

ENFORCEMENT DECREE OF THE MONOPOLY REGULATION AND FAIR TRADE ACT

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Presidential Decree No.15328, Mar. 31, 1997
Presidential Decree No.15569, Dec. 31, 1997
Presidential Decree No.15767, Apr. 1, 1998
Presidential Decree No.16221, Mar. 31, 1999
Presidential Decree No.16430, Jun. 30, 1999
Presidential Decree No.16685, Dec. 31, 1999
Presidential Decree No.16777, Apr. 1, 2000
Presidential Decree No.17176, Mar. 27, 2001
Presidential Decree No.17317, Jul. 24, 2001
Presidential Decree No.17564, Mar. 30, 2002
Presidential Decree No.18312, Mar. 17, 2004
Presidential Decree No.18356, Apr. 1, 2004
Presidential Decree No.18736, Mar. 8, 2005
Presidential Decree No.18768, Mar. 31, 2005
Presidential Decree No.18903, Jun. 30, 2005
Presidential Decree No.18921, Jun. 30, 2005
Presidential Decree No.19023, Aug. 31, 2005
Presidential Decree No.19422, Mar. 29, 2006
Presidential Decree No.19447, Apr. 14, 2006
Presidential Decree No.19574, Jun. 29, 2006
Presidential Decree No.20166, Jul. 13, 2007
Presidential Decree No.20331, Oct. 23, 2007
Presidential Decree No.20360, Nov. 2, 2007
Presidential Decree No.20884, Jun. 25, 2008
Presidential Decree No.20947, Jul. 29, 2008
Presidential Decree No.21148, Dec. 3, 2008
Presidential Decree No.21480, May 6, 2009
Presidential Decree No.21492, May 13, 2009
Presidential Decree No.21626, Jul. 7, 2009
Presidential Decree No.21765, Oct. 1, 2009
Presidential Decree No.22003, Jan. 27, 2010
Presidential Decree No.22151, May 4, 2010
Presidential Decree No.22160, May 14, 2010
Presidential Decree No.22467, Nov. 2, 2010

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Decree is to provide for matters delegated by the [Monopoly Regulation and Fair Trade Act](#) and other matters necessary for enforcement thereof. <Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 18768, Mar. 31, 2005>

Article 2 (Standards for Holding Company)

- (1) "Company whose total assets are above the amount determined by Presidential Decree" in the former part of subparagraph 1-2 of [Article 2 of the Monopoly Regulation and Fair Trade Act](#) (hereinafter referred to as the "Act") means a company falling under each of the following subparagraphs: *<Amended by Presidential Decree No. 20360, Nov. 2, 2007>*
1. In cases of companies which have been newly incorporated in the corresponding business year, or have been merged, divided, merged through division or physically divided (hereinafter referred to as "division"), it shall be any company whose total amount of assets on the balance sheet as of the date of incorporation registration, the date of merger registration or the date of division registration amounts to not less than 100 billion won;
 2. In cases of companies, other than those falling under subparagraph 1, it shall be any company whose total amount of assets on the balance sheet as of the closing date of the immediately preceding business year (or, it shall be the date on which the cause of registration of the conversion concerned arises, where registration of conversion into a holding company is made based on the total assets as of the date prior to the closing date of business year) amounts to not less than 100 billion won.
- (2) The standards for main business referred to in the latter part of subparagraph 1-2 of [Article 2 of the Act](#) shall be based on cases where the aggregate value (referring to the aggregate amount of value on the balance sheet as of the date on which the total amount of assets under subparagraphs of paragraph (1) is calculated) of stocks (including equities; hereinafter the same shall apply) held by the subsidiaries of a holding company exceeds 50/100 of the total amount of assets held by the holding company. *<Amended by Presidential Decree No. 20360, Nov. 2, 2007>*
- (3) "Standards prescribed by Presidential Decree" in subparagraph 1-3 of [Article 2 of the Act](#) means satisfying the following requirements: *<Newly Inserted by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20166, Jul. 13, 2007; Presidential Decree No. 20360, Nov. 2, 2007>*
1. The company shall be an affiliated company of a holding company (excluding an affiliated company formed in a way that a small and medium start-up business investment company established under the [Support for Small and Medium Enterprise Establishment Act](#) or an operator of a new technology business finance company established under the [Specialized Credit Financial Business Act](#) acquires the stocks of another domestic company for the purpose of making a start-up business investment or assisting an operator of a new technology business);
 2. Stocks held by a holding company shall be equal to or greater than those held by the largest investor from among those provided for in subparagraph 1 or 2 of [Article 11](#).
- (4) "Standards prescribed by Presidential Decree" in subparagraph 1-4 of [Article 2 of the Act](#) means satisfying the following requirements: *<Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007>*
1. The company shall be an affiliated company of a subsidiary company;
 2. Stocks held by a subsidiary company shall be equal to or greater than those held by the largest investor among those provided for in subparagraph 1 or 2 of [Article 11](#).

[This Article Wholly Amended by Presidential Decree No. 16221, Mar. 31, 1999]

Article 2-2 Deleted. *<by Presidential Decree No. 20360, Nov. 2, 2007>*

Article 3 (Scope of Enterprise Group)

"Company in virtual control of the business according to the standards prescribed by Presidential Decree" in the main sentence of subparagraph 2 of [Article 2 of the Act](#) means a company falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20166, Jul. 13, 2007; Presidential Decree No. 21492, May 13, 2009>*

1. A company in which the same person holds independently or in concert with another person falling under any of the following items (hereinafter referred to as "person related to the same person") not less than 30/100 of the total number of stocks issued by the relevant company (excluding non-voting stocks under [Article 370 of the Commercial Act](#); hereafter the same shall apply in this Article, [Articles 3-2](#), [17-5](#), [17-8](#), and [18](#)), and which falls under the largest investor of the relevant company:
 - (a) A spouse, a blood relative within the sixth degree or a relative within the fourth degree (hereinafter referred to as "relative");
 - (b) A non-profit juristic person or organization (referring to an unincorporated association or foundation; hereinafter the same shall apply) to which the same person makes independently or in concert with a person related to the same person not less than 30/100 of contributions as the biggest contributor or which either the same person or a person related to the same person has established;
 - (c) A non-profit juristic person or organization which is subject to dominant influence by the same person, directly or through a person related to the same person, with regard to the appointment of executives, or to the operation of businesses;
 - (d) A company, the business activities of which are in fact controlled by the same person in accordance with the provisions of this subparagraph or subparagraph 2;
 - (e) An employee of the same person or persons having relations falling under items (b) through (d) (referring to executives in cases of a juristic person, or trade employee or employees subject to contract of employment in cases of individuals);
2. A company falling under any of the following items and being regarded as exercising controlling influences upon the management of the relevant company:
 - (a) A company of which the representative director is appointed or discharged by, or of which not less than 50/100 of executives have been or can be appointed by contracts or agreements between the same person and other influential stockholders;
 - (b) A company which is subject to controlling influences by the same person, directly or through a person related to the same person, upon making any principal decisions or conducting services, such as institutional changes in the relevant company and investments in new business;
 - (c) A company which has personnel exchanges falling under any of the following sub-items between the relevant company and the company under the control of the same person (including the same person where the same person is a company; hereafter the same shall apply in this item):
 - (i) Where the competent company shares executives of a company under the control of the same person;
 - (ii) Where executives or employees of a company under the control of the same person are reinstated to such positions after having been appointed as executives of the company (including cases where they are reinstated to another company under the control of the same person);
 - (iii) Where executives of the competent company are reinstated to such positions of the competent company or its affiliated company after having been appointed as executives or employees of a company under the control of the same person;
 - (d) A company which makes transactions of funds, assets, goods, services, etc. with the same person or interested person, exceeding an ordinary scope, a company which gives and takes debt guarantees, or other companies which may be recognized as economic entities identified with the same person from the point of common knowledge in a society since the company conducts business activities in a way that it can be considered as an affiliated company of the enterprise group of the same person.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 3-2 (Exclusion from Enterprise Group)

