

FUTURES TRADING ACT

Act No. 5041, Dec. 29, 1995
Amended by Act No. 5504, Jan. 13, 1998
Act No. 5737, Feb. 1, 1999
Act No. 5982, May 24, 1999
Act No. 6171, Jan. 21, 2000
Act No. 6707, Aug. 26, 2002
Act No. 7113, Jan. 29, 2004
Act No. 7428, Mar. 31, 2005
Act No. 7530, May 31, 2005
Act No. 7617, Jul. 29, 2005
Act No. 8523, Jul. 19, 2007
Act No. 8852, Feb. 29, 2008
Act No. 8863, Feb. 29, 2008
Act No. 8903, Mar. 14, 2008
Act No. 9078, Mar. 28, 2008

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to contribute to the protection of clients and investors by ensuring that futures are traded in a fair and smooth manner, and the development of the national economy by pursuing the fostering futures business and development of futures market.

Article 2 (Scope of Application)

This Act shall apply to futures trading of goods falling under any of the following:

1. Agricultural, poultry, fishery, forest, mining or energy products, any products that are manufactured or processed using such products as raw materials and other similar (hereinafter referred to as “commodity futures”);
2. Currency, securities, claims, service charges, or similar goods other than commodity futures (including products for which interest rates and other trading terms are standardized in order to make futures trading smooth; hereinafter referred to as “financial futures”); and
3. Indexation of goods falling under subparagraphs 1 and 2 by utilizing the prices, interest rates, etc. thereof (hereinafter referred to as

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“index”).

Article 3 (Definitions)

The definitions of terms used in this Act shall be as follows: <Amended by Act No. 5504, Jan. 13, 1998; Act No. 6171, Jan. 21, 2000; Act No. 7113, Jan. 29, 2004; Act No. 7530, May 31, 2005; Act No. 8523, Jul. 19, 2007>

1. The term “futures trading” means any transaction which is executed on a futures market in accordance with such standards and procedures as prescribed by this Act and the Korea Securities Futures Exchange established under the Korea Securities Futures Exchange Act (hereinafter referred to as the “Exchange”) and which falls under any of the following items, and any similar transaction:
 - (a) A transaction in which parties agree to deliver and receive particular commodity futures or financial futures at specified prices at a specified time in the future, wherein the accounts of the difference between prices agreed in advance and prices at the time of long covering or short covering, if covered long or short, can be settled;
 - (b) A transaction based on an agreement to deliver or receive an amount calculated on the basis of the difference between the agreed upon value (hereinafter referred to as “agreed value”) established in advance with respect to a particular index and the value of such index at a specified point of time in the future; or
 - (c) A transaction based on an agreement whereby a party grants the other party a right to effectuate a transaction falling under any of the following by an indication of the other party’s intention and the other party promises to pay an amount in return for such right:
 - (i) Transaction referred to in item (a) or (b), above;
 - (ii) Purchase or sale of commodity futures or financial futures; or
 - (iii) Transaction, the subject matter of which is an index;
2. The term “overseas futures trading” means a transaction conducted on an overseas futures market and falling under any of subparagraph 1 (a) through (c) or other similar transaction as prescribed by Presidential Decree;
3. The term “futures market” means a market established by the Exchange for the purposes of carrying out futures trading;
4. The term “overseas futures market” means a market similar to a futures market which is located overseas;
5. The term “futures business” means a the business in which any futures company executes futures trading and overseas futures trading (hereinafter referred to as “futures trading, etc.”) for its own account

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- or for its client account or a business in which any futures company acts as a broker, intermediary, or agent for its client;
6. The term “futures company” means a company which runs a futures business after obtaining a license under this Act;
 7. The term “client” means a person who entrusts the execution of futures trading, etc. to a futures company;
 8. Deleted; <by Act No. 5737, Feb. 1, 1999>
 9. The term “foreigner” means an individual who is not a national of the Republic of Korea, or a foreign corporation;
 10. The term “foreign corporation” means:
 - (a) Corporation established under Acts of a foreign country;
 - (b) International institution or organization as determined by Presidential Decree;
 - (c) Entity similar to those mentioned in items (a) and (b) above, and prescribed in Presidential Decree; and
 - (d) Corporation established under Acts of the Republic of Korea, in which persons who do not have Korean nationality or those falling under items (a) through (c) make a contribution representing a majority stake or hold a controlling stake; or
 11. The term “major shareholder” means a shareholder falling under any of the following items:
 - (a) Largest shareholder: a person himself/herself, where he/she and the others specially related to him/her as prescribed by Presidential Decree (hereinafter referred to as the “specially related person”) hold the greatest number of outstanding shares with voting rights of a corporation when accounting the total number of stocks owned by them at his/her own account no matter whose name the accounts are in; or
 - (b) Principal shareholder: a person who holds 10/100 or more of the total number of outstanding shares with voting rights of a corporation at his/her own account no matter whose name the accounts are in, or a person prescribed by Presidential Decree among the shareholders who exercises *de facto* influence over important matters concerning corporate management, such as appointment or dismissal of officers, etc.

CHAPTER II Deleted.

Articles 4 through 22 Deleted. <by Act No. 7113, Jan. 29, 2004>

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CHAPTER III FUTURES TRADING

Article 23 (Capacity to Trade)

(1) No person other than a member of the Exchange shall carry out futures trading on the Exchange: *Provided*, That where the members management regulations under the provisions of Article 16 of the Korea Securities and Futures Exchange Act (hereinafter referred to as the “members management regulations”) provide for specific futures trading to be performed, he/she may carry out such futures trading. <Amended by Act No. 7113, Jan. 29, 2004; Act No. 7530, May 31, 2005>

(2) A person who can carry out futures trading on the Exchange pursuant to the proviso to paragraph (1) shall be deemed to be a member of the Exchange in applying the provisions of Articles 23-2, 24 (2) 7, 26 through 29, 34, 35 and 36. <Amended by Act No. 7113, Jan. 29, 2004>

[This Article Wholly Amended by Act No. 5737, Feb. 1, 1999]

Article 23-2 (Member Deposits)

(1) Members shall deposit member deposits with the Exchange to secure the fulfillment of potential liabilities in connection with futures trading.

(2) The Exchange shall not set off the claims obtained pursuant to Article 28 (1) in the course of the fulfillment or acceptance of liabilities on behalf of its members, against such members' deposits.

(3) A person who commissions futures trading to a member shall have the right to receive payment in preference to other creditors for his/her member deposits with respect to claims arising from such commission.

(4) The necessary matters for the minimum deposit limit, operation and management of member deposits referred to in paragraph (1) shall be determined by the members management regulations of the Exchange.

[This Article Newly Inserted by Act No. 7113, Jan. 29, 2004]

Article 24 (Business Regulations)

(1) Necessary matters pertaining to trading on a futures market shall be prescribed by the business regulations of the Exchange.

(2) Business regulations referred to in paragraph (1) shall contain the following matters: <Amended by Act No. 5504, Jan. 13, 1998>

1. Categories and product types of the futures trading to be handled;
2. Settlement month of futures trading;
3. Opening and closing of the futures market;
4. Suspension of futures trading;
5. Matters relating to the execution of contract relating to futures trading and trading limits;

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6. Method of settlement;

7. Matters of supervision over members, and discipline of members and the officers and employees consequent thereto; and

8. Matters necessary for futures trading other than those matters provided for in subparagraphs 1 through 7.

(3) Where the Exchange wishes to amend its business regulations, it shall obtain approval from the Financial Services Commission. *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 5982, May 24, 1999; Act No. 8863, Feb. 29, 2008>*

(4) Deleted. *<by Act No. 8852, Feb. 29, 2008>*

Article 25 Deleted. *<by Act No. 5737, Feb. 1, 1999>*

Article 26 (Trading Margins)

(1) In order to guarantee the fulfillment of his/her obligation to the Exchange, a member shall, when carrying out futures trading, deposit a trading margin with the Exchange under the conditions determined by the business regulations. *<Amended by Act No. 7113, Jan. 29, 2004>*

(2) Necessary matters for the minimum deposit limit, operation and management of trading margins referred to in paragraph (1) shall be determined by the business regulations of the Exchange. *<Amended by Act No. 5504, Jan. 13, 1998>*

Article 27 (Common Fund for Compensating for Damages)

(1) In order to compensate for losses arising from the default of liabilities with respect to futures trading, the Exchange may have its members set aside a common fund for the compensation of damages (hereinafter referred to as the "Common Fund").

(2) Necessary matters for the rates of reserve, reserve limit, use or operation of the Common Fund shall be determined by Presidential Decree. *<Amended by Act No. 5504, Jan. 13, 1998>*

Article 28 (Performance of Obligations, etc. by Exchange)

(1) For effective futures trading, the Exchange may, in accordance with the business regulations and on behalf of its members, exercise or acquire the relevant credits or fulfil or undertake the relevant obligations, with respect to the credits and obligations resulting from the futures trading conducted by such members. *<Amended by Act No. 7113, Jan. 29, 2004>*

(2) Where the Exchange has incurred a loss as a result of such fulfillment or undertaking of obligations as provided in paragraph (1), the Exchange may, in accordance with the business regulations, hold such member or other members liable for either the total amount or a portion of such loss. *<Amended by Act No. 7113, Jan. 29, 2004>*

Article 29 (Order of Priority in Discharge of Liabilities)

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(1) Where a member of the Exchange causes damage to the Exchange or other members due to a default of his/her obligations with respect to futures trading, the latter shall hold the right to payment in preference over any other creditors against the former's member deposits, trading margins (excluding trading margins belonging to the account of any client who is not responsible for the default of obligations) and his/her share in the Common Fund. *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 6171, Jan. 21, 2000>*

(2) Notwithstanding the provisions of paragraph (1), the rights to member deposits by a client referred to in Article 23-2 (3) shall prevail over the right of the Exchange or its members. *<Newly Inserted by Act No. 5737, Feb. 1, 1999; Act No. 7113, Jan. 29, 2004>*

Article 30 (Public Notice of Stock Lists and Submission, etc. of Reports)

(1) The Exchange shall publish stock lists that detail each trading day's total volume, openings, highs, lows and closings quoted or agreed turn-overs for each item of futures trading product types. *<Amended by Act No. 5504, Jan. 13, 1998>*

(2) Deleted. *<by Act No. 5737, Feb. 1, 1999>*

Article 31 (Prohibition of Unfair Trading Practices such as Price Manipulation, etc.)

