities Futures Commission pursuant to Article 95 (5) of the Act, shall be any of the following matters: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. Which require urgency in transaction in cases where it is difficult for the Financial Services Commission or the Securities Futures Commission to hold a meeting for a reasonable period of time due to any

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disaster, war or emergency, extreme change in economic conditions or other equivalent incidents; and

2. Which require prompt action and for which the effectiveness of any action is obviously reduced if a meeting of the Financial Services Commission or the Securities Futures Commission is held, in time of emergency to protect clients and investors and to maintain order in fair trade.
- (2) Minor matters, which can be entrusted to the Governor of Financial Supervisory Service from among the authorities of the Financial Services Commission and the Securities Futures Commission pursuant to Article 95 (5) of the Act, shall be any of the following matters on: *<Amended by Presidential Decree No. 20552, Jan. 18, 2008; Presidential Decree No. 20653, Feb. 29, 2008>*
1. The procedures and methods necessary for executing matters determined by the Financial Services Commission or the Securities Futures Commission;
 2. The declaration, report and registration, etc. which require no separate decision-making as the processing standards determined by the Financial Services Commission or the Securities Futures Commission are definite;
 3. Conducting investigations such as a request for submission of statements, books, documents or other articles or a request for appearance to present for testimony according to specific processing standards as determined by the Financial Services Commission or the Securities Futures Commission in respect of an investigation by persons concerned, as referred to in Article 81-2 (1) of the Act;
 - 3-2. Article 81-2 of the Act and subparagraph 1 (a) through (e) of Article 25-4 of this Decree on officers and employees of a futures company, from among the Financial Services Commission's right to take measures under the Act or this Decree (if the finance-related Acts pursuant to Article 10-7 (1) stipulate that the relevant officers or employees have become subject to such measures, shall relinquish their position, such measures are excluded);
 4. Litigation affairs of the Financial Services Commission and the Securities Futures Commission; and
 5. Executing simple affairs, other than those listed in subparagraphs 1

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through 4.

(3) In respect of delegated matters referred to in paragraph (1), the results of disposition shall be reported to the first meeting of the Financial Services Commission or the Securities Futures Commission convened after the execution of delegated matters. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 36-3 (Contributions)

The allotment ratio, limit, or payment of contributions referred to in Article 95-5 (2) of the Act shall be governed by the provisions of Article 12 of the Enforcement Decree of the Act on the Establishment, etc. of Financial Services Commission. *<Amended by Presidential Decree No. 18688, Jan. 27, 2005; Act No 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 15759, Apr. 1, 1998]

Article 36-4 Deleted. *<by Presidential Decree No 20653, Feb. 29, 2008>*

Article 36-5 (Imposition of Penalty Surcharges)

(1) Where the Financial Services Commission imposes penalty surcharges under Article 95-8 of the Act, it shall have the following standards of imposition, pursuant to Article 95-9 (1) of the Act: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. The penalty surcharge shall be no less than 50/100 of the maximum penalty surcharge prescribed by Article 95-8 of the Act (hereafter referred to as the "maximum penalty surcharge"), if:
 - (a) A violation has been lasted one year or more, or repeated three times or more;
 - (b) The extent of profit gained from such a violation is one hundred million won or more; and
 - (c) A violation is related to unfair trades, such as insider trading or market rigging; or
2. The penalty surcharge shall be reduced or exemptible, if:
 - (a) A violation is insignificant;
 - (b) A violation was immediately rectified; or
 - (c) Investors' losses resulting from such violation have been compensated.
- (2) The standard for calculating the maximum penalty surcharge shall be the total amount of credit extended.
- (3) Where the Financial Services Commission imposes penalty surcharges

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pursuant to Article 95-8 of the Act, the Committee shall, along with a notification stating matters falling under the following subparagraphs, send a notification stating the violation committed and the amount of penalty surcharges and shall demand them to be paid. The forgoing shall apply to cases where a notification for payment of penalty surcharges is issued after the decision on extension of payment period or on installment payment in accordance with Article 95-12 (1) of the Act: *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

1. Number of issuance;
2. Person subject to penalty surcharges;
3. Date of violation;
4. Types of violation;
5. Amount of penalty surcharges;
6. Payment period; and
7. Recipient agencies.