- (1) Where it is deemed that the same person does not control activities or details of business of a company falling under any of the following subparagraphs, the Fair Trade Commission may, upon the request of interested persons, exclude the company from the scope of the enterprise group under the control of the same person, notwithstanding the

provisions of [Article 3](#): <Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17317, Jul. 24, 2001; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 19422, Mar. 29, 2006; Presidential Decree No. 19447, Apr. 14, 2006; Presidential Decree No. 20947, Jul. 29, 2008>

1. A company which is in fact managed by a person, other than the following persons, in accordance with agreements or contracts made between investors:
 - (a) A person who has been appointed by the same person;
 - (b) A person who has relationships with the same person as falling under subparagraph 1 (a) or (e) of [Article 3](#);
2. A company which satisfies the following requirements (hereinafter referred to as "criteria for the recognition of independent management"), and which is recognized as managed independently by relatives of the same person:
 - (a) The aggregate of shares of each company requesting the exclusion from an enterprise group under the control of the same person (hereinafter referred to as "affiliated company of relatives") which are owned by the same person and persons related to the same person [excluding a person who performs an independent management of an affiliated company of relatives (hereinafter referred to as "independent manager") and a person whom the Fair Trade Commission recognizes, upon the request of an independent manager, excluded from the scope of persons related to the same person] shall be less than 3/100 (10/100 in cases of a company that is not a stock-listed corporation under [Article 9 \(15\) 3 of the Financial Investment Services and Capital Markets Act](#) (hereinafter referred to as "stock-listed corporation")) of the total number of shares issued by each company;
 - (b) The aggregate of shares of each company under the control of the same person (referring to one of the companies belonging to an enterprise group under the control of the same person after excluding affiliated companies of relatives; hereinafter referred to as "affiliated company of the same person") which are owned by independent managers and persons having relations with the independent managers as falling under any item of subparagraph 1 of [Article 3](#) (limited to a person excluded from such scope in accordance with the provisions of item (a), in cases of persons related to the same person) shall be less than 3/100 (15/100 in cases of a company that is not a stock-listed corporation) of the total number of shares issued by each company;
 - (c) There shall not be a sharing of executives between affiliated companies of the same person and those of relatives;
 - (d) There shall not be guaranty of debts, or lending or loaning money between affiliated companies of the same person and those of relatives: *Provided*, That this shall not apply in cases of guaranty of debts, or lending or loaning money which has been considered to have taken place in normal ways as collateral to the debt guarantees under [Article 10-2 \(1\) 1 of the Act](#) or transactions;
3. A company that is in bankruptcy proceeding after having been sentenced bankrupt under the [Debtor Rehabilitation and Bankruptcy Act](#);
4. A company corresponding to the agreement-concluding firm under subparagraph 2 of [Article 2 of the Corporate Restructuring Investment Companies Act](#), which satisfies the following requirements:
 - (a) The rights for disposal, and exercising voting rights, of shares owned in excess of 3/100 (10/100 in cases of a company which is not a stock-listed corporation) of the total number of shares issued by the relevant company from among the shares owned by the same person and persons related to the same person, shall be entrusted to creditor financial institutions (referring to financial institutions under the [Banking Act](#) and other Acts, which have provided credits to the relevant company);
 - (b) The same person and persons related to the same person shall conclude a special agreement waiving the terminating right for the entrustment contract under item (a);
5. A company for which the procedure for rehabilitation is in progress by receiving a

- decision on commencing the rehabilitation procedure under the [Debtor Rehabilitation and Bankruptcy Act](#), and which satisfies the following requirements:
- (a) The rights for disposal, and exercising voting rights, of shares owned in excess of 3/100 (10/100 in cases of a company which is not a stock-listed corporation) of the total number of shares issued by the relevant company from among the shares owned by the same person and persons related to the same person, shall be entrusted to managers under [Article 74 of the Debtor Rehabilitation and Bankruptcy Act](#), but after the completion of reorganization procedures, the relevant rights shall be succeeded by the company;
 - (b) The same person and persons related to the same person shall conclude a special agreement waiving the terminating right for the entrustment contract under item (a).
- (2) The Fair Trade Commission may, with respect to any company falling under any of the following subparagraphs, notwithstanding the provisions of Article 3, upon the request by interested persons, exclude such company from the category of an enterprise group under the control of the same person: <Amended by Presidential Decree No. 16685, Dec. 31, 1999; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18736, Mar. 8, 2005; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 21492, May 13, 2009; Presidential Decree No. 22160, May 14, 2010>
1. A corporation incorporated for private investment business under the [Act on Public-Private Partnerships in Infrastructure](#) in the event that any person falling under any of the following items holds not less than 20/100 of the total number of stocks issued by such corporation: *Provided*, That the same shall apply exclusively to cases where the corporation has not made any mutual investment with another company and has not been guaranteed by any person, other than investors, for any repayment of debts:
 - (a) The State or local governments;
 - (b) Public corporations under [Article 5 of the Act on the Management of Public Institutions](#);
 - (c) Public corporations or other corporations established pursuant to any special Act;
 2. A company in which not less than two largest investors (including cases where the same person and persons related to the same person make investments) exist and do not exercise any controlling influence over composition of executives, business operations, etc. from among companies falling under any of the following items:
 - (a) A company incorporated by not less than two companies that run the same type of business for the purpose of restructuring their business through such methods as investment in kind of their assets and a merger, etc.;
 - (b) A company that runs the private investment business in a manner described in the provisions of subparagraphs 1 through 4 of [Article 4 of the Act on Public-Private Partnerships in Infrastructure](#) from among corporations incorporated for the private investment business in accordance with the same Act;
 3. As an industry-academic cooperation technology holding company referred to in subparagraph 6 of [Article 2 of the Promotion of Industrial Education and Industry-Academic Cooperation Act](#) and a subsidiary company thereof referred to in subparagraph 7 of the same Article or a new technology business start-up specialized company referred to in [Article 2 \(8\) of the Act on Special Measures for the Promotion of Venture Businesses](#) and a subsidiary company thereof referred to in [Article 11-2 \(4\) 2 of the same Act](#), a company which is within ten years from the date of registration of incorporation and has no relation of investment or guarantee of an obligation with a company the same person controls (where the same person is a company, including the same person).
- (3) Where a company which has been excluded from the scope of an enterprise group under the control of the same person in conformity with the provisions of paragraph (1) or (2) fails to satisfy the requirements for exclusion, the Fair Trade Commission may, *ex officio* or upon the request by the interested persons, cancel such decisions excluding the company from the enterprise group: *Provided*, That with respect to a company which has been excluded from the scope of an enterprise group under the control of the same person in conformity with the provisions of paragraph (1) 2, this shall apply exclusively to

cases where it fails to satisfy the requirements for exclusion by not later than three years after the date of exclusion.

- (4) Any person who intends to request the exclusion from the enterprise group controlled by the same person pursuant to paragraph (1) 2, shall furnish the documents falling under each of the following subparagraphs to the Fair Trade Commission. In such cases, the Fair Trade Commission shall confirm the certified transcripts of registers of affiliated companies of the same person and those of his/her relatives where the relevant company under paragraph (1) 2 (c) through the joint use of administrative information under [Article 36 \(1\) of the Electronic Government Act](#): <Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 18312, Mar. 17, 2004; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20947, Jul. 29, 2008; Presidential Decree No. 21492, May 13, 2009; Presidential Decree No. 22151, May 4, 2010; Presidential Decree No. 22467, Nov. 2, 2010>
 1. A roster of stockholders in cases of paragraph (1) 2 (a) and (b). Where the relevant company is a corporation which has listed stock certificates on the securities exchange under [Article 9 \(13\) 1 of the Financial Investment Services and Capital Markets Act](#), a written confirmation certified by a transfer agent shall be attached;
 2. Deleted; <by Presidential Decree No. 22467, Nov. 2, 2010>
 3. Current status of debt-repayment guarantees and financial borrowing and lending confirmed by a certified public accountant where the relevant company falls under paragraph (1) 2 (d).