(1) No person shall, in connection with futures trading, commit any of the following: *<Amended by Act No. 6171, Jan. 21, 2000; Act No. 8903, Mar. 14, 2008>*

1. Submission of an offer to trade futures through prior agreement with another person whereby such other person will simultaneously submit a matching offer to compulsorily effectuate the relevant futures trading with an identical price or agreed value;
2. A false transaction without real intent to transfer the pertinent rights in such transactions;
3. Entrustment or acceptance of such entrustment with respect to activities provided in subparagraph 1 or 2;
4. Trading activities, alone or in jointly with other persons, conveying a false impression that the pertinent futures trading is experiencing active trading, or attempting to either fix or change market prices of items subject to futures trading, for the purpose of soliciting certain futures trading;
5. Dissemination of rumors to the effect that the market price of futures trading shall change as a result of a market operation to be performed by itself or another person, for the purpose of soliciting certain futures

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trading;

- 5-2. The act of fixing or altering, independently or jointly with another person, prices of items subject to futures trading for the purposes of gaining unfair profits or getting any third person to gain such unfair profits in futures trading;
- 5-3. Dissemination of false market prices, false facts, other rumors intentionally or deception;
- 5-4. The act of obtaining money, or other financial profits by using documents on which the important matters for the reasonable judgement on investment by investors are falsely indicated or necessary matters are omitted; and
6. Other activities as prescribed by Presidential Decree that are in conflict with the fair execution of futures trading.

(2) Persons that have violated paragraph (1) shall be liable for the pertinent damages incurred by a person who executed the futures trading, entrusted the futures trading or accepted such entrustment in the futures market based on prices established by such act of violation, in connection with the relevant futures trading, and providing or accepting such entrustment.

(3) The right to claim for damages pursuant to paragraph (2) shall lapse by prescription in the event it has not been exercised within one year since the claimant became aware of such act of violation of paragraph (1) or within three years since such act was committed.

Article 31-2 (Special Cases of Unfair Trading Practices against Stock Futures Trading)

(1) Persons who fall under any of the following subparagraphs (including those for whom one year has not elapsed since the date such persons no longer fall under any of the following subparagraphs), and persons who have come to know, in connection with the business, of important information concerning the business etc. of the stock-listed corporations or KOSDAQ-listed corporations (including those due to list within six months) under the Securities and Exchange Act, that has not been disclosed to the public, and those who have received the relevant information from them, shall be prohibited from utilizing the said information or causing other persons to utilize such information in connection with the futures trading subject to securities issued by the relevant corporations: <Amended by Act No. 7530, May 31, 2005>

1. Relevant corporation and its officers, employees and agents;
2. Major shareholders of the relevant corporation;

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3. Persons having authority to permit, authorize, direct, supervise and other actions under Acts and subordinate statutes regarding the relevant corporation;
4. Persons having concluded a contract with the relevant corporation; and
5. Agents, employees of or other persons engaged with those falling under any of subparagraphs 2 through 4 (where those falling under any of subparagraphs 2 through 4 are corporations, their officers, employees and agents).

(2) The term “important information that has not been disclosed to the public” in paragraph (1) means information capable of having a substantial impact on the investor’s judgment on investments, from among the information on the facts, etc. falling under any subparagraph of Article 186 (1) of the Securities and Exchange Act, that is known prior to a disclosure by the relevant corporation under the conditions set by Ordinance of the Prime Minister, to the public so as to make the general public aware of it. *<Amended by Act No. 7530, May 31, 2005; Act No. 8863, Feb. 29, 2008>*

(3) Any person who has breached the provisions of paragraph (1) shall be liable to compensate any damage incurred by those who have made the relevant futures trading, in connection with such trading.

(4) Claims for compensation of damage under the provisions of paragraph (3) shall expire by prescription in cases where the rightful claimants have not exercised such claims within one year from the date of becoming aware of the occurrence of the relevant violation of the provisions of paragraph (1), or within three years from the date of the occurrence of such acts.

[This Article Newly Inserted by Act No. 7113, Jan. 29, 2004]

Article 32 (Limits on Trading, etc. and Obligation for Report)

(1) The Financial Services Commission may, in accordance with Presidential Decree, take measures, including limiting the volume of futures trading of futures companies and clients, in order to maintain the order of the futures market. *<Amended by Act No. 5504, Jan. 13, 1998; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>*

(2) Any futures company or client that has come to hold an unsettled contract by item of futures trading whose subject product is a ordinary commodity or an index of an ordinary commodity (referring to an unsettled contract which is not extinguished under the final trading date; hereinafter the same shall apply) not less than the quantity prescribed by Presidential Decree, shall report the current status on holding of an un-

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settled contract to the Financial Services Commission and Exchange as prescribed by Presidential Decree: *Provided*, That in case of a client, he/she may have a futures company report on behalf of himself/herself. <Newly Inserted by Act No. 8863, Feb. 29, 2008>

Article 33 (Prohibition of Disclosure of Information Obtained While Performing Duties)

Neither persons falling under any of the following, who have obtained, in connection with the duties of their office, information that may have an impact on the determination of prices in the futures market nor any other who have obtained such information from such persons shall disclose such information, profit personally or enable a third party to profit by using such information: <Amended by Act No. 5504, Jan. 13, 1998; Act No. 6171, Jan. 21, 2000; Act No. 8903, Mar. 14, 2008>

1. Any person engaged in licensing, approval, permission or supervision pursuant to this Act over futures-related institutions mentioned in Article 81 (1);
2. Any officer and employee of the Exchange;
3. Any person in charge of drafting, formulating and implementing any policy that may affect the prices of items subject to futures trading; and
4. Any person in charge of creating, managing information that may affect the prices of items subject to futures trading and mediating, distributing and inspecting items subject to futures trading.

Article 34 (Conclusion of Remaining Business in Case of Suspension of Futures Trading)

(1) In cases where futures trading is suspended under the conditions set by this Act, or the business regulations or the members management regulations of the Exchange, the Exchange shall require the relevant members or other members to suspend any futures trading performed by the relevant members.

(2) In cases where the Exchange has required other members to suspend the relevant futures trading under paragraph (1), it shall be deemed that a delegated contract has been effected between the relevant member and another member.

[This Article Wholly Amended by Act No. 7113, Jan. 29, 2004]

Article 35 (Brokerage Contract Rules)

(1) In accepting consignment of futures trading, members of the Exchange shall comply with brokerage contract rules prescribed by the Exchange.

(2) Brokerage contract rules under paragraph (1) shall contain the following:

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1. Conditions for consignment of futures trading;
 2. Method of settlement;
 3. House margin and method of deposit thereof;
 4. Commission fee and method of collection thereof; and
 5. Necessary matters other than those provided for in subparagraphs 1 through 4 with respect to consignment of futures trading.
- (3) Where the Exchange intends to amend its brokerage contract rules, it shall obtain approval from the Financial Services Commission. *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 5982, May 24, 1999; Act No. 8863, Feb. 29, 2008>*
- (4) Deleted. *<by Act No. 8852, Feb. 29, 2008>*

Article 36 (House Margin)

- (1) Where a member of the Exchange accepts consignment of futures trading, he/she shall receive from the client the house margin in such amount as prescribed by the Exchange.
- (2) The necessary matters for the minimum deposit limit, operation and management, etc. of house margin under paragraph (1) shall be determined by brokerage contract rules. *<Amended by Act No. 5504, Jan. 13, 1998>*

CHAPTER IV FUTURES BUSINESS

Article 37 (License for Futures Business)

- (1) Any company which intends to conduct the futures business shall obtain a license from the Financial Services Commission. *<Amended by Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>*
- (2) Deleted. *<by Act No. 5737, Feb. 1, 1999>*
- (3) Where a futures company which is a foreign corporation (hereinafter referred to as “foreign futures company”) intends to open a branch or business office in order to conduct the futures business in Korea, it shall obtain a license from the Financial Services Commission. *<Amended by Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>*
- (4) The branch or business office opened by the foreign futures company after obtaining a license under paragraph (3) shall be deemed a futures company and its operating funds shall be deemed its capital for the purposes of this Act. *<Newly Inserted by Act No. 6171, Jan. 21, 2000>*
- (5) The Financial Services Commission may attach conditions to any license granted under paragraphs (1) and (3). *<Newly Inserted by Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>*

Article 38 (Requirements for License)

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(1) Any company which intends to obtain a license for the futures business under Article 37 (1) shall satisfy each of the following requirements:
<Amended by Act No. 8523, Jul. 19, 2007>

1. It shall be a corporation whose capital is with not less than three billion won;
2. It shall be able to indemnify its clients and shall be complete with manpower, computer facilities and equipment and other physical facilities sufficient to conduct its intended futures business;
3. Its business plan shall be appropriate and sound; and
4. Major shareholders (including shareholders specially related to the largest shareholder, and if the largest shareholder is a corporation, shareholders, as prescribed by Presidential Decree, who exercise *de facto* influence over important matters regarding management of the relevant corporation; hereafter in Article 38-2 the same shall apply) shall have the capability to fully invest with sound financial standing and social credit ratings.

(2) Any foreign futures company which intends to obtain a license for opening its branch and other business office in Korea in accordance with the provisions of Article 37 (3) shall satisfy each of following requirements:

1. The operating funds of its branch or other business office shall be not less than three billion won;
2. It shall be presently conducting futures business under foreign Acts and subordinate statutes;
3. Its property, finances and business shall be sufficiently sound to conduct futures business in Korea and it shall have high international credit ratings; and
4. It shall satisfy the requirements referred to in paragraphs (1) 2 and 3.

(3) Details of the requirements for obtaining the license referred to in paragraphs (1) and (2) shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 6171, Jan. 21, 2000]

Article 38-2 (Approval, etc. of Alteration of Major Shareholders)

(1) Any person intending to become a major shareholder (excluding persons prescribed by Presidential Decree) by acquiring the stocks of a futures company shall satisfy the requirements prescribed by Presidential Decree for sound management and the requirements for a major shareholder under the provisions of Article 38 (1) 4 and (3), and shall obtain in advance approval from the Financial Services Commission. <Amended by Act No. 8523, Jul. 19, 2007; Act No. 8863, Feb. 29, 2008>

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(2) The Financial Services Commission may order, by setting a period within six months, the disposal of any stocks acquired without obtaining such approval under the provisions of paragraph (1). <Amended by Act No. 8863, Feb. 29, 2008>

(3) Any person who has acquired stocks without obtaining approval under the provisions of paragraph (1) shall not exercise voting rights in the portion of stocks acquired without obtaining such approval.