(4) Any person who have received such notification pursuant to paragraph (3) shall pay such penalty surcharges within sixty days upon receiving the notification at the recipient agency prescribed by the Financial Services Commission. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

(5) Necessary details for format of the notification pursuant to paragraph (3) or other matters for imposition of penalty surcharges shall be decided by the Financial Services Commission. *<Amended by Presidential Decree No. 20653, Feb. 29, 2008>*

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 36-6 (Extension of Payment Period and Payment in Installments)

(1) Extension of payment period pursuant to Article 95-12 (1) of the Act shall not exceed one year from the day after the last day of the payment period.

(2) In cases where payment in installments is permitted under Article 95-12 (1) of the Act, the interval between installments shall be less than six months, and the number of installments shall be three times or fewer.

(3) The application for extension of payment period or payment in installments, pursuant to Article 95-12 (2) of the Act, shall be in writing stating as follows. In this case, documents that evidence the matters subparagraph 6 shall be accompanied:

1. Issuance number of the notification of penalty surcharges;

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2. Date of violation;
3. Types of violation;
4. The amount of payment surcharges;
5. payment periods; and
6. Grounds for application for extension of payment period or payment in installments.

(4) The format of application pursuant to paragraph (3) shall be decided by the Financial Services Commission. <Amended by Presidential Decree No. 20653, Feb. 29, 2008>

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 36-7 (Additional Charges)

The term "additional charges prescribed by Presidential Decree" as referred in Article 95-13 (1) of the Act means the amount calculated by the amount of penalty surcharges and in arrears, with six percent per annum interest applied thereto.

[This Article Newly Inserted by Presidential Decree No. 20552, Jan. 18, 2008]

Article 37 (Procedures for Imposition and Collection of Fines for Negligence)

(1) In order to impose a fine for negligence pursuant to Article 101 (3) of the Act, a written notice specifying the violation and the amount of such fine for negligence, etc., demanding the payment thereof shall be issued to the person subject to such disposition of a fine for negligence after the pertinent act of violation is investigated and verified.

(2) Before imposing a fine for negligence pursuant to paragraph (1), the Financial Services Commission shall provide the person subject to such disposition of fine for negligence with the opportunity to present his/her opinion either verbally or in writing (including by electronic document) within a fixed period not exceeding ten days. In this case where no opinion is expressed during such period, it shall be deemed that the person has no opinions. <Amended by Presidential Decree No. 15759, Apr. 1, 1998; Presidential Decree No. 18312, Mar. 17, 2004; No 20653, Feb. 29, 2008>

(3) The Financial Services Commission shall take into consideration the motive of violation, the consequence thereof etc. in determining the amount of the fine for negligence to be imposed. <Amended by Presidential Decree No. 15759, Apr. 1, 1998; Act No 20653, Feb. 29, 2008>

ADDENDA

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Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 1996.

Article 2 (Date of Establishment of Commission)

“Date prescribed by Presidential Decree” mentioned in Article 5 (1) of the Addenda to the Act No. 5041 shall mean the permission for establishment date of the Exchange to be established for the first time pursuant to Article 8 (2) of the Act.

Article 3 (Abolition of Other Statutes, etc.)

(1) The Regulations on the Management of Overseas Futures Trading of Principal Supplies shall be abolished hereby.

(2) Omitted.

ADDENDA <Presidential Decree No. 15759, Apr. 1, 1998>

(1) (Enforcement Date) This Decree shall enter into force on April 1, 1998.

(2) (Example of Application of Provisions on Notification of Fisk in Futures Trading) The amendments to Articles 11-2 through 11-4 shall apply to the first contract pertaining to futures trading, etc. concluded after this Decree enters into force.

ADDENDUM <Presidential Decree No. 15941, Dec. 18, 1998>

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

ADDENDUM <Presidential Decree No. 16287, May 10, 1999>

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

ADDENDA <Presidential Decree No. 16323, May 24, 1999>

Article 1 (Enforcement Date)

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

Articles 2 through 4 Omitted.

ADDENDA <Presidential Decree No. 16709, Feb. 14, 2000>

Article 1 (Enforcement Date)

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

Article 2 Omitted.