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 3-3 (Exclusion from Persons Related to Same Person)

- (1) Where it is deemed that the same person and persons related to the same person, notwithstanding subparagraph 1 (b) of [Article 3](#), do not exercise controlling influence over the structure of executives, business operation, etc., the Fair Trade Commission may exclude the relevant nonprofit corporation or organization from persons related to same person upon the request of interested persons.
- (2) Where non-profit corporations or organizations, which have been excluded from persons related to the same person under paragraph (1), do not satisfy requirements for such exclusion, the Fair Trade Commission may revoke such decision of exclusion, *ex officio* or upon the request of interested persons.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 4 (Methods of Calculating Sales or Purchase)

- (1) "Amount of annual sales or purchase" in [Article 4 of the Act](#) means the amount of goods or services (referring to the amount excluding indirect taxes imposed on goods or services; hereinafter the same shall apply) supplied or purchased by the relevant enterpriser for one year in the business year immediately preceding the business year belonging to the end of the day when the act he/she performs is suspected of violating the provisions of [Article 3-2 of the Act](#) (if the relevant act continues until the day it is known or reported, the day of knowing it or the day of reporting it shall be deemed the end of day; hereinafter the same shall apply). <Amended by Presidential Decree No. 20360, Nov. 2, 2007>
- (2) "Market share" in subparagraph 7 of [Article 2](#) and [Article 4 of the Act](#) means the share of the amount of goods or services supplied or purchased by the relevant enterpriser in Korea from among the amount of goods or services supplied or purchased by the relevant enterpriser for one year in the business year immediately preceding the business year belonging to the end of the day when the act he/she performs is suspected of violating the provisions of [Article 3-2 of the Act](#): *Provided*, That where it is difficult to calculate the market share in terms of amount, it may be calculated in terms of quantity or production capacity.
- (3) The relevant enterpriser and his/her affiliated companies shall be deemed one enterpriser in the application of subparagraph 7 of [Article 2](#) and [Article 4 of the Act](#).
- (4) Detailed standards necessary to judge market controlling enterprisiers referred to in

subparagraph 7 of [Article 2 of the Act](#) may be prescribed and put on public notice by the Fair Trade Commission.

[This Article Wholly Amended by Presidential Decree No. 16221, Mar. 31, 1999]

Article 4-2 (Delegation of Market Structure Survey or Publication Affairs)

- (1) The Fair Trade Commission may delegate its official business concerning the survey of monopolistic and oligarchic markets, the publication of the results of the survey and requests for data to heads of relevant administrative agencies concerned or heads of government-funded research institutes under [Article 3 \(5\) of the Act](#).
- (2) Heads of agencies or institutes delegated with the official business concerning the survey of market structure and the publication of the results of the survey under paragraph (1) shall notify the Fair Trade Commission of how they carry out the delegated official business.

[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

CHAPTER II PROHIBITION OF ABUSE OF MARKET-DOMINATING POSITION

Article 5 (Type of or Standards for Abusive Acts)

- (1) Unreasonable decisions, maintenance, or changes concerning prices referred to in [Article 3-2 \(1\) 1 of the Act](#) shall be limited to cases where prices of goods or services are sharply raised or moderately brought down without justifiable grounds in contrast to changes in their supply and demand, and costs (limited to the normal levels of the same or similar type of business) necessary to supply the goods or services.
- (2) The unreasonable control over sales of goods and rendering of services referred to in [Article 3-2 \(1\) 2 of the Act](#) shall be the case falling under any of the following subparagraphs:
 1. Where the supply of goods or services is sharply reduced without justifiable grounds in the light of recent market trends;
 2. Where the supply of goods or services is reduced without justifiable grounds despite a short supply in distribution channels.
- (3) The unfair obstruction of business activities carried out by other enterprisers referred to in [Article 3-2 \(1\) 3 of the Act](#) shall be cases where business activities are made hard to be carried by other enterprisers by performing directly or indirectly an act falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 17176, Mar. 27, 2001>*
 1. Obstructing the purchase of raw materials by other enterprisers for their production activities without justifiable grounds;
 2. Employing workers essential for other enterprisers to carry out their business activities, promising the workers economic interests that are deemed abnormally higher in the light of normal practices;
 3. Denying, interrupting or limiting access to the use of elements indispensable for other enterprisers to produce, supply and market their goods or services without justifiable grounds;
 4. Making it difficult for other enterprisers to carry out their business activities in unfair ways, other than those referred to in subparagraphs 1 through 3, which is publicly announced by the Fair Trade Commission.
- (4) The unfair obstruction of participation by new business rivals referred to in [Article 3-2 \(1\) 4 of the Act](#) shall be cases where new business rivals are made hard to enter the business by performing directly or indirectly an act falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 17176, Mar. 27, 2001>*
 1. Concluding an exclusive transaction contract with a distributor without justifiable grounds;
 2. Acquiring rights by purchase, etc. which are necessary for existing enterprisers to continue their business activities;
 3. Denying or limiting access to the use of elements indispensable for new business rivals

- to produce, supply, and market their goods or services without justifiable grounds;
4. Making it difficult for new business rivals to enter the business in unfair ways, other than what is referred to in subparagraphs 1 through 3, which is publicly announced by the Fair Trade Commission.
 - (5) The unfair transaction designed to put business rivals out of the business under [Article 3-2 \(1\) 5 of the Act](#) shall be any of the following cases:
 1. Where goods or services supplied at lower prices than normally trading prices or goods or services purchased at higher prices than normally trading prices are feared to put business rivals out of the business;
 2. Where the business is done on the condition that business partners do not trade with business rivals.
 - (6) The detailed type of abusive acts and standards for abusive acts referred to in paragraphs (1) through (5) may be prescribed and public announced by the Fair Trade Commission.

[This Article Wholly Amended by Presidential Decree No. 16221, Mar. 31, 1999]

Article 6 (Request for Price Investigation)

If there is a reasonable ground to believe that a market-dominating enterpriser has determined, maintained or changed unfairly the price of goods or services, the Fair Trade Commission may request any investigation on the price of goods or services by the head of the administrative agency concerned or any public organization carrying out price investigation affairs.

Article 7 Deleted. <by Presidential Decree No. 16221, Mar. 31, 1999>

Article 8 (Method of Publishing Receipt of Corrective Order)

The Fair Trade Commission shall, if it intends to order any enterpriser [any enterprisers' organization in cases of [Article 27 of the Act](#) (including members of such organization if necessary)] to publish the fact of receiving a corrective order under [Articles 5, 16 \(1\), 21, 24, 27 and 31 of the Act](#), issue such orders after prescribing contents of the publication, types and numbers of the media and paper spaces, etc. by taking into account the following matters: <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 16430, Jun. 30, 1999; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002>

1. Details and extent of the violations;
2. Period and frequency of the violations.

Article 9 (Methods for Computing Penalty Surcharges)

- (1) "Turnover determined by Presidential Decree" in the main sentences of [Articles 6, 22, 24-2](#) (excluding cases falling under [Article 23 \(1\) 7 of the Act](#)), [28 \(2\)](#), [31-2](#) and [34-2 of the Act](#) means the turnover incurred by an enterpriser which commits a violation from selling goods or services in specific transaction areas during the period of violation, or the corresponding amount thereof (hereinafter referred to as "related turnover"): *Provided*, That it means purchase prices of relevant goods or services if a violation is related to purchase of goods or services, and means contract prices if a violation is related to bidding collusion and other similar acts. <Amended by Presidential Decree No. 18356, Apr. 1, 2004; Presidential Decree No. 20360, Nov. 2, 2007>
- (2) "Turnover determined by Presidential Decree" in the main sentence of [Article 24-2 of the Act](#) (applicable only where it falls under [Article 23 \(1\) 7 of the Act](#)) means the average turnover (hereinafter referred to as "average turnover") of the immediately preceding three business years of the relevant enterpriser: *Provided*, That where three years have not elapsed since the business commencement as of the first date of the relevant business year, the amount shall be computed by converting the turnover incurred, from the date of commencement of business to the end date of the immediately preceding business year, to the yearly average turnover, and where the business has commenced during the relevant business year, the amount shall be computed by converting the turnover incurred, from the date of business commencement to the date of violation

conducted, to an yearly turnover. <Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007>

- (3) Other necessary matters for the computation of related turnover and average turnover shall be determined by the Fair Trade Commission. <Amended by Presidential Decree No. 18356, Apr. 1, 2004; Presidential Decree No. 20360, Nov. 2, 2007>
[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 9-2 (Scope of Enterprisers Using Business Profits)

"Cases of enterprisers designated by Presidential Decree" in the main sentence of [Article 6 of the Act](#) means cases in which enterprisers enter the aggregate of prices of goods or services in financial statements, etc. as business profits, etc.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 10 (Absence of Turnover, etc.)