(4) Matters necessary for the detailed requirements for the approval and orders under the provisions of paragraphs (1) and (2) shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 7617, Jul. 29, 2005]

Article 38-3 (Restrictions on Transactions with Major Shareholder)

(1) A futures company shall be prohibited from committing the acts falling under any of the following subparagraphs, and a major shareholder (including any specially related person to him; hereafter in this Article and Article 38-4 the same shall apply) shall not be offered credit extension (referring to transactions, prescribed by Presidential Decree, such as lending assets with monetary value such as money or securities, etc., guaranty of fulfillment of obligation, purchase of securities to supply funds, or other direct or indirect transactions that may involve credit risk; the same shall apply hereinafter) from a futures company in violation of subparagraph 2: *Provided*, That it is permitted by Presidential Decree, to the extent that it has no harmful effect on sound asset management:

1. Owning or acquiring securities or bills (referring to bills issued by corporations to supply fund) as collateral issued by major shareholders;
2. Credit extension for major shareholders; or
3. Other acts, prescribed by Presidential Decree, that may harm the sound asset management of a futures company.

(2) A futures company shall undergo a resolution of the board of directors in advance, to perform acts falling under paragraph (1) 1 or 2 (excluding acts prescribed by Presidential Decree; hereafter in this Article the same shall apply), according to the proviso, other than each subparagraph of the same paragraph. In this case, the resolution of the board of directors shall be passed by a unanimous vote of the directors on the register.

(3) When a futures company has performed any act falling under paragraph (1) 1 or 2, according to the proviso, other than the same paragraph, it shall report to the Financial Services Commission without delay and publicly announce the fact on its Internet homepage or such. <Amended by Act No. 8863, Feb. 29, 2008>

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(4) A futures company shall collect and report, in each quarter, to the Financial Services Commission on the matters prescribed by Presidential Decree, among those to be reported in accordance with paragraph (3), and shall announce in public on its Internet homepage or such. <Amended by Act No. 8863, Feb. 29, 2008>

(5) The Financial Services Commission may request necessary information to a futures company or its major shareholders, when they are suspected of violating paragraphs (1) through (4). <Amended by Act No. 8863, Feb. 29, 2008>

(6) In cases where sound management of a futures company may be seriously harmed due to such insolvent financial structures as a major shareholder's (limited to a company) liabilities which exceed its assets, as prescribed by Presidential Decree, the Financial Services Commission may restrict such futures company's new acquisition of securities issued by the major shareholder. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 38-4 (Prohibition against Major Shareholder's Exercise of Undue Influence)

(1) No major shareholders of a futures company shall perform the following acts for their own interest and against the interest of the company:

1. Demanding data or information which has not been publicly disclosed, from a futures company in order to exercise undue influence: *Provided*, That exercise of rights, pursuant to Article 466 of the Commercial Act, shall be excluded;
2. Unduly influencing human resource administration or management of a futures company, in collusion with other shareholders on conditions to offer monetary profit in return; or
3. Other acts equivalent to those under subparagraph 1 or 2 and prescribed by Presidential Decree.

(2) The Financial Services Commission may request a futures company or its major shareholders to submit necessary information, when the major shareholders are suspected of violating paragraph (1). <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 39 (Publication of License)

The Financial Services Commission shall, when it grants a license pursuant to Article 37 (1) and (3), promptly publish the details thereof in the Official Gazette and make it widely known to the public by means of computer communications, etc. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Wholly Amended by Act No. 6171, Jan. 21, 2000]

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Article 39-2 (Maintenance of Soundness in Asset Holdings)

(1) Each futures company shall abide by matters prescribed by Presidential Decree with respect to the management of assets, the maintenance of soundness in the management and improvement of business operation, in carrying out futures business. *<Amended by Act No. 6171, Jan. 21, 2000>*

(2) The branch or other business office of a foreign futures company shall hold assets equivalent to the gross amount of its operating fund, and liabilities in Korea. *<Amended by Act No. 6171, Jan. 21, 2000>*

(3) The branch or other business office of a foreign futures company shall settle accounts independently of its head office, and if as a result of the settlement, the assets held in Korea pursuant to paragraph (2) fall short of its total operating funds and liabilities, it shall compensate for such deficiency within sixty days from the date on which its settlement is finalized. *<Amended by Act No. 6171, Jan. 21, 2000>*

(4) Where the branch or other business office of a foreign futures company is liquidated or goes bankrupt, it shall preferentially appropriate its assets held in Korea for the performance of obligations payable to relevant parties by carrying out the futures business of the branch or other business office, which have their addresses or dwelling places in Korea at the time of the business activities. *<Amended by Act No. 6171, Jan. 21, 2000>*

[This Article Newly Inserted by Act No. 5737, Feb. 1, 1999]

Article 39-3 (Disqualification of Officers)

A person falling under any of the following subparagraphs shall be prohibited from becoming an officer of a futures company, and when any of following apply to him/her after becoming an officer, he/she shall relinquish office: *<Amended by Act No. 7428, Mar. 31, 2005; Act No. 9078, Mar. 28, 2008>*

1. A minor, an incompetent or a quasi-incompetent;
2. A person who has been declared bankrupt and has not been reinstated;
3. A person who has been sentenced to imprisonment without prison labor, or a heavier punishment, and for whom 5 years have not yet elapsed since complete enforcement (including cases where enforcement is deemed to have been completed) of or exemption from such sentences;
4. A person who is under a grace period after having been sentenced to a suspension of imprisonment without prison labor or a heavier punishment;
5. A person who has been sentenced to a heavier punishment than a fine under this Act, other finance-related Acts and subordinate statutes as prescribed by Presidential Decree (hereinafter referred to as the "finance-related Acts and subordinate statutes"), or the foreign Acts

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and subordinate statutes related to finance (referring to foreign Acts and subordinate statutes equivalent to this Act or finance-related Acts and subordinate statutes; hereinafter in this Article the same shall apply) and for whom 5 years have not passed since complete enforcement (including the cases enforcement is deemed to be completed) of or exemption from such sentences;

6. A person who has been dismissed or removed from his/her office pursuant to this Act, finance-related Acts and subordinate statutes, or the foreign Acts and subordinate statutes related to finance and for whom 5 years have not yet elapsed since;
7. A person who has been an officer or an employee of a corporation or company whose license or authorization etc. for business was revoked pursuant to this Act, the finance-related Acts and subordinate statutes, or the foreign Acts and subordinate statutes related to finance (limited to the person directly and equivalently responsible for occurrence of the causes for said revocation and prescribed by Presidential Decree) and for whom 5 years have not elapsed since the revocation against the relevant corporation or company was rendered; or
8. A retired officer or a retired employee notified as having been requested for dismissal (including the recommendation for dismissal) or removal from office in accordance with this Act or the finance-related Acts and subordinate statutes, if he/she is holding office and for whom 5 years have not elapsed since such notification was made.

[This Article Wholly Amended by Act No. 7113, Jan. 29, 2004]

Article 40 (Internal Control Standards)

(1) Each futures company shall set fundamental procedures and standards (hereafter in this Article referred to as "internal control standards") to be followed by its officers and employees in the course of performing their duties in order to observe Acts and subordinate statutes, manage assets in a sound manner, and protect clients.

(2) Specific matters to be included in the internal control standards referred to in paragraph (1) shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 6171, Jan. 21, 2000]

Article 40-2 (Appointment of Outside Directors)

(1) A futures company (limited to a futures company prescribed by Presidential Decree, considering the scale of asset) shall employ three or more outside directors (referring to directors not engaged in the ordinary businesses of the company who do not fall under any subparagraph of paragraph (4); hereinafter the same shall apply), and more than half of

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its directors shall be outside directors.

(2) To recommend outside director candidates, a futures company pursuant to paragraph (1) shall organize a committee (hereinafter referred to as a "committee for recommendation of outside directors") in accordance with Article 393-2 of the Commercial Act. In this case, outside directors in the committee shall comprise more than half of the total number of committee members.

(3) Where a futures company pursuant to paragraph (1) intends to appoint outside directors at a general meeting of shareholders, the company shall appoint outside directors from among those recommended by the committee for recommendation of outside directors. In cases where a committee for recommendation of outside directors of a futures company, which is a stock-listed corporation or KOSDAQ-listed corporation, recommends outside director candidates, this shall include candidates recommended by shareholders, who fulfill the necessary qualifications to exercise rights pursuant to Article 191-14 of the Securities and Exchange Act.

(4) A person falling under any of the following subparagraphs shall be prohibited from becoming an outside director of a futures company pursuant to paragraph (1), and when any of the following applies to him/her after he/she has become an outside director, he/she shall relinquish such office:

1. A minor, an incompetent or a quasi-incompetent;
2. A person who has been declared bankrupt and has not been reinstated;
3. A person who has been sentenced to imprisonment without labor, or a heavier punishment, and for whom 2 years have not passed since the complete enforcement of or exemption from such sentences;
4. A person who has been dismissed or removed from office pursuant to this Act, and for whom 2 years have not yet elapsed;
5. The largest shareholder;
6. A specially related person to the largest shareholder;
7. A major shareholder, his/her spouse, lineal ascendant or descendant;
8. A person who is or has been a full-time employee of the company or an affiliated company thereof (referring to an affiliated company pursuant to the Monopoly Regulation and Fair Trade Act; the same shall apply hereinafter) during the past 2 years;
9. Spouse, lineal ascendant or descendant of a full-time employee of the company;
10. A person who is or has been a full-time employee of a corporation, during the past 2 years, which has important business relations pre-

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scribed by Presidential Decree with the company, or which is a competitor of or collaborator with the company;

11. A full-time employee of a company for which a full-time employee of the company works as a part-time director; or

12. A person who has difficulty in faithfully performing the duties as an outside director, or who may exercise influence over the company, as prescribed by Presidential Decree.

(5) Where the number of outside directors falls short of the quorum to constitute a board of directors pursuant to paragraph (1), due to any cause such as resignation or death of any outside director, the futures company pursuant to paragraph (1) shall ensure the quorum pursuant to paragraph (1) constituted at the first general meeting of shareholders after such cause arises.

(6) For a futures company which initially falls under the requirements referred to in paragraph (1), the latter part of paragraph (2) shall not apply when such company appoints outside directors.

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 40-3 (Audit Committee)

(1) A futures company (limited to a futures company prescribed by Presidential Decree, considering the scale of asset, etc.) shall organize an audit committee (hereinafter referred to as the "audit committee") as prescribed by Article 415-2 of the Commercial Act.