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ADDENDUM <Presidential Decree No. 16896, Jul. 10, 2000>

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

ADDENDA <Presidential Decree No. 17031, Dec. 29, 2000>

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

(2) (Enforcement Date of Amendments to Securities and Exchange Act) The term "day as determined by Presidential Decree" in the proviso to Article 1 of the Addenda of the Futures Trading Act, Act No. 5041, means the day according to the classifications under any of the following subparagraphs:

1. Futures trades requiring the stock certificates listed on the Korea Stock Exchange (hereinafter referred to as the "Stock Exchange") established under Article 71 of the Securities and Exchange Act, and the indexes based thereupon: January 1, 2004; and
2. Futures trades requiring the stock certificates other than the stock certificates, stipulated in subparagraph 1 and to the indexes based thereupon: Enforcement date of this Decree.

(3) (Transitional Measures on Futures Trades of Listed Stocks) Notwithstanding the provisions of paragraph (2) 1 of the Addenda, with respect to the items of the futures trades of listed stocks of which the final trade date arrives before December 31, 2004, among the futures trades of listed stocks dealt with by the Stock Exchange as at December 31, 2003, the previous provisions shall govern until December 31, 2004.

ADDENDUM <Presidential Decree No. 18312, Mar. 17, 2004>

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

ADDENDUM <Presidential Decree No. 18688, Jan. 27, 2005>

This Decree shall enter into force on the date on which the Exchange has made an establishment registration as referred to in the provisions of Article 11 of the Addenda of the Korea Securities and Futures Exchange Act, Act No. 7112.

[This Decree takes effect on January 27, 2005 pursuant to the Korea Securities and Futures Exchange Act, Act No. 7112, which is amended on January 29, 2004]

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ADDENDUM <Presidential Decree No. 19160, Dec. 1, 2005>

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

ADDENDUM <Presidential Decree No. 19301, Jan. 27, 2006>

This Decree shall enter into force on January 30, 2006.

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

Article 1 (Enforcement Date)

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

Article 2 Omitted.

ADDENDUM <Presidential Decree No. 20120, Jun. 28, 2007>

This Decree shall enter into force on July 4, 2007.

ADDENDUM <Presidential Decree No. 20451, Dec. 20, 2007>

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

ADDENDA <Presidential Decree No. 20552, Jan. 18, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on January 20, 2008: *Provided*, That the amended provisions of the attached Tables 1 and 2 shall apply on March 20, 2008.

Article 2 (Applicability Concerning Requirements for major stockholders)

The amended provisions of the attached Table 1 shall apply to the application for approval, pursuant to Article 9 (1), 1 first submitted to the Financial Services Commission after this Decree enters into force.

Article 3 (Applicability Concerning Requirements of Approval on Changing Major Stockholders)

The amended provisions of the attached Table 2 shall apply to the application for approval for changing major stockholders, pursuant to the amended provisions of Article 10-3 (4), first submitted to the Financial Services Commission at the time this Decree enters into force.

Article 4 (Transitional Measures concerning Decision Period of Approval on Changing Major Stockholders)

Despite the amended provisions of Article 10-3 (7), the previous provision shall apply to the applications for approval for controlling stockholders

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already submitted to the Financial Services Commission at the time this Decree enters into force.

Article 5 (Transitional Measures concerning Restrictions on Extension of Credit for Officers)

In cases where a futures company has extended credit for an officer in excess of the limitation pursuant to Article 10-4 (2) 1 at the time this Decree enters into force, the company shall conform with the amended provisions of Article 10-4 (2) 1 within six months from the date this Decree enters into force.

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

Article 1 (Enforcement Date)

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

Article 2 Omitted.

ADDENDA <Presidential Decree No. 20776, Apr. 30, 2008>

Article 1 (Enforcement Date)

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

Article 2 (Special Provisions on Holding Large Quantity of Unsettled Contracts of Futures Trading)

At the time this Decree enters into force, a futures company or a trustor, who holds a quantity of unsettled contracts in excess of the quantity pursuant to the amended provisions of Article 8-2 (1) 1, shall report within five days from the date of notifying the procedures and methods pursuant to the amended Article 8-2 (2), notwithstanding the amended provisions of Article 8-2 (2).