"Cases prescribed by Presidential Decree, where no turnover exists, or where it is difficult to compute the turnover" in the proviso to [Article 6 of the Act](#) means cases falling under any of the following subparagraphs: <Amended by Presidential Decree No. 18356, Apr. 1, 2004; Presidential Decree No. 20360, Nov. 2, 2007>

1. Where there are no actual results of business because the business has not commenced or has been suspended, etc.;
2. Where it is difficult to calculate the amount under [Article 9](#) (1), since the violation period or the scope of related goods or services cannot be determined;
3. Where it is difficult to compute an objective turnover due to a loss or damage, etc. of the materials for turnover computation caused by disasters, etc.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

CHAPTER III RESTRICTIONS ON COMBINATION OF ENTERPRISES AND CONSTRAINTS ON ECONOMIC POWER CONCENTRATION

Article 11 (Scope of Persons with Special Interest)

"Person determined by Presidential Decree as having a special interest" in the main sentence of [Article 7 \(1\) of the Act](#) means a company or a person, other than a company, and a person who falls under any of the following subparagraphs:

1. A person who has *de facto* control over the relevant company;
2. A person related to the same person: *Provided*, That a person who is separated from the same person under the provisions of [Article 3-2](#) (1) shall be excluded herefrom;
3. A person who takes part in the combination of enterprises with common interest in controlling management.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 12 (Standards for Total Value of Assets or Turnover)

- (1) "Total value of assets" in the proviso to [Article 7](#) (1) and [Article 12 \(1\) of the Act](#) means the total value of assets disclosed on the balance sheet as of the closing date of a business year immediately preceding the business year in which the date of the combination of enterprises falls: *Provided*, That in cases of a company operating financial or insurance services, the total value of the stockholder's equity or paid-in capital, whichever is the greater, shall be the amount shown on the balance sheet as of the end of a business year immediately preceding the base year. <Amended by Presidential Decree No. 16221, Mar. 31, 1999>
- (2) In cases of paragraph (1), the total value of assets shall be the sum of the total value of assets shown on the balance sheet as of the end of a business year immediately preceding the base year and the increased amount from the total value of assets by issuance of new shares and bonds, over the business year in which the date of the combination of enterprises falls. <Amended by Presidential Decree No. 16221, Mar. 31, 1999>

(3) "Turnover" in the proviso to [Article 7 \(1\)](#) and [Article 12 \(1\) of the Act](#) means the turnover shown on income statements over the business year immediately preceding the business year in which the date of the combination of enterprises falls: *Provided*, That in cases of a company operating financial or insurance services, turnover means business profits shown on income statements over a business year immediately preceding the business year. <Amended by Presidential Decree No. 16221, Mar. 31, 1999>

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 12-2 (Standards for Large Companies)

"Company meeting the size determined by Presidential Decree" in the proviso to [Article 7 \(1\) of the Act](#) means a company whose total asset amounts or sales are not less than two trillion won. <Amended by Presidential Decree No. 16221, Mar. 31, 1999>

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 12-3 (Exception to Scope of Persons with Special Interest)

"Those prescribed by Presidential Decree" in [Articles 7 \(1\) 5 \(a\)](#) and [8-2 \(1\) 1 of the Act](#) and the latter part of subparagraph 3 of [Article 11 of the Act](#) means the persons prescribed in subparagraph 3 of [Article 11](#). <Amended by Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005>

[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

Article 12-4 (Corporate Combination between Inviabile Companies)

"Requirements determined by Presidential Decree" in [Article 7 \(2\) 2 of the Act](#) means any case satisfying the following requirements:

1. Where, if no corporate combination takes places, it is hard to continue utilizing the production facilities of companies in the market;
2. Where it is difficult to combine other companies less competition-restricted than combined companies concerned.

[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

Articles 13 and 14 Deleted. <by Presidential Decree No. 16221, Mar. 31, 1999>

Article 15 (Reporting, etc. on Incorporation and Conversion of Holding Companies)

(1) Any person who has incorporated a holding company or converted his/her company into a holding company, shall file with the Fair Trade Commission an application stating the name of the reporter, titles of the holding company and its subsidiary companies, second-tier companies, and third-tier companies under [Article 8-2 \(5\) of the Act](#) (hereinafter referred to as "holding company, etc."), total amount of assets, total amount of debts, a roster of stockholders, the current state of stockholdings, details of the business, etc., attached with documents verifying the details of the application as prescribed and published by the Fair Trade Commission within the period falling under the following subparagraphs pursuant to [Article 8 of the Act](#): <Amended by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20360, Nov. 2, 2007>

1. Where a holding company is incorporated, within 30 days from the date on which the incorporation of the holding company is registered;
 2. Where a company is converted into a holding company through a merger with another company or a division of such company, within 30 days from the date on which the merger of the two companies or the division of the company is registered;
 3. Where a company is excluded from the application of [Article 8 of the Act](#) pursuant to any other Act, within 30 days from the date on which the period of exclusion described in any such other Act passes;
 4. Where a company is converted into a holding company through acquisition of another company's stocks, an increase or a decrease in assets, etc., within 4 months from the date on which the total amount of assets under [Article 2 \(1\) 2](#) is determined.
- (2) Where any person who makes a report under paragraph (1) falls under the same person in control of a company affiliated with an enterprise group subject to the limitations on debt guarantees under [Article 10-2 \(1\) of the Act](#) or is in special relation with the same

person, he/she shall furnish documents indicating the outcome of annulling debt-repayment guarantees under each subparagraph of [Article 8-3 of the Act](#). <Amended by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002>

- (3) In making a report on the incorporation of a holding company under paragraph (1), where the number of incorporators is not less than two, they shall make a joint report: *Provided*, That the same shall not apply to cases where one representative chosen from among incorporators under obligation to do so makes the report.
- (4) Where a holding company fails to fall under the provisions of [Article 2](#) (1) or (2) due to a decrease in stockholdings and an increase or decrease, etc. in assets during a business year and then reports such fact to the Fair Trade Commission, the company shall not be deemed a holding company from the date on which such reasons take place.
- (5) Any company which has made a report under paragraph (4) shall furnish its balance sheet and current state of stockholdings audited by a certified public accountant as of the day on which such reasons take place to the Fair Trade Commission, as prescribed by the Fair Trade Commission. In such cases, the Fair Trade Commission shall notify the holding company of the results of examining the report within 30 days from the day on which the report is made.

[This Article Wholly Amended by Presidential Decree No. 16221, Mar. 31, 1999]

Article 15-2 (Standards for Venture Holding Companies)

"Standards prescribed by Presidential Decree" in [Article 8-2 \(1\) 2 of the Act](#) means cases where the total amount of the stock value of a venture enterprise under [Article 2 \(1\) of the Act on Special Measures for the Promotion of Venture Businesses](#), which is owned by a holding company, runs in excess of 50/100 of the total amount of the stock value of entire subsidiary companies owned by the relevant holding company. <Amended by Presidential Decree No. 18768, Mar. 31, 2005>

[This Article Newly Inserted by Presidential Decree No. 17176, Mar. 27, 2001]

Article 15-3 Deleted. <by Presidential Decree No. 18768, Mar. 31, 2005>

Article 15-4 (Restrictions on Stockholdings of Subsidiary Companies by Financial Holding Companies)

"Company meeting the standards determined by Presidential Decree, such as companies closely connected with financial business or insurance business" in the main sentence of [Article 8-2 \(2\) 4 of the Act](#) means a company established to carry on the business falling under any of the following subparagraphs: <Amended by Presidential Decree No. 18768, Mar. 31, 2005>

1. Rendering services, such as electronic data processing, to financial or insurance companies;
2. Managing real estate or other assets held by financial or insurance companies;
3. Conducting surveys and research on financial business or insurance business;
4. Other business related directly to the inherent business of financial or insurance companies.

[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

Article 15-5 Deleted. <by Presidential Decree No. 18768, Mar. 31, 2005>

Article 15-6 (Reporting, etc. on Current Status of Stocks Held by Holding Companies, etc.)