(2) An audit committee shall satisfy each requirement under the following subparagraphs:

1. The number of outside directors shall comprise more than 2/3 of the total number of members;

2. At least one member shall be an accounting or finance specialist as prescribed by Presidential Decree; and

3. The chairperson of the audit committee of a futures company, which is a stock-listed corporation or KOSDAQ-listed corporation, shall be an outside director.

(3) A person falling under Article 40-2 (4) 1 through 4, or 7 through 9 shall be prohibited from becoming a member, other than an outside director, of an audit committee, and when any such provision applies to him/her after he/she became a member, he/she shall relinquish such position: *Provided*, That a person who is working as a full-time auditor or a member, other than an outside director, of an audit committee may be a member, other than an outside director, of an audit committee even if he/she falls under Article 40-2 (4) 8.

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(4) Where the number of outside directors falls short of the quorum required to organize an audit committee pursuant to paragraph (2), due to any cause such as resignation or death of any outside director, the futures company pursuant to paragraph (1) shall ensure it fulfills the requirements pursuant to paragraph (2) at the first general meeting of shareholders convened after such cause arises.

(5) The proviso to Article 415-2 (2) of the Commercial Act, with the exception of its subparagraphs, shall not apply to the organization of an audit committee under paragraph (1).

(6) Article 409 (2) and (3) of the Commercial Act shall apply *mutatis mutandis* to the appointment of outside directors who will become members of an audit committee.

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 41 (Authorization for Change of Business, etc.)

A futures company shall, where matters falling under any of the following subparagraphs arise, seek authorization from the Financial Services Commission: <Amended by Act No. 5982, May 24, 1999; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>

1. The merger, dissolution, or discontinuation of business of a corporation;
2. Matters prescribed by Presidential Decree are changed from among the terms of a licence referred to in Article 37 (1) and (3); and
3. Transfer or takeover of the whole of the business (including any case similar thereto).

[This Article Wholly Amended by Act No. 5737, Feb. 1, 1999]

Article 41-2 (Matters to Report)

Any futures company shall, where it falls under any of the following subparagraphs, report to the Financial Services Commission in accordance with Presidential Decree: <Amended by Act No. 8523, Jul. 19, 2007; Act No. 8863, Feb. 29, 2008>

1. Change of trade name;
2. Appointment or dismissal of officers;
3. Change of the largest shareholder;
- 3-2. Change in at least 1/100 of the number of outstanding stocks with voting rights, owned by a major shareholder or a specially related person to him/her;
4. New opening of a branch or other business office;
5. Change in location of the head office, the branch or other business office, or discontinuation, resumption or closure of such businesses;

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or

6. Matters that have a serious impact on the performance of the business of the corporation concerned and matters prescribed by Presidential Decree occur.

[This Article Newly Inserted by Act No. 6171, Jan. 21, 2000]

Article 42 (Settlement of Remaining Business)

In case of a cancellation of license, the complete or partial suspension of business operations, etc. of a futures company, the company or its successor shall be deemed to be a futures company to the extent of the settlement of futures trading which has been executed by such futures company.

<Amended by Act No. 6171, Jan. 21, 2000>

Article 43 (Advance Notification of Risk in Trading, etc.)

(1) Each futures company shall, prior to making a contract with a client, notify the client in writing of potential risk exposure associated with price fluctuation arising from futures trading as well as the possibility of additional liabilities. *<Amended by Act No. 6171, Jan. 21, 2000>*

(2) Each futures company shall deliver in writing to the client the terms and conditions of the contract for the pertinent futures trading with respect to the business operations of such futures trading. *<Amended by Act No. 6171, Jan. 21, 2000>*

(3) The matters to be entered in documents, and necessary matters for the notification and delivery referred to in paragraphs (1) and (2) shall be determined by Presidential Decree. *<Amended by Act No. 5504, Jan. 13, 1998>*

Article 44 (Prohibition on Self-Transactions)

Where any futures company receives entrustment of futures trading, etc. or is engaged in brokerage, intermediary or agency of such entrustment (hereinafter referred to as "brokerage, etc."), it may not become the counter-party effectuating such transaction instead of submitting an application pertaining to the pertinent entrustment with the Exchange or an overseas futures market, or performing the pertinent brokerage, etc. *<Amended by Act No. 6171, Jan. 21, 2000>*

Article 45 (Prohibition on Improper Solicitation, etc.)

(1) All futures companies and their officers and employees shall be prohibited from committing any act falling under any of the following subparagraphs: *<Amended by Act No. 6171, Jan. 21, 2000>*

1. Soliciting the execution of a contract by making a promise to undertake the compensation for all or a part of the losses incurred by a client or to guarantee a profit to a client;
2. Soliciting the execution of a contract by presenting a conclusive judge-

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ment that gives a client to the false impression that a profit would be guaranteed;

3. To make an offer or a brokerage, etc. without executing a contract and then seek *ex post facto* confirmation from a client;
4. To acquire entrustment margins or brokerage commissions by using false prices or by employing unjust methods in connection with a contract;
5. To refuse or to unjustifiably delay either the making of an offer or brokerage, etc. of a futures trading, etc. pursuant to a contract or the fulfillment of all or part of the obligations arising from such contract; or
6. Other acts prescribed by Presidential Decree that are in conflict with client protection, in the acceptance of entrustment with respect to futures trading, etc., or that are harmful to the fair execution of futures trading, etc.

(2) Any futures company and its officers and employees who have violated paragraph (1) shall be liable for the loss suffered by any client, which have resulted from such trade. <Amended by Act No. 6171, Jan. 21, 2000>

Article 46 (Documents on Business Operations)

Each futures company shall prepare and keep documents on business operations in accordance with the methods prescribed by the Financial Services Commission. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>

Article 47 (Business Reports)

(1) Each futures company shall prepare a business report stating the actual record of business, financial status and other matters prescribed by Presidential Decree for the period of three months, six months, nine months and twelve months from the opening date of each business year, and submit the same to the Financial Services Commission within 45 days after the elapse of the respective relevant period. <Amended by Act No. 8863, Feb. 29, 2008>

(2) Each futures company shall make the business reports under the provisions of paragraph (1) available for inspection by the general public by keeping it in the principal office, branch office and other business places or by means of electronic documents for a period of one year from the date of submission to the Financial Services Commission. <Amended by Act No. 8863, Feb. 29, 2008>

(3) Detailed matters and other necessary matters for the preparation of the business reports under the provisions of paragraph (1) shall be provided

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by the Financial Services Commission. <Amended by Act No. 8863, Feb. 29, 2008>
[This Article Wholly Amended by Act No. 7530, May 31, 2005]

Article 48 (Trading Limits of Officers and Employees, etc.)

(1) Except for cases prescribed by Presidential Decree, officers and employees of a futures company may not perform an entrustment of futures trading, etc. on their account, no matter whose name the account may be under. <Amended by Act No. 6171, Jan. 21, 2000>

(2) Where a futures company accepts an entrustment of futures trading from a client, it may make a futures trading by being vested with discretionary power in decisions on trade terms, limited to its volume, price and trading period. In this case, the kinds of futures trading items and trading methods shall be determined by the client. <Amended by Act No. 7113, Jan. 29, 2004>

(3) Where a futures company accepts an entrustment of futures trading from a client by being vested with discretionary power in all matters concerning the futures trading, and makes the said trading under paragraph (2) (hereafter in this Article, referred to as the "discretionary futures trading"), it shall perform the trading with the care of a good manager, and shall be prohibited from committing any acts falling under each of the following subparagraphs: <Newly Inserted by Act No. 7113, Jan. 29, 2004>

1. Persuading an entrustment relating to discretionary futures trading or accepting an entrustment, contrary to the client's investment principle under his/her own judgement and responsibility;
2. Making excessively often the futures trading in view of the purport of accepting an entrustment and the scale of funds entrusted; and
3. Making use of discretionary futures trading for his/her own or a third party's benefit.

(4) Where a futures company makes any discretionary futures trading under the provisions of paragraph (2), it shall be under the conditions prescribed by the Ordinance of the Prime Minister. <Newly Inserted by Act No. 7113, Jan. 29, 2004; Act No. 8863, Feb. 29, 2008>

Article 49 (Management of Client's Assets and Accounting Treatment in Connection with Acceptance of Entrustment of Futures Trading, etc.)

Each futures company shall comply with matters prescribed by the Financial Services Commission with respect to the management of money or securities deposited by the client in connection with the futures trading, etc., and any other assets belonging to the client's account, and with respect to the accounting treatment. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>

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Article 49-2 (Separate Custody of client Deposits)

(1) Each futures company (including a trust; hereinafter the same shall apply) shall deposit funds deposited by clients in connection with futures trading or other funds belonging to client's assets (hereinafter referred to as "client deposits") separately from his/her own asset with a securities finance company referred to in Article 145 of the Securities and Exchange Act (hereinafter referred to as a "depository"). *<Amended by Act No. 6171, Jan. 21, 2000; Act No. 7113, Jan. 29, 2004; Act No. 7530, May 31, 2005>*

(2) Where a futures company deposits client deposits with a depository pursuant to paragraph (1), it shall specify that such deposits belong client's property. *<Amended by Act No. 6171, Jan. 21, 2000>*

(3) Any futures company which has deposited client deposits pursuant to paragraph (1) (hereinafter referred to as "depository futures company") shall not assign or offer client deposits as security and no person shall offset them or attach (including provisionally attach) them, unless Presidential Decree may otherwise determine. *<Amended by Act No. 6171, Jan. 21, 2000>*

(4) A depository futures company shall withdraw client deposits deposited with the depository and preferentially pay them to clients where the futures company falls hereunder. In this case, the futures company shall make public notice of such fact, payment time and place of client deposits, and other matters relating to the payment of client deposits in at least two daily newspapers within the period as prescribed by Presidential Decree: *<Amended by Act No. 6171, Jan. 21, 2000>*

1. Where it resolves to discontinue business operations;
2. Where it receives an order for suspension of business operations;
3. Where it has its license revoked;
4. Where it resolves to be dissolved;
5. Where it is declared bankrupt; and
6. Where any equivalent cause listed in subparagraphs 1 through 5 occurs.

(5) The depository, where it falls under any subparagraph of paragraph (4), shall preferentially pay client deposits to the depository futures company. *<Amended by Act No. 6171, Jan. 21, 2000>*

(6) The depository shall operate client deposits in any of the following method:

1. Purchase of national and local bonds;
2. Purchase of bonds, the payment of which is guaranteed by the Government, local governments or financial institutions; and
3. Other method, by which it is deemed possible to operate client deposits

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safely and as determined by which Presidential Decree.