- (1) Any holding company shall file with the Fair Trade Commission a report stating matters falling under the following subparagraphs within four months after the relevant business year comes to an end pursuant to [Article 8-2 \(7\) of the Act](#), as prescribed and published by the Fair Trade Commission: <Amended by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20360, Nov. 2, 2007>

1. Names, locations, incorporation dates, details of the business, names of representatives, etc. of the holding company, etc.;

2. Current stockholders of the holding company, etc.;
 3. Current status of stocks held by the holding company, etc.;
 4. Financial matters, such as paid-in capitals, total capitals, total liabilities and total assets, of the holding company, etc.;
 5. Deleted. <by Presidential Decree No. 18768, Mar. 31, 2005>
- (2) A report referred to in paragraph (1) shall be accompanied by the following documents:
<Amended by Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20360, Nov. 2, 2007; Presidential Decree No. 21492, May 13, 2009>
1. Financial statements (including combined financial statements where companies shall compile the combined financial statements under the [Act on External Audit of Stock Companies](#)), such as balance sheets and income statements for the immediately preceding business year of a holding company, etc., and audit reports compiled by auditors on the financial statements [limited to a company belonging to an enterprise group subject to the limitations on mutual investment, and an enterprise group subject to the limitations on debt guarantee (hereinafter referred to as "enterprise group subject to the limitations on mutual investment, etc.") and a company subject to external audit under the Act on External Audit of Stock Companies];
 2. Rosters of stockholders of subsidiary companies, second-tier companies, and third-tier companies under [Article 8-2 \(5\) of the Act](#) (hereinafter referred to as "third-tier company");
 3. Deleted. <by Presidential Decree No. 20884, Jun. 25, 2008>
- (3) Where the report and accompanying documents submitted under paragraphs (1) and (2) are incomplete, the Fair Trade Commission may order that such documents be supplemented for a fixed period.

[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

Article 16 Deleted. <by Presidential Decree No. 16221, Mar. 31, 1999>

Article 17 (Scope of Enterprise Group subject to Limitations on Mutual Investment, etc.)

- (1) An enterprise group subject to the limitations on mutual investment as prescribed by [Article 9 \(1\) of the Act](#) shall be an enterprise group whereto belong the domestic companies whose total sum of gross asset amounts on the balance sheet of the business year immediately before the designation of them as an enterprise group subject to the limitations on mutual investment (in cases of companies which operate financial business or insurance business, it shall be the larger amount between the total capital or the capital stock, and in cases of newly incorporated companies having no balance sheet for the immediately preceding business year, it shall be the paid-in capital as of the designated date; hereafter the same shall apply in this Article, and [Articles 17-8](#) and [21](#)) is in excess of five trillion won: *Provided*, That an enterprise group falling under any of the following subparagraphs shall be excluded herefrom: <Amended by Presidential Decree No. 13842, Feb. 20, 1993; Presidential Decree No. 14566, Apr. 1, 1995; Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 15767, Apr. 1, 1998; Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 19422, Mar. 29, 2006; Presidential Decree No. 19447, Apr. 14, 2006; Presidential Decree No. 20884, Jun. 25, 2008>
1. An enterprise group which operates only financial business or insurance business;
 2. An enterprise group in which the company operating financial business or insurance business is the same person as prescribed by subparagraph 2 of [Article 2 of the Act](#);
 3. Deleted; <by Presidential Decree No. 17564, Mar. 30, 2002>
 4. Deleted; <by Presidential Decree No. 17176, Mar. 27, 2001>
 5. An enterprise group in which the total sum of gross asset amounts of the companies falling under any of the following items, from among the companies affiliated with the said group, is in excess of 50/100 of the gross asset amounts of the whole enterprise group: *Provided*, That the enterprise group in which the total sum of gross asset amounts

of companies, other than those falling under any of the following items, is in excess of five trillion won shall be excluded herefrom:

- (a) A company for which the commencement of rehabilitation procedures under the [Debtor Rehabilitation and Bankruptcy Act](#) has been decided and such procedures are in progress;
- (b) A company for which the commencement of management procedures under any of [Article 12 \(1\) 1 through 3 of the Corporate Restructuring Promotion Act](#) (Act No. 6504), has been decided and such procedures are in progress.
- (2) through (4) Deleted. <by Presidential Decree No. 21492, May 13, 2009>
- (5) An enterprise group subject to the limitations on debt guarantee as prescribed by [Article 10-2 \(1\) of the Act](#) shall be an enterprise group subject to the limitations on mutual investment as referred to in paragraph (1). <Newly Inserted by Presidential Decree No. 13842, Feb. 20, 1993; Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 15767, Apr. 1, 1998; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002>

Article 17-2 Deleted. <by Presidential Decree No. 21492, May 13, 2009>

Articles 17-3 and 17-4 Deleted. <by Presidential Decree No. 15767, Apr. 1, 1998>

Article 17-5 (Requirements for Exemption from Prohibition of Guarantee of Debt Repayments)

- (1) "Guarantee made in connection with any obligation of a company which is taken over" in [Article 10-2 \(1\) 1 of the Act](#) means any of the following cases: <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 15767, Apr. 1, 1998; Presidential Decree No. 17176, Mar. 27, 2001>
 - 1. Any guarantee made by a company taking over another company or its affiliated company for any debt of, or expected to be taken over by, a company transferred by means of transfer of stocks or merger, etc. which is outstanding at the time of the transfer;
 - 2. Any guarantee made by an affiliated company for any debt taken over in compliance with a divided transfer of debt of the transferred company.
- (2) "Guarantee on debts which is deemed necessary to enhance the international competitiveness of enterprises, or which is set forth in Presidential Decree" in [Article 10-2 \(1\) 3 of the Act](#) means any of the following cases: <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 15767, Apr. 1, 1998; Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18736, Mar. 8, 2005; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 19422, Mar. 29, 2006; Presidential Decree No. 19447, Apr. 14, 2006; Presidential Decree No. 21492, May 13, 2009>
 - 1. Guarantee for any loan made by the Export-Import Bank of Korea to support funds needed in the process of producing capital goods and other commodities or providing techniques under [Article 18 \(1\) 1 and 2 of the Export-Import Bank of Korea Act](#), or any loan made by other domestic financial institutions in connection therewith;
 - 2. Guarantee for any tender bond, contract fulfillment guarantee, advance refund guarantee, reserve repayment guarantee, defect mending guarantee or tax payment guarantee made by a domestic financial institution in connection with an execution of construction and industrial facility works outside Korea, building of ships for export, export of services and other export goods recognized by the Fair Trade Commission;
 - 3. Guarantee for funds assisted by domestic financial institutions for facilities to industrialize new domestic technology or introduced technology and to develop such technology, and technical development projects, such as purchase of machinery and materials, etc.;
 - 4. Guarantee for purchasing by domestic financial institutions export bills under documents against acceptance or payment terms, and opening of a local letter of credit;
 - 5. Guarantee of credit extended by overseas branches of domestic financial institutions in

- connection with business falling under any of the following items:
- (a) Foreign direct investment pursuant to the provisions of the [Foreign Exchange Transactions Act](#);
 - (b) Overseas construction or service projects performed by contractors of overseas construction and services;
 - (c) Other projects in foreign countries as recognized by the Fair Trade Commission;
6. Guarantee directly involved with the acquisition by a third party of a company which has requested the courts to commence rehabilitation procedures under the [Debtor Rehabilitation and Bankruptcy Act](#);
7. Where investment is made in an affiliated company which runs private investment business in a manner prescribed by the provisions of subparagraphs 1 through 4 of [Article 4 of the Act on Public-Private Partnerships in Infrastructure](#), guarantee of credits extended to such affiliated company by a domestic financial institution;
8. Where a company falling under any of the following items is divided for its structural reorganization, the reassurance rendered by such company to the relevant newly incorporated company, in a direct relation with the takeover by the company, newly incorporated due to a division, of the assurance by such company rendered to a company, other than the affiliated companies:
- (a) Public corporations under [Article 5 of the Act on the Management of Public Institutions](#);
 - (b) Corporations under [Article 2 of the Act on the Improvement of Managerial Structure and Privatization of Public Enterprises](#);
 - (c) The Korea Electric Power Corporation established under the Korea Electric Power Corporation Act;
 - (d) The Korea District Heating Corporation established under the [Integrated Energy Supply Act](#).

[This Article Newly Inserted by Presidential Decree No. 13842, Feb. 20, 1993]

Article 17-6 (Scope of Domestic Financial Institutions)

"Other financial institutions prescribed by Presidential Decree" in [Article 10-2 \(2\) 6 of the Act](#) means specialized credit financial companies and mutual savings banks whose total assets (it shall be based on the paid-in capital as of the date of incorporation instead of total assets, if the company is newly established and with no balance sheet available for the immediately preceding business year) on the balance sheet as of the end date of the immediately preceding business year is 30 or more million won, among specialized credit financial companies as prescribed by the [Specialized Credit Financial Business Act](#) and mutual savings banks as prescribed by the [Mutual Savings Banks Act](#). *<Amended by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20360, Nov. 2, 2007>*

[This Article Wholly Amended by Presidential Decree No. 15767, Apr. 1, 1998]

Article 17-7 Deleted. *<by Presidential Decree No. 17176, Mar. 27, 2001>*

Article 17-8 (Resolution by Board of Directors and Publication on Large-Scale Internal Trading)

- (1) Any enterprise group which is required to call a meeting of the board of directors for a resolution and publication with respect to a large-scale internal trading in accordance with the provisions of [Article 11-2 \(1\) of the Act](#) shall be an enterprise group subject to the limitations on mutual investment under [Article 17 \(1\)](#). *<Amended by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002>*
- (2) Any act of large-scale internal trading subject to a resolution by the board of directors and publication in accordance with the provisions of [Article 11-2 \(1\) of the Act](#) shall be the act of trading in which the trading amount (referring to the aggregate of trading amounts during a quarter in cases of [Article 11-2 \(1\) 4 of the Act](#)) reaches or exceeds 10/100 of total capital or paid-in capital of the relevant company, whichever is larger, or ten billion won. *<Amended by Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20166, Jul. 13, 2007>*
- (3) "Affiliated company prescribed by Presidential Decree" in [Article 11-2 \(1\) 4 of the Act](#)

means an affiliated company whose 30/100 or more of total number of its outstanding stocks are owned by the same person independently or jointly with his/her relatives (the persons separated from persons related to the same person under [Article 3-2](#) (1) shall be excluded herefrom; hereafter the same shall apply in this paragraph) or an affiliated company as a subsidiary company under [Article 342-2 of the Commercial Act](#) of the afore-said affiliated company: *Provided*, That a company falling under any of the following subparagraph shall be excluded herefrom: <Newly Inserted by Presidential Decree No. 20166, Jul. 13, 2007; Presidential Decree No. 20360, Nov. 2, 2007; Presidential Decree No. 20947, Jul. 29, 2008>

1. A company that belongs to an enterprise group in which the same person is not a natural person;
 2. A subsidiary company, second-tier company, and third-tier company of a holding company;
 3. and 4. *Deleted.* <by Presidential Decree No. 22160, May 14, 2010>
- (4) Major details of the publication made in accordance with the provisions of [Article 11-2 \(2\) of the Act](#) shall be as follows:
1. Objective and object of trading;
 2. The counterpart of trading (even if a specially-related person is not directly involved as a counterpart of trading, where such trading is made for such specially-related person, the specially-related person involved shall be included);
 3. Amount and terms of trading;
 4. Total trading balance of the same trading pattern with a trading counterpart;
 5. Matters prescribed and published by the Fair Trade Commission, which are corresponding to matters of subparagraphs 1 through 4.
- (5) Trading which can be performed without undergoing a resolution by the board of directors in accordance with the provisions of [Article 11-2 \(4\) of the Act](#) shall be the trading meeting requirements falling under the following subparagraphs: <Amended by Presidential Decree No. 18768, Mar. 31, 2005>
1. Trading performed according to standard contractual terms and conditions under [Article 2 of the Regulation of Standardized Contracts Act](#);
 2. Trading with the context of normal trading of the relevant company.
- (6) In addition to the matters provided for in this Decree, further details concerning the resolution by the board of directors on large-scale internal trading, the method, procedure, and time of publication thereof may be prescribed and announced by the Fair Trade Commission. <Newly Inserted by Presidential Decree No. 20166, Jul. 13, 2007>
[This Article Newly Inserted by Presidential Decree No. 16777, Apr. 1, 2000]

Article 17-9 Deleted. <by Presidential Decree No. 21492, May 13, 2009>

Article 17-10 (Publication of Important Matters by Unlisted Companies, etc.)

- (1) "Company that belongs to the enterprise group that falls under the standards prescribed by Presidential Decree" in the main sentence of [Article 11-3 \(1\) of the Act](#) means a company that belongs to the enterprise group subject to the limitations on mutual investment referred to in [Article 17](#) (1): *Provided*, That this shall exclude a company whose total amount of assets is less than ten billion won as of the end of the immediately preceding business year and which is under liquidation or has been suspending its business for not less than one year. <Amended by Presidential Decree No. 21492, May 13, 2009>
- (2) "Matters prescribed by Presidential Decree" in [Article 11-3 \(1\) 1 of the Act](#) means those falling under any of the following subparagraphs:
 1. Where the current status and ratio of stocks held by the largest stockholder (where the same person becomes the largest investor independently or in concert with persons related to the same person, including the same person and persons related to the same person) make a change in 1/100 or more of the total number of stocks issued by the corporation concerned, such changed matters;
 2. The current organization of executives and the changed matters in such organization;

3. Where the current status and ratio of stocks held by the affiliated companies make a change in 1/100 or more of the total number of stocks issued by the corporation concerned, such changed matters.
- (3) "Matters prescribed by Presidential Decree" in [Article 11-3 \(1\) 2 of the Act](#) means those falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 20166, Jul. 13, 2007; Presidential Decree No. 20947, Jul. 29, 2008>*
1. Where a decision is made with respect to the acquisition or disposal of the fixed assets that account for 10/100 or more of the total amount of assets as of the end of the latest business year [including the acquisition or disposal of the assets through a trust contract under the [Financial Investment Services and Capital Markets Act](#) (limited to cases where the corporation concerned has the authority to give instructions as to the management of assets) or a private offering indirect investment fund under the same Act (limited to cases where the corporation concerned exercises actual influences upon the operation of assets)], such decided matters;
 2. Where a decision is made with respect to the acquisition or disposal of the stocks and investment certificates of another corporation (excluding the affiliated companies) that account for 5/100 or more of the equity capital, such decided matters;
 3. Where a decision is made with respect to giving or taking a gift that accounts for 1/100 or more of the equity capital, such decided matters;
 4. Where a decision is made with respect to the offering of a security or the guarantee of a debt (excluding those for guaranteeing the fulfillment of a contract, etc. and the payment of a tax) for another person that accounts for 5/100 or more of the equity capital, such decided matters;
 5. Where a decision is made with respect to exempting or being exempted from or taking over a debt that accounts for 5/100 or more of the equity capital, such decided matters;
 6. Where a decision is made with respect to the increase or decrease of the capital, such decided matters;
 7. Where a decision is made with respect to the issuance of convertible bonds or bonds with warrant, such decided matters.
- (4) "Matters prescribed by Presidential Decree" in [Article 11-3 \(1\) 3 of the Act](#) means those falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 19422, Mar. 29, 2006; Presidential Decree No. 19447, Apr. 14, 2006; Presidential Decree No. 20166, Jul. 13, 2007; Presidential Decree No. 22160, May 14, 2010>*
1. Where a decision is made pursuant to [Articles 374, 522, 527-2, 527-3](#), and [530-2 of the Commercial Act](#), such decided matters;
 2. Where a decision is made with respect to the all-inclusive swap of stocks pursuant to [Article 360-2 of the Commercial Act](#) or the comprehensive transfer of stocks pursuant to [Article 360-15](#) of the said Act, such decided matters;
 3. Where a ground for dissolution accrues pursuant to [Article 517 of the Commercial Act](#) or any other Act, the ground for dissolution;
 4. Where a decision is made with respect to the commencement, conclusion, or abolition of rehabilitation procedures under the [Debtor Rehabilitation and Bankruptcy Act](#), such decided matters;
 5. *Deleted; <by Presidential Decree No. 19422, Mar. 29, 2006>*
 6. Where a decision is made with respect to the commencement, interruption or cancellation of management procedures pursuant to [Article 12 \(1\) 1 through 3 of the Corporate Restructuring Promotion Act](#) (Act No. 6504), such decided matters;
 7. Where the amount of goods and services traded with an affiliated company during a business year reaches or exceeds 10/100 of the turnover for the same business year, the details of goods and services traded with the affiliated company.
- (5) In application of paragraphs (1) through (4), the total amount of assets as of the end of the latest business year and the equity capital shall be applied for the period from the date when three months pass after the end of each business year to the date which falls on three months after the end of a business year following each such business year, while it shall be based on the paid-in capital as of the date of incorporation instead of the

total assets and equity capital as of the end of the latest business year, if there is no balance sheet available for the latest business year. <Amended by Presidential Decree No. 20166, Jul. 13, 2007>