(7) The scope, deposit ratios, matters on the withdrawal, and matters on the management of client deposits to be deposited by a futures company with the depository under paragraph (1), and other matters necessary for depositing client deposits shall be determined by Presidential Decree.

<Amended by Act No. 6171, Jan. 21, 2000>

[This Article Newly Inserted by Act No. 5737, Feb. 1, 1999]

Article 49-3 (Depositing of Client Securities in Custody)

(1) Each futures company shall promptly deposit client securities and bonds or deeds as determined by Presidential Decree which it is entitled to hold on consignment of futures trading or other transaction with the Korea Securities Depository established pursuant to Article 173 of the Securities and Exchange Act (hereafter in this Article referred to as the "Depository"). *<Amended by Act No. 6171, Jan. 21, 2000; Act No. 7113, Jan. 29, 2004; Act No. 7530, May 31, 2005>*

(2) Each futures company shall promptly deposit securities, bonds and deeds which it is entitled to hold in operating its assets and which are determined by Presidential Decree with the Depository. *<Amended by Act No. 6171, Jan. 21, 2000; Act No. 7113, Jan. 29, 2004>*

[This Article Newly Inserted by Act No. 5737, Feb. 1, 1999]

Article 50 (Liability Reserve)

(1) Each futures company shall accumulate a liability reserve to indemnify the clients from any losses that may be incurred due to the default of liabilities, violation of Acts and subordinate statutes or any negligence by its officers or employees in the course of carrying out futures business. *<Amended by Act No. 6171, Jan. 21, 2000>*

(2) Each futures company shall comply with the matters prescribed by Presidential Decree with respect to the accumulation, operation and management of liability reserves. *<Amended by Act No. 5504, Jan. 13, 1998; Act No. 6171, Jan. 21, 2000>*

Article 51 (Overseas Futures Trading)

(1) Any person wishing to carry out overseas futures trading shall do so through an entrustment with a futures company. *<Amended by Act No. 6171, Jan. 21, 2000>*

(2) Necessary matters pertaining to a futures company's acceptance of entrustment with respect to overseas futures trading and fulfillment of a pertinent brokerage, etc. in accordance with paragraph (1) shall be prescribed by Presidential Decree. *<Amended by Act No. 6171, Jan. 21, 2000>*

Articles 52 through 60 Deleted. *<by Act No. 5737, Feb. 1, 1999>*

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CHAPTER V Deleted.

Articles 61 through 74 Deleted. <by Act No. 5504, Jan. 13, 1998>

CHAPTER VI FUTURES ASSOCIATION

Article 75 (Establishment)

(1) Futures companies may, on permission granted by the Financial Services Commission, establish a Futures Association (hereinafter referred to as the "Association") for the purposes of maintaining mutual business order and pursuing sound development of the futures industry. <Amended by Act No. 5737, Feb. 1, 1999; Act No. 5982, May 24, 1999; Act No. 8863, Feb. 29, 2008>

(2) The Association shall be a juristic person.

(3) The Association shall, when it intends to amend matters of the articles of association prescribed by Presidential Decree, obtain approval from the Financial Services Commission. <Newly Inserted by Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>

Article 76 (Membership Fees)

The Association may, in accordance with the articles of incorporation, collect membership fees from its members.

Article 77 (Work)

(1) The Association shall carry out the following works:

1. Maintenance of self-regulatory business order among futures companies themselves, and the protection of clients;
2. Operation and management of specialized manpower to raise the expertise of futures companies;
3. Surveys of and research the futures-related systems;
4. Training in futures trading;
5. Other work incidental to the work under subparagraphs 1 through 4; and
6. Other work prescribed by Presidential Decree.

(2) The Association shall, where it makes, amends or abolishes any rules governing its work, promptly file a report thereon with the Financial Services Commission. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Wholly Amended by Act No. 6171, Jan. 21, 2000]

Article 78 (Application *Mutatis Mutandis* of Civil Act)

Except for special provisions in this Act pertaining to the Association, the provisions for corporate juridical persons in the Civil Act (excluding Article 39 of the Civil Act) shall apply *mutatis mutandis* to the Associ-

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ation. <Amended by Act No. 7530, May 31, 2005>

Article 79 (Provisions of Application *Mutatis Mutandis*)

The provisions of Article 39-3 shall apply *mutatis mutandis* to the officers of the Association, and the provisions of Article 48 (1) shall apply *mutatis mutandis* to the officers and employees of the Association, respectively.

[This Article Wholly Amended by Act No. 7113, Jan. 29, 2004]

Article 80 (Futures Academy)

The Association may establish a futures academy for the purposes of enhancing proficiency of persons engaged in futures business and spreading expertise in futures trading.

CHAPTER VII SUPERVISION

Article 81 (Reports and Inspection)

(1) The Financial Services Commission may order the Exchange, the Association, and futures companies (hereinafter referred to as “futures-related institutions”) to make a report or submit data on their business and assets and may cause the Governor of the Financial Supervisory Service established under the Act on the Establishment, etc. of Financial Services Commission (hereinafter referred to as the “Financial Supervisory Service”) inspect their business, financial status, books, documents or other articles. <Amended by Act No. 7530, May 31, 2005; Act No. 8863, Feb. 29, 2008>

(2) A person who conducts an inspection pursuant to paragraph (1) shall carry a certificate showing his/her powers and produce it to the persons concerned.

(3) The Financial Services Commission may determine the methods and procedures of an inspection under paragraph (1) and standards for measures for results thereof and other necessary matters. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Wholly Amended by Act No. 5504, Jan. 13, 1998]

Article 81-2 (Investigations by Financial Services Commission and Securities and Futures Commission)

(1) Where a violation of this Act has occurred, an order under this Act, or any rules or order of the Financial Services Commission or where it is deemed necessary for public interests or the protection of investors, the Financial Services Commission (referring to the Securities and Futures Commission under the Act on the Establishment, etc. of Financial Services

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Commission (hereinafter referred to as the “Securities and Futures Commission”) where the provisions of Articles 31 through 33, 44, 45, 48, 51, 93 and 94 has been violated; hereafter in this Article the same shall apply) may order the persons concerned to make a report or submit data for reference or may have the Governor of the Financial Supervisory Service (hereinafter referred to as the “Financial Supervisory Service Governor”) inspect books, documents or other articles. *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 7530, May 31, 2005; Act No. 8863, Feb. 29, 2008>*

(2) The Financial Services Commission may, if it is deemed necessary for an investigation under paragraph (1), request the persons concerned to perform the following: *<Amended by Act No. 8863, Feb. 29, 2008>*

1. Submission of a statement on the fact and situation relating to matters to be investigated;
2. Appearance to provide testimony relating to matters to be investigated; and
3. Submission of books, documents or other articles necessary for an investigation.

(3) The Financial Services Commission may request futures-related institutions to submit data necessary for an investigation on conditions as Presidential Decree in case where deemed necessary for conducting an investigation referred to in paragraph (1). *<Amended by Act No. 8863, Feb. 29, 2008>*

(4) Where there exists a violation of this Act, or an order under this Act or any rules or an order of the Financial Services Commission as a result of an investigation referred to in paragraph (1), the Financial Services Commission may issue a corrective order or take other measures as determined by Presidential Decree. *<Amended by Act No. 8863, Feb. 29, 2008>*

(5) Where it suspects a violation of this Act or an order under this Act or any rules or an order of the Financial Services Commission, the Exchange shall notify the Financial Services Commission thereof. *<Amended by Act No. 8863, Feb. 29, 2008>*

(6) The Financial Services Commission may determine standards for procedures and measures necessary for an investigation referred to in paragraph (1) and measures referred to in paragraph (4) or other necessary matters. *<Amended by Act No. 8863, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 5504, Jan. 13, 1998]

Article 82 Deleted. *<by Act No. 5504, Jan. 13, 1998>*

Article 83 Deleted. *<by Act No. 7113, Jan. 29, 2004>*

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Article 84 (Supervisory Measures against Futures Companies)

(1) The Financial Services Commission may revoke the business license of a futures company where the latter falls under any of the following subparagraphs: *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 5982, May 24, 1999; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>*

1. Where it has obtained a license under Article 37 (1) and (3) in an illegal manner;
- 1-2. Where it has committed a violation of the terms and conditions of a license under Article 37 (1), (3) or (5);
2. Where it has violated the provisions of Article 41;
3. Where it continues to be engaged in business in violation of a business suspension order pursuant to paragraph (2) or has received a business suspension order not less than two occasions; and
4. Where it violates, other than subparagraphs 1 and 3, this Act or orders under this Act and is thereby is deemed to be unfit to conduct business activities as a futures company.

(2) The Financial Services Commission may order the suspension of the whole or part of a futures company's operation for the specified period of one year or less where the futures company falls under any: *<Amended by Act No. 5504, Jan. 13, 1998; Act No. 5737, Feb. 1, 1999; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>*

1. Where the futures company has violated the provisions of Article 39-2, 40, or 43 through 50; or
2. Where it is deemed inevitable for protecting investors as the futures company is likely to come insolvent in view of its business operations and financial standing.

(3) Deleted. *<by Act No. 5737, Feb. 1, 1999>*

(4) Where the Financial Services Commission acknowledges that an officer or employee of the futures company has been appointed or employed in an illegal manner or has violated this Act, orders under this Act, the related Acts and subordinate statutes, it may present the ground therefor, and request that the relevant futures company suspend the exercise of duties by such officer or employee or dismiss such officer or employee. *<Amended by Act No. 7113, Jan. 29, 2004; Act No. 8863, Feb. 29, 2008>*

(5) The provisions of Article 39 shall apply *mutatis mutandis* to the cancellation of a license under the provisions of paragraph (1). *<Newly Inserted by Act No. 6171, Jan. 21, 2000>*

Article 84-2 (Hearing)

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Where the Financial Services Commission intends to make a disposition to revoke a license for futures business under the provisions of Article 84 (1), it shall hold a hearing. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Wholly Amended by Act No. 7113, Jan. 29, 2004]

Article 85 (Supervisory Measures against Association)

(1) The Financial Services Commission may order the partial suspension of the work of the Association, or the Association to take other necessary measures if deemed necessary in the public interest and the protection of investors. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>

(2) The provisions of Article 84 (4) shall apply *mutatis mutandis* to other supervisory measures against the Association. In this case, the Exchange and its officers and employees shall be deemed to be a member of the Association and its officers and employees. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 7113, Jan. 29, 2004>

Article 86 (Measures in Emergency Situations)

The Financial Services Commission may order the closure of the futures market or other appropriate measures, in cases where deemed that the normal execution of futures trading is impossible due to natural disaster, war, national emergency, radical changes in the economic situation or incidents equivalent to the foregoing. <Amended by Act No. 5737, Feb. 1, 1999; Act No. 8863, Feb. 29, 2008>

Article 87 (Consultation)

The Financial Services Commission shall, if measures under Articles 84, and 85 through 86 are deemed to have a serious impact on the ordinary commodity market, consult with the Minister in charge of such commodity market. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 5737, Feb. 1, 1999; Act No. 7113, Jan. 29, 2004; Act No. 8863, Feb. 29, 2008>

Article 88 (Notification of Details on Measures against Retired Officers)

(1) The Financial Services Commission may, in cases where it is recognized that measures falling under Article 84 (4) might be given if a retired officer or employee holds the office, have the Governor of the Financial Supervisory Service notify the head of relevant futures company on the details of such measures.