- (6) In addition to the matters provided for in this Decree, further details of the method, procedure, and time of publication of any company, other than a stock-listed corporation, in accordance with [Article 11-3 of the Act](#), may be prescribed and announced by the Fair Trade Commission. <Newly Inserted by Presidential Decree No. 20166, Jul. 13, 2007; Presidential Decree No. 20947, Jul. 29, 2008>

[This Article Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005]

Article 17-11 (Publication on Current Status, etc. of Enterprise Group)

- (1) "Company, the total amount of assets, etc. of which meets the criteria prescribed by Presidential Decree" in [Article 11-4 \(1\) of the Act](#) means any company belonging to an enterprise group subject to limitations on mutual investment under [Article 17 \(1\)](#): *Provided*, That if a company's total assets as of the end of the immediately preceding business year is less than ten billion won, and has undergone liquidation procedures, or has been closed for one or more year, such company shall be excluded herefrom.
- (2) "Matters prescribed by Presidential Decree" in [Article 11-4 \(1\) of the Act](#) means the following matters:
1. Names, details of business, and financial conditions of companies belonging to the enterprise group subject to limitations on mutual investment, details regarding changes of affiliated companies, and other general information determined and publicly announced by the Fair Trade Commission;
 2. Details of executives of companies belonging to the enterprise group subject to limitations on mutual investment;
 3. Details of shares owned by companies belonging to the enterprise group subject to limitations on mutual investment;
 4. Contribution details among companies belonging to the enterprise group subject to limitations on mutual investment;
 5. Details of providing or trading funds, assets, goods or services between companies belonging to the enterprise group subject to limitations on mutual investment and their specially related parties.
- (3) Matters under paragraph (2) shall be announced on a quarterly basis: *Provided*, That matters determined and publicly announced by the Fair Trade Commission may be announced once or twice a year.
- (4) Detailed matters concerning the method, procedure, and time of announcement on current status of the enterprise groups, etc., except those prescribed in paragraphs (1) through (3), shall be determined and announced by the Fair Trade Commission.

[This Article Newly Inserted by Presidential Decree No. 21492, May 13, 2009]

Article 18 (Reporting, etc. on Combination of Enterprises)

- (1) "Any company whose total amount of assets or scale of the sales amount falls under the standards set by Presidential Decree" in the former part of [Article 12 \(1\) of the Act](#) means a company of which the total amount of assets or sales amounts to 200 or more billion won. <Amended by Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20884, Jun. 25, 2008>
- (2) "Another company whose total amount of assets or scale of the sales amount falls under the standards set by Presidential Decree" in the former part of [Article 12 \(1\) of the Act](#) means a company of which the total amount of assets or sales amounts to 20 or more billion won. <Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20360, Nov. 2, 2007>
- (3) Notwithstanding paragraphs (1) and (2), where both a company subject to reporting of combination of enterprises under [Article 12 \(1\) of the Act](#) and its partner company are foreign companies (referring to companies whose main office is located overseas or is incorporated under foreign laws) or where a company subject to reporting of combination of enterprises is a domestic company and its partner company is a foreign company, such

company shall be subject to reporting under [Article 12 \(1\) of the Act](#) only where the company meets requirements of paragraphs (1) and (2), and sales in Korea of each foreign company is 20 or more billion won. In such cases, matters necessary to calculate sales in Korea shall be determined and announced by the Fair Trade Commission.

<Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007>

- (4) Any person who intends to file a report pursuant to [Article 12 \(1\) of the Act](#) shall submit to the Fair Trade Commission the report containing the name of a person responsible for filing such reports, the denomination, turnover, total amount of assets, details of business of a company taking part in the combination of enterprises, details of the combination of enterprises, current status of relevant markets, etc., together with relevant documents necessary for verifying the details of reporting, as prescribed and published by the Fair Trade Commission. *<Amended by Presidential Decree No. 17176, Mar. 27, 2001>*
- (5) Where it is deemed that a report submitted or documents accompanied therewith in accordance with paragraph (4) is insufficient, the Fair Trade Commission may make orders for the supplement of the documents by setting a deadline. In such cases, a period for supplement (including the dates on which orders for supplement have been sent and on which supplemented documents have arrived at the Fair Trade Commission) shall not be included within the period computed in conformity with [Article 12 \(7\) and \(9\) of the Act](#). *<Amended by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20360, Nov. 2, 2007>*
- (6) "Cases of holding not less than 20/100 (15/100 for a stock-listed corporation)" in [Article 12 \(1\) 1 of the Act](#) means cases where the ownership of less than 20/100 (15/100 for a stock-listed corporation; hereafter the same shall apply in this paragraph) changes into that of not less than 20/100. *<Amended by Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 19447, Apr. 14, 2006; Presidential Decree No. 20947, Jul. 29, 2008>*
- (7) "Where a person becomes the largest investor" in [Article 12 \(1\) 2 of the Act](#) means cases where a person who is not the largest investor becomes the largest investor. *<Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005>*
- (8) "Date of combination of enterprises" in the main sentence of [Article 12 \(2\) of the Act](#) and the main sentence of and the proviso to paragraph (6) of the same Article means the date of the following subparagraphs: *<Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 21492, May 13, 2009>*
 1. In the event of holding the stocks of another company or increasing in the ratio of holding another company's stocks, the date stipulated in each of the following items:
 - (a) In cases of taking over stocks of a stock company, the date stock certificates are issued: *Provided*, That where stock certificates are not issued, it means the date the payment of stocks is made and where voting rights or other rights on stocks are actually transferred under an agreement or a contract before stock certificates are issued or the payment of stocks is completed, it means the date such rights are transferred;
 - (b) In cases of purchase of new stocks of a stock company, the date following the date on which the payment of stocks is due;
 - (c) In cases of taking over shares of a company, other than a stock company, the date on which transfer of shares takes effect;
 - (d) In cases of increasing in the ratio of stockholding due to any other cause than items (a) through (c), such as the reduction of capital or the retirement of stocks, the date on which the increase in the ratio of stockholding is confirmed;
 2. In the event of sharing of executives, the date on which the appointment of such executives is determined at general meetings of stockholders or employees of a company of which executives are shared;
 3. In the event of taking over business, the date on which the sum of money for taking over the business is paid up: *Provided*, That where the sum of money for taking over the business is paid up after the lapse of 90 days from the date of conclusion of contracts, it

- means the date on which such 90 days have passed;
4. In the event of merger with other companies, the date on which such merger of companies is registered;
 5. In the event of participation in the establishment of a new company, the date following the date on which the payment of allocated stocks is due.
- (9) "Cases prescribed by Presidential Decree" in the proviso to [Article 12 \(6\) of the Act](#) and "cases prescribed by Presidential Decree" in the main sentence of paragraph (7) of the same Article mean cases where a company obtains stocks of other companies or becomes the largest investor thereof, and does not obtain over-the-counter stocks under [Article 9 \(13\) of the Financial Investment Services and Capital Markets Act](#) (excluding takeover thereof under the same Act) according to a contract and agreement with stock owners. <Newly Inserted by Presidential Decree No. 21492, May 13, 2009>
- (10) "Date set by Presidential Decree" in the proviso to [Article 12 \(6\) of the Act](#) means the date as provided for in any of the following subparagraphs: <Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20884, Jun. 25, 2008; Presidential Decree No. 20947, Jul. 29, 2008; Presidential Decree No. 21492, May 13, 2009>
1. The date on which a company entered into a contract or reached agreement with owners of shares it intends to obtain, where the company obtains shares of other companies or becomes the largest investor thereof;
 2. Where the relevant company merges with any other company or takes over the business of any other company, the date when a contract for the merger or business takeover is concluded;
 3. Where the relevant company participates in the establishment of a new company, the date when a resolution thereon is made at a general meeting of stockholders or the board of directors in lieu of such general meeting.
- (11) Where there are significant changes in the matters of reports by the date of holding stocks, of registration of the merger of companies, of takeover of business, or of establishment of a company after the date of report, large-scale companies which have filed reports in accordance with the provisions of the proviso to [Article 12 \(6\) of the Act](#) shall file reports with regard to such significant changes. <Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005>