(2) Each head of a futures company who has been notified in accordance with paragraph (1), shall notify relevant officer or employee thereon and keep and maintain the records.

[This Article Newly Inserted by Act No. 9078, Mar. 28, 2008]

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CHAPTER VIII SUPPLEMENTARY PROVISIONS

Articles 89 through 91 Deleted. <by Act No. 5504, Jan. 13, 1998>

Article 92 (Relation with Other Acts)

(1) The Exchange, any futures company, and any depository shall be deemed a foreign exchange agency under Article 8 of the Foreign Exchange Transactions Act, in connection with intermediary business of foreign exchange transactions accompanied by futures trading; in cases where special provisions exist in this Act pertaining to the Exchange, the futures company, and the depository, such provisions shall prevail over the Foreign Exchange Transactions Act. <Amended by Act No. 5737, Feb. 1, 1999; Act No. 6171, Jan. 21, 2000; Act No. 7530, May 31, 2005>

(2) Where foreign exchange transactions (excluding the takeover and delivery of foreign exchange) of a resident are accompanied by futures trading under this Act, Article 18 of the Foreign Exchange Transactions Act shall apply only to cases prescribed by Presidential Decree. <Amended by Act No. 5737, Feb. 1, 1999; Act No. 7530, May 31, 2005>

Article 93 (Orders on Over-the-Counter Trading)

(1) The Financial Services Commission may issue an order for disclosure of trading information or for installation of internal control or other necessary orders against concerned parties to the relevant trading in accordance with Presidential Decree, where certain transactions between concerned parties, which are pursued for the purposes of making a profit or averting risk without going through a futures market or overseas futures market and which have characteristics similar to those of futures trading, are in conflict with the underlying spirit of this Act or are deemed to be harmful to the public interest or to the sound order of the market. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 7113, Jan. 29, 2004; Act No. 8863, Feb. 29, 2008>

(2) The Financial Services Commission may entrust the operation on the supervision of futures trading in places other than futures markets to the Financial Supervisory Service Governor as determined by Presidential Decree. <Newly Inserted by Act No. 5504, Jan. 13, 1998; Act No. 8863, Feb. 29, 2008>

Article 94 (Restrictions on Futures Trading by Foreigners)

The Financial Services Commission may, if deemed necessary, restrict futures trading by foreigners. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 8863, Feb. 29, 2008>

Article 95 (Delegation and Entrustment of Powers)

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(1) The Financial Services Commission may delegate part of the powers under this Act to the Securities and Futures Commission on such terms and conditions as Presidential Decree may determine. *<Amended by Act No. 8863, Feb. 29, 2008>*

(2) Deleted. *<by Act No. 8852, Feb. 29, 2008>*

(3) The Financial Services Commission may entrust part of the powers under this Act to the Exchange or the Association on such terms and conditions as determined by Presidential Decree. *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 8863, Feb. 29, 2008>*

(4) The Financial Services Commission and the Securities and Futures Commission may delegate matters requiring urgent dispositions from among the powers under this Act to the Chairman of the Financial Services Commission or the Chairman of the Securities and Futures Commission, and minor matters thereof to the Financial Supervisory Service Governor, on such terms and conditions as determined by Presidential Decree. *<Amended by Act No. 8863, Feb. 29, 2008>*

(5) The scope of matters of urgency and minor matters referred to in paragraph (4) shall be determined by Presidential Decree.

[This Article Wholly Amended by Act No. 5504, Jan. 13, 1998]

Article 95-2 (Deliberation by Securities and Futures Commission)

The Financial Services Commission shall lay, in advance, before the Securities and Futures Commission any of the following subparagraphs: *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>*

1. Where it determines any of the following items:

(a) Deleted; *<by Act No. 6171, Jan. 21, 2000>*

(b) Matters on the preparation of documents by futures companies referred to in Article 46;

(c) Deleted; *<by Act No. 7530, May 31, 2005>*

(d) Matters on the management and accounting of property in trust by futures companies referred to in Article 49; and

(e) and (f) Deleted; *<by Act No. 6171, Jan. 21, 2000>*

2. and 3. Deleted; *<by Act No. 5737, Feb. 1, 1999>*

4. Where it takes measures or issues orders falling under any of the following items:

(a) Restriction on the volume of futures trading and other measures referred to in Article 32;

(b) Order for business suspension to futures companies referred to

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in Article 84 (2);

(c) Deleted; <by Act No. 5737, Feb. 1, 1999>

(d) Orders issued for a partial suspension of the work, etc. to the Association referred to in Article 85 (1);

(e) Orders for over-the-counter transactions referred to in Article 93; and

(f) Measures against foreigners on the restriction of futures trading referred to in Article 94;

5. Where it consults with any competent Minister under Article 87;

6. Where it imposes a fine for negligence pursuant to Article 101 (3); and

7. Where the Financial Services Commission deems that it requires any deliberation by the Securities and Futures Commission other than subparagraphs 1 through 6.

[This Article Newly Inserted by Act No. 5504, Jan. 13, 1998]

Article 95-3 (Direction to and Supervision over Financial Supervisory Service Governor)

The Financial Services Commission or the Securities and Futures Commission may, in cases where deemed necessary for the exercise of powers under this Act, issues orders to the Financial Supervisory Service Governor such as directions, supervision, and alteration in the method of operations execution, and other orders necessary for supervision. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Newly Inserted by Act No. 5504, Jan. 13, 1998]

Article 95-4 (Operations of Financial Supervisory Service)

The Financial Supervisory Service shall carry out the following operations under the direction or supervision of the Financial Services Commission or the Securities and Futures Commission under this Act: <Amended by Act No. 8863, Feb. 29, 2008>

1. Operations on the inspection of futures-related institutions subject to inspection by the Financial Supervisory Service pursuant to this Act;

2. Operations on the supervision of futures trading in places other than futures markets;

3. Operations entrusted from the Government;

4. Operations assigned under this Act other than subparagraphs 1 through 3; and

5. Operations attendant on those listed in subparagraphs 1 through 4.

[This Article Newly Inserted by Act No. 5504, Jan. 13, 1998]

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Article 95-5 (Contributions)

(1) A person who falls under any of the following subparagraphs shall share part of the operating expenses of the Financial Supervisory Service:

<Amended by Act No. 6171, Jan. 21, 2000>

1. Futures companies which receive commission fees from clients;
2. Deleted; and <by Act No. 5737, Feb. 1, 1999>
3. Futures-related institutions which undergo an inspection by the Financial Supervisory Service Governor pursuant to Article 81.

(2) Necessary matters for the sharing ratio, limit or the payment of contributions referred to in paragraph (1) shall be determined by Presidential Decree.

[This Article Newly Inserted by Act No. 5504, Jan. 13, 1998]

Article 95-6 (Restrictions on Trading by Members and Employees of Financial Services Commission, Securities and Futures Commission, and Financial Supervisory Service)

The provisions of Article 48 (1) shall apply *mutatis mutandis* to the restrictions on trading by persons falling under any of the following subparagraphs: <Amended by Act No. 7113, Jan. 29, 2004; Act No. 8863, Feb. 29, 2008>

1. Members and public officials belonging to the Financial Services Commission;
2. Members of the Securities and Futures Commission; and
3. Governor, Vice Governor, assistant vice governors, auditor and employees of the Financial Supervisory Service.

[This Article Newly Inserted by Act No. 5504, Jan. 13, 1998]

Article 95-7 (Information Exchange with Foreign Futures Supervisory Authorities)

(1) The Financial Services Commission may exchange information with foreign futures supervisory authorities. <Amended by Act No. 8863, Feb. 29, 2008>

(2) Deleted. <by Act No. 8852, Feb. 29, 2008>

(3) The Financial Services Commission (referring to the Securities and Futures Commission in case of matters violating the provisions of Articles 31 through 33, 44, 45, 48, 51, 93 and 94) may cooperate with any foreign futures supervisory authorities in cases where they request the survey or investigation under Articles 81 and 81-2, expressly indicating purposes and scopes, etc. <Newly Inserted by Act No. 6171, Jan. 21, 2000; Act No. 8863, Feb. 29, 2008>

[This Article Newly Inserted by Act No. 5504, Jan. 13, 1998]

CHAPTER VIII-2 IMPOSITION AND COLLEC-
TION OF PENALTY
SURCHARGES

Article 95-8 (Imposition of Penalty Surcharge)

The Financial Services Commission may impose penalty surcharge on a futures company within the scope of 20/100 of the amount of violation (referring to the amount acquired in cases of Article 38-3 (1) 1, or the amount of credit extension in cases of Article 38-3 (1) 2), when such company violates Article 38-3 (1) 1 or 2. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 95-9 (Basis for Imposition of Penalty Surcharges)

(1) The basis for imposition of penalty surcharge pursuant to Article 95-8 shall be prescribed by Presidential Decree, considering each subparagraph below:

1. Details and severity of violations;
2. Duration and frequency of violations; and
3. Scale of benefits acquired by in the course of violations.

(2) Where a corporation which has violated this Act is merged with another, the Financial Services Commission may regard that such violation has having been committed by the corporation which survives or is newly founded by merger, and may impose and collect penalty surcharges. <Amended by Act No. 8863, Feb. 29, 2008>

(3) Other necessary matters for the imposition of penalty surcharges shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 95-10 (Submission of Opinions)

(1) The Financial Services Commission shall provide a party and the persons concerned with an opportunity to submit opinions prior to the imposition of a penalty surcharge. <Amended by Act No. 8863, Feb. 29, 2008>

(2) A party and the persons concerned or such may make a statement at a meeting of the Financial Services Commission or submit information. <Amended by Act No. 8863, Feb. 29, 2008>

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 95-11 (Request for Objection)

(1) A person who appeals against a decision to impose a penalty surcharge under Article 95-8 may raise an objection to the Financial Services Commission, with reasonable grounds, within 30 days from the day of

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receipt of a notice of such decision. <Amended by Act No. 8863, Feb. 29, 2008>

(2) The Financial Services Commission shall decide on the objection raised pursuant to paragraph (1) within 30 days: *Provided*, That where such decision could not be made within the time limit due to unavoidable circumstances, the period may be extended within a limit of 30 days.

<Amended by Act No. 8863, Feb. 29, 2008>

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 95-12 (Extension of Deadlines and Installment Payment of Penalty Surcharge)

(1) The Financial Services Commission may allow an extension of the deadline or installment payment of penalty surcharges, where a person on whom a penalty surcharge imposed (hereinafter referred to as “person liable for payment of penalty surcharge”), is considered as having difficulty in paying such penalty surcharge in full in one installment, due to circumstances falling under the following subparagraphs. In such cases, the Commission may require him/her to provide collateral, when it is considered necessary:

<Amended by Act No. 8863, Feb. 29, 2008>

1. Where he/she suffers substantial loss due to a disaster or theft;
2. Where his/her business is at risk due to worsening business conditions;
3. Where a single installment full payment of the penalty surcharge is presumed to cause substantial financial difficulty; or
4. Other circumstances corresponding to subparagraphs 1 through 3.

(2) If a person liable for payment of penalty surcharge intends to apply for extension of the deadline or installment payment of penalty surcharge pursuant to paragraph (1), he/she shall apply to the Financial Services Commission by no later than 10 days prior to the payment deadline.

<Amended by Act No. 8863, Feb. 29, 2008>

(3) The Financial Services Commission may revoke decisions on extension of the deadline or installment payment, and collect such penalty surcharge in one amount, if a person liable for payment of penalty surcharge, who has been granted an extension of the deadline or installment payment under paragraph (1), falls under any of the following subparagraphs:

<Amended by Act No. 8863, Feb. 29, 2008>

1. Where he/she has failed to pay a penalty surcharge the installment payment of which has been determined within the payment deadline;
2. Where he/she has failed to perform orders of the Financial Services Commission such as replacement of collateral, or other order which is necessary to preserve collateral;
3. Where the whole or part of the penalty surcharge is considered uncollect-

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able, due to circumstances such as compulsory execution, commencement of auction, an adjudication of bankruptcy, dissolution of a corporation, or disposition on default of national or local taxes; or

4. Where other circumstances correspond to subparagraphs 1 through 3 exist.

(4) Necessary measures for extension of the deadline, installment payment of penalty surcharge, provision of collateral, or etc., pursuant to the provisions of paragraphs (1) through (3), shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

Article 95-13 (Collection of Penalty Surcharges and Disposition on Default)

(1) Where a person liable for payment of penalty surcharge fails to make such payment by the deadline, the Financial Services Commission may collect additional surcharges, prescribed by Presidential Decree, for the period from the date after the deadline to the date before the payment date. *<Amended by Act No. 8863, Feb. 29, 2008>*

(2) If a person liable for a payment of penalty surcharge fails to make any payment by the deadline, the Financial Services Commission may demand payment by fixing a specific deadline, and if the penalty surcharge and additional surcharges pursuant to paragraph (1) are not paid by such deadline, the Commission may collect such charges in the same manner as cases of dispositions on default of national taxes. *<Amended by Act No. 8863, Feb. 29, 2008>*

(3) The Financial Services Commission may entrust the Commissioner of the National Tax Service with collection of penalty surcharge and additional charges and business of disposition on default, pursuant to paragraphs (1) and (2). *<Amended by Act No. 8863, Feb. 29, 2008>*

(4) Necessary matters for collection of penalty surcharges shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 8523, Jul. 19, 2007]

CHAPTER IX PENAL PROVISIONS

Article 95-14 (Penal Provisions)

(1) A person who has committed a violation of the provisions of Article 31 (1), 31-2 (1) or 33 shall be punished by imprisonment for not more than 10 years or a fine not exceeding 20 million won (the amount equivalent to three times the amount of profits or evaded loss in cases where the

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amount equivalent to three times the amount of profits resulting from the act of violation or the evaded loss exceeds 20 million won). <Amended by Act No. 7113, Jan. 29, 2004>

(2) Where the amount of profits or losses obtained or evaded by a person due to any violation of the provisions of Article 31 (1), 31-2 (1) or 33 is not less than 500 million won, he/she shall be heavily punished according to the following classification: <Newly Inserted by Act No. 6707, Aug. 26, 2002; Act No. 7113, Jan. 29, 2004>

1. Where the amount of the profits obtained or losses evaded is not less than 5 billion won, he/she shall be punished by life imprisonment or by imprisonment for a limited term of not less than 5 years; and
2. Where the amount of the profits obtained or losses evaded is not less than 500 million won but less than 5 billion won, he/she shall be punished by imprisonment for a limited term of not less than 3 years.

(3) In pronouncing the penalty of imprisonment under paragraphs (1) and (2), a suspension of qualification for not more than 10 years may be concurrently imposed. <Newly Inserted by Act No. 6707, Aug. 26, 2002>

[This Article Newly Inserted by Act No. 6171, Jan. 21, 2000]

Article 96 (Penal Provisions)

A person falling under any of the following subparagraphs shall be sentenced to imprisonment with prison labor of not more than 3 years or a fine not exceeding 20 million won:

1. A person who has engaged in futures trading in violation of Article 23;
2. A person who has engaged in futures trading, without a license pursuant to Article 37 (1) and (3) or has obtained such license by unlawful means;
3. A futures company which owns, or has acquired as collateral, securities or bills issued by a major shareholder (including any specially person) in violation of Article 38-3 (1) 1;
4. A futures company which has extended credit to a major shareholder or to a specially related person to him/her in violation of Article 38-3 (1) 2, or a major shareholder or a his/her specially related person, who has received such credit extension from a futures company;
5. A major shareholder or a his/her specially related person to him, who has committed an act falling under Article 38-4 (1);
6. A futures company which has made a business transaction by making himself/herself as the counter-party in violation of Article 44; or
7. A futures company, or an officer or employee thereof, that has made

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an undue solicitation in violation of each subparagraph of Article 45 (1).

[This Article Wholly Amended by Act No. 8523, Jul. 19, 2007]

Article 97 (Penal Provisions)

A person falling within any of the following cases shall be punished by imprisonment of not more than 2 years or a fine not exceeding 10 million won: <Amended by Act No. 5504, Jan. 13, 1998; Act No. 5737, Feb. 1, 1999; Act No. 5982, May 24, 1999; Act No. 7113, Jan. 29, 2004; Act No. 7617, Jul. 29, 2005>

1. A person who has acquired stocks without obtaining approval, in violation of the provisions of Article 38-2 (1); and
2. A person who has failed to dispose of the relevant stocks in violation of any order under the provisions of Article 38-2 (2);
3. Deleted; <by Act No. 5737, Feb. 1, 1999>
4. A person who has violated Article 41;
5. A person who has violated Article 51 (1);
6. Deleted; and <by Act No. 5737, Feb. 1, 1999>
7. A person who has violated an order issued pursuant to Article 84 (2), 85 (1), 86 or 93.

Article 98 (Penal Provisions)

A person falling within any of the following cases shall be punished by imprisonment of not more than 1 year or a fine not exceeding 5 million won: <Amended by Act No. 5504, Jan. 13, 1998; Act No. 5737, Feb. 1, 1999; Act No. 6171, Jan. 21, 2000; Act No. 7113, Jan. 29, 2004; Act No. 8863, Feb. 29, 2008>

1. Deleted; <by Act No. 5737, Feb. 1, 1999>
2. A person who violates Article 48 (1) (including cases where it applies *mutatis mutandis* under Articles 79 and 95-6) and (2);
3. Deleted; <by Act No. 7113, Jan. 29, 2004>
4. A person who fails to fulfil written notification or delivery or makes a false notification or delivery in violation of Article 43;
5. Deleted; and <by Act No. 5737, Feb. 1, 1999>
6. A person who refuses to comply with a request for investigation by the Financial Services Commission referred to in Article 81-2 (2) (referring to the Securities and Futures Commission where Articles 31 through 33, 44, 45, 48, 51, 93 and 94 are violated).

Article 99 (Concurrent Imposition of Imprisonment and Fine)

(1) Imprisonment and a fine may be concurrently imposed on persons who have committed any offence referred to in Article 95-14 or 96 through 98. <Amended by Act No. 6171, Jan. 21, 2000; Act No. 8523, Jul. 19, 2007>

(2) In the case of concurrent imposition of a fine under paragraph (1)

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on a person who has violated the provisions of Article 95-14 (2), the amount of the fine shall be equivalent to or less than three times the amount of profits or losses obtained or evaded due to such act of violation.

<Newly Inserted by Act No. 6707, Aug. 26, 2002; Act No. 8523, Jul. 19, 2007>

Article 100 (Joint Penal Provisions)

Where a representative of a juristic person, or an agent, employee or other employed person of a juristic person or individual, violates Article 95-14, or 96 through 98, during the course of carrying out business of such juristic person or individual, such juristic person or individual, in addition to the actual person who has committed such offence, shall be subject to a fine to the extent of the amount prescribed in respective Articles. *<Amended by Act No. 6171, Jan. 21, 2000; Act No. 8523, Jul. 19, 2007>*

Article 101 (Fines for Negligence)

(1) A person falling under any of the following subparagraphs shall be subject to the imposition of a fine for negligence not exceeding 5 million won: *<Amended by Act No. 8523, Jul. 19, 2007; Act No. 8863, Feb. 29, 2008>*

1. A futures company which has failed to undergo a resolution of the board of directors in violation of Article 38-3 (2);
2. A futures company which has failed to report to the Financial Services Commission or which has failed to make a public announcement, in violation of Article 38-3 (3) or (4);
3. A futures company, or its major shareholder that has failed to respond to any request for submission of information from the Financial Services Commission, pursuant to Article 38-3 (5) or 38-4 (2);
4. A person who has failed to prepare or preserve documents pursuant to Article 46, or who has prepared a false document;
5. A person who has failed to submit a business report or offer such report for public reading or who has submitted a false report, in violation of Article 47;
6. A person who has violated Article 49;
7. A person who has failed to submit a report or information pursuant to Article 81 (1), or has submitted a false report or false information;
or
8. A person who has refused, disturbed, or avoided any investigation pursuant to Article 81 (1).

(2) A person falling within any of the following cases shall be punished by a fine for negligence not exceeding 3 million won: *<Amended by Act No. 5737, Feb. 1, 1999; Act No. 6171, Jan. 21, 2000; Act No. 8903, Mar. 14, 2008>*

1. Deleted; *<by Act No. 7113, Jan. 29, 2004>*

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2. Deleted; <by Act No. 5504, Jan. 13, 1998>

3. A person who has violated limits under Article 32 (1);

3-2. A person who has failed to report under Article 32 (1) or falsely report;

4. A person who has violated Article 41-2, 50 (1) and (2) or 77 (2); and

5. Deleted. <by Act No. 5504, Jan. 13, 1998>

(3) A fine for negligence referred to in paragraphs (1) and (2) shall be imposed and collected by the Financial Services Commission on such terms and conditions as determined by Presidential Decree. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 5737, Feb. 1, 1999; Act Nos. 8852 & 8863, Feb. 29, 2008>

(4) A person who is dissatisfied with the disposition of a fine for negligence referred to in paragraph (3) may file a complaint with the imposer of a fine for negligence not later than 30 days after the notification date of such disposition. <Amended by Act No. 5504, Jan. 13, 1998>

(5) Where a person subject to the disposition of a fine for negligence under paragraph (3) files a complaint under paragraph (4), the imposer of such fine for negligence shall, without delay notify the competent court of such fact, in which case the court shall adjudicate on such fine for negligence in accordance with the Non-Contentious Case Litigation Procedure Act. <Amended by Act No. 5504, Jan. 13, 1998; Act No. 7530, May 31, 2005>

(6) Where no complaint is filed or no fine for negligence is paid, the fine for negligence shall be collected in the same manner as the disposition of national taxes in arrear.

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1996: *Provided*, That, Article 6 of this Addenda shall come into force starting from the date prescribed by Presidential Decree.

Article 2 (Example of Application on Stock Futures Trading)

Among trading set forth in subparagraph 1 (a) of Article 3 of this Act, the trading of which the subject products are shares certificates under Article 2 (1) 6 of the Securities and Exchange Act and indices based on the same (hereinafter referred to as “share futures trading”) shall be subject to this Act starting from the date prescribed in the proviso to Article 1 of this Addenda.

Article 3 (Transitional Measures on Stock Futures Trading)

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A futures investment fund business person may, notwithstanding Article 58, manage its investment funds in the share futures trading among trading set forth in the items of subparagraph 1 of Article 3, by way of the entrustment thereof with a securities company until the date under the proviso to Article 1 of this Addenda.

Article 4 (Transitional Measures on Approval of Futures Brokerage Business)

(1) A foreign exchange bank under the Foreign Exchange Control Act shall, as of the date this Act enters into force, be presumed to be a futures broker which has obtained approval pursuant to this Act with respect to overseas futures trading on financial products and indices relating thereto (exclusive of service fees) only: *Provided*, That, foreign exchange banks under the Foreign Exchange Control Act which concurrently engage in trust business as their additional business may, notwithstanding Article 40, engage in futures investment fund business subject to the approval of the Minister of Finance and Economy.

(2) Futures intermediaries designated by the head of the Supply Administration, as of the date this Act enters into force, shall be deemed as a futures broker which has obtained approval pursuant to this Act to the extent of its originally designated scope of business.

Article 5 (Transitional Measures on Establishment of Commission)

(1) The Commission shall not be established until a date prescribed by Presidential Decree, taking into consideration the size of futures trading and the number of futures-related institutions.

(2) The Minister of Finance and Economy shall take over the authority and duties of the Commission under this Act until the date under paragraph (1). In this case, the Minister of Finance and Economy may delegate a part of such duties to the Superintendent of the Office of Bank Supervision of the Bank of Korea or other organizations prescribed by Presidential Decree.

Article 6 Omitted.

ADDENDA <Act No. 5504, Jan. 13, 1998>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 1998: *Provided*, That the amendment to Article 84-2 shall enter into force on January 1, 1998.

Article 2 (Example of Application of Provisions on Disqualifications for

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Officers)

The amendment to Article 21 shall apply to officers elected on or after the enforcement date of this Act.

Article 3 (Transitional Measures on License for Overseas Futures Brokerage Business)

Any person who has obtained a license for operating overseas futures brokerage business under the former provisions at the time of entry into force of this Act shall be deemed to have made a report under the amendment to Article 37 (2).

Article 4 (Transitional Measures on Penal Provisions and Fine for Negligence Provisions)

Acts committed prior to the entry into force of this Act shall, in applying the penal provisions and fine for negligence provisions, be governed by the former provisions.

Article 5 (Transitional Measures on Operations Done by Minister of Finance and Economy)

Operations done by the Minister of Finance and Economy pursuant to Article 5 (2) of the Addenda of Act No. 5041 Futures Trading Act prior to the entry into force of this Act shall be deemed operations done by the Financial Supervisory Commission under this Act.

ADDENDA <Act No. 5737, Feb. 1, 1999>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation: *Provided*, That the amendments to Articles 49-2 and 49-3 shall enter into force on March 1, 1999.

(2) (Transitional Measures on Disqualifications for Officers) The amendment to Article 21 shall apply to officers elected on and after the entry into force of this Act.

(3) (Transitional Measures on Penal Provisions) The application of penal provisions and fine for negligence provisions to acts committed prior to the entry into force of this Act shall be governed by the previous provisions.

ADDENDA <Act No. 5982, May 24, 1999>

Article 1 (Enforcement Date)

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

Articles 2 through 6 Omitted.

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ADDENDA <Act No. 6171, Jan. 21, 2000>

Article 1 (Enforcement Date)

This Act shall enter into force on April 1, 2000.

Article 2 (Transitional Measures concerning License for Futures Trading Business)

Any person who has his futures trading business licensed under the previous provisions of Article 37 (1) at the time that this Act enters into force shall be deemed to have his futures trading business licensed under the amended provisions of Article 37 (1).

Article 3 (Transitional Measures concerning Disqualifications)

(1) Where a person who is the officer of the Exchange at the time that this Act enters into force is disqualified due to causes that have accrued prior to the enforcement of this Act in accordance with the amended provisions of subparagraph 9 of Article 21, his case shall be governed by the previous provisions notwithstanding the amended provisions.

(2) Where a person who is the officer of a futures company or the Association at the time that this Act enters into force falls under any of subparagraphs 4 through 9 of Article 21 which are applied *mutatis mutandis* under the amended provisions of Articles 39-3 and 79 due to causes that have accrued prior to the enforcement of this Act, his case shall be governed by the previous provisions notwithstanding the amended provisions.

Article 4 (Transitional Measures concerning Internal Control Standards of Futures Companies)

Any futures company at the time that this Act enters into force shall set its internal control standards in accordance with the amended provisions of Article 40 (1) within 6 months from the date on which this Act enters into force.

Article 5 (Relations with Other Acts and Subordinate Statutes following Change in Name of Futures Trading Business, etc.)

Where any futures business, any futures company or any foreign futures company is cited by other Acts and subordinate statutes at the time that this Act enters into force, such futures business, futures company or foreign futures company shall be deemed to be cited by this Act.

ADDENDA <Act No. 6707, Aug. 26, 2002>

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

(2) (Transitional Measures concerning Application of Penal Provisions) In

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application of penal provisions to any offence committed prior to the enforcement of this Act, the previous provisions shall prevail.

ADDENDA <Act No. 7113, Jan. 29, 2004>

(1) (Enforcement Date) This Act shall enter into force on the date of establishing the Korea Securities Futures Exchange under the Korea Securities Futures Exchange Act: *Provided*, That the amended provisions of Articles 31-2, 49-2 (1) and 95-8 (1) and (2) shall enter into force on the date of its promulgation.

[According to the Korea Securities and Futures Exchange Act promulgated by Act No. 7112 on January 29, 2004, the enforcement date shall be January 27, 2005]

(2) (Transitional Measures concerning Common Fund for Compensating for Damages) The Exchange may return a part of the Common Fund under the provisions of Article 27 to its members by taking account of the scale of accumulations etc. by members of the previous futures exchange.

(3) (Transitional Measures concerning Application of Penal Provisions or Fine for Negligence) The previous provisions shall govern any application of penal provisions or fine for negligence to the acts committed prior to the enforcement of this Act.

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

Article 1 (Enforcement Date)

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

Articles 2 through 6 Omitted.

ADDENDUM <Act No. 7530, May 31, 2005>

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

ADDENDUM <Act No. 7617, Jul. 29, 2005>

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

ADDENDA <Act No. 8523, Jul. 19, 2007>

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures on Appointment of Outside Directors)

A futures company, which is required to appoint outside directors under the amended provisions of Article 40-2, shall appoint outside directors under the same amended provisions at the first regular general meeting of shareholders after this Act enters into force. In this case, outside directors who are appointed in the regular general meeting of shareholders shall be considered to have been recommended by the committee to recommend outside directors, pursuant to the amended provisions of Article 40-2 (2).

Article 3 (Transitional Measures on Foundation of Audit Committee)

A futures company, which required to organize an audit committee under the amended provisions of Article 40-3, shall organize such audit committee under the same amended provisions, at the first regular general meeting of shareholders after this Act enters into force.

Article 4 (Transitional Measures on Foundation of Existing Audit Committee)

The amended provisions of the main sentence of Article 40-3 (3) (limited to Article 40-2 (4) 7 through 9) shall not apply to the members of an audit committee organized before the time this Act enters into force by a futures company, which is required to organize such audit committee under the amended provisions of Article 40-3 after this Act enters into force, until their terms of membership have expired.

Article 5 (Transitional Measures on Administrative Measures)

The former provisions shall apply to the administrative measures on acts completed before the time this Act enters into force or pending after the time this Act enters into force, among the acts in violation of the amended provisions of Article 38-3 (1) 1 or 2 before the time this Act enters into force.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

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

Articles 2 through 7 Omitted.

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

Article 1 (Enforcement Date)

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

ADDENDUM <Act No. 8903, Mar. 14, 2008>

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

ADDENDA <Act No. 9078, Mar. 28, 2008>

- (1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.
- (2) (Example of Application of Disqualifications for Officers) The amendment to Article 39-3 shall apply to officers disqualified for a cause first occurred on and after the enforcement date of this Act.