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 19 (Designation, etc. of Agents for Reporting on Enterprise Combination)

- (1) A person who intends to be designated as an agent in accordance with the proviso to [Article 12 \(10\) of the Act](#) shall submit to the Fair Trade Commission an application stating the denomination, total amount of assets, turnover, etc. of his/her company. <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 18768, Mar. 31, 2005>
- (2) In the event of the designation of an agency upon the request pursuant to paragraph (1), the Fair Trade Commission shall notify the agent thereof. <Amended by Presidential Decree No. 15328, Mar. 31, 1997>

Article 20 (Reporting on Current Status of Stockholding, etc.)

- (1) Any person who intends to make a report under [Article 13 \(1\) and \(2\) of the Act](#), shall submit to the Fair Trade Commission a report specifying the following matters by not later than the end of April each year: *Provided*, That where a company belongs to an enterprise group which is newly designated as an enterprise group subject to limitations on mutual investment, etc., it shall file a report within 30 days from the date of receipt of such notification pursuant to [Article 21 \(2\)](#) in that year in which such designation is made: <Amended by Presidential Decree No. 13842, Feb. 20, 1993; Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 21492, May 13, 2009>

1. Outline of the company, such as the title, capital, total amount of assets, etc. of the relevant company;
 2. Number of shares issued by the relevant company, which are held by the affiliated companies and by those who have special relation;
 3. Current status of stockholding of domestic companies owned by the relevant company;
 4. The amount of debts whose repayments are guaranteed by the relevant company.
- (2) A report as referred to in paragraph (1) shall be accompanied by the following documents: *<Amended by Presidential Decree No. 15767, Apr. 1, 1998; Presidential Decree No. 17176, Mar. 27, 2001>*
1. Detailed statements of stocks held by the company concerned;
 2. Tables showing the current status of mutual investment with affiliated companies;
 3. Auditing reports in the immediately preceding business year of the company concerned;
 4. Detailed statements showing the repayments of debts guaranteed by the company for its affiliates and details of changes in the guarantee of repayments of debts for the immediately preceding year;
 5. Detailed statements showing the repayments of debts guaranteed by its affiliates for the company concerned and details of changes in the guarantee of repayments of debts for the immediately preceding year;
 6. Written statements of confirmation prepared by a domestic financial institution according to the form prescribed by the Fair Trade Commission under [Article 10-2 \(2\) of the Act](#) for the purpose of confirming the contents of subparagraphs 4 and 5, and paragraph (1) 4.
- (3) A company belonging to an enterprise group subject to limitations on mutual investment, etc. in accordance with [Article 13 \(1\) of the Act](#) shall, where any change takes place to the company following the acquisition of stocks, etc., file a report stating the details of such change with the Fair Trade Commission within 30 days from the date according to the following classification: *<Amended by Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 22160, May 14, 2010>*
1. Where a company comes to hold stocks or its stockholding ratio increases: The date according to the items of [Article 18 \(8\) 1](#);
 2. Where a company appoints its executives: The date when the appointment of executives is decided at a general meeting of stockholders or a general meeting of employees of a company which appoints executives;
 3. Where a company participates in incorporation of a new company: The date of registration of incorporation of a company;
 4. Where a company does not fall under subparagraphs 1 through 3: The date when it comes to exercise its dominant influence over management of the relevant company to which it belongs by a contract, agreement, etc. major stockholders.

Article 20-2 Deleted. *<by Presidential Decree No. 17176, Mar. 27, 2001>*

Article 21 (Designation of Enterprise Group subject to Limitations on Mutual Investment, etc.)

- (1) The Fair Trade Commission shall designate by April 1 (where deemed unavoidable, by April 15) each year any enterprise group which meets the criteria as provided for in [Article 17](#), as an enterprise group subject to limitations on mutual investment under [Article 14 \(1\) of the Act](#) or if an enterprise group designated as an enterprise group subject to limitations on mutual investment becomes nonconforming to such criteria, it shall be excluded from the designation as an enterprise group subject to limitations on mutual investment. *<Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 15767, Apr. 1, 1998; Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17564, Mar. 30, 2002>*
- (2) Where the Fair Trade Commission designates any enterprise group as an enterprise group subject to limitations on mutual investment or excludes it from such designation under paragraph (1), the Commission shall promptly notify in writing companies belonging to an enterprise group subject to limitations on mutual investment and the same person

actually dominating the details of the business of companies belonging to an enterprise group subject to the limitations on mutual investment under subparagraph 2 of [Article 2 of the Act](#). <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17564, Mar. 30, 2002>

- (3) If there is any change in a company belonging to an enterprise group subject to limitations on mutual investment after the designation and notification as referred to in paragraphs (1) and (2) has been made, the Fair Trade Commission shall notify in writing once each month the same person and the relevant company thereof. <Newly Inserted by Presidential Decree No. 13842, Feb. 20, 1993; Presidential Decree No. 17564, Mar. 30, 2002>
- (4) "Amount set by Presidential Decree" in [Article 14 \(5\) of the Act](#) means ten billion won. <Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 21492, May 13, 2009>
- (5) "Date prescribed by Presidential Decree" in [Article 14-3 of the Act](#) means the date falling under any of the following subparagraphs: <Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005>
 1. Where a company should have been incorporated into an enterprise group subject to limitations on mutual investment and notified as an affiliated company of an enterprise group subject to limitations on mutual investment at the time of designation of an enterprise group subject to limitations on mutual investment, the date of designation and notification of an enterprise group subject to limitations on mutual investment;
 2. Where a company should have been incorporated into an enterprise group subject to limitations on mutual investment and notified as an affiliated company of an enterprise group subject to limitations on mutual investment after the designation of an enterprise group subject to limitations on mutual investment, the first day of the following month of the month in which there occur the grounds for which the company shall be included in an enterprise group subject to limitations on mutual investment.
- (6) The provisions of paragraphs (1) through (5) shall apply *mutatis mutandis* to the designation and notification of an enterprise group subject to limitations on debt guarantee as prescribed by [Article 14 \(1\) of the Act](#). In such cases, "enterprise group subject to limitations on mutual investment" shall be construed as "enterprise group subject to limitations on debt guarantee". <Amended by Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 21492, May 13, 2009>
- (7) Where an enterprise group designated as an enterprise group subject to limitations on mutual investment under paragraph (1) or designated as an enterprise group subject to limitations on debt guarantee under paragraph (6) falls under any of the following subparagraphs, it may be excluded from an enterprise group subject to limitations on mutual investment or an enterprise group subject to limitations on debt guarantee when the ground therefor occurs: <Amended by Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20884, Jun. 25, 2008>
 1. Where the total sum of gross asset amounts (referring to the gross asset amount on the balance sheet as of the closing date of the business year immediately before the designation date; hereafter the same shall apply in this Article) of companies falling under [Article 17 \(1\) 5 \(a\) or \(b\)](#) from among those which belong to the relevant enterprise group after the designation date, becomes in excess of 50/100 of gross asset amounts of the whole enterprise group: *Provided*, That an enterprise group in which the total sum of gross asset amounts of the companies except for those falling under [Article 17 \(1\) 5 \(a\) or \(b\)](#) is in excess of 3.5 trillion won, shall be excluded herefrom;
 2. Where the total sum of gross asset amounts of domestic companies belonging to the relevant enterprise group is decreased to less than 3.5 trillion won due to a change of its affiliated companies.
- (8) *Deleted*. <by Presidential Decree No. 21492, May 13, 2009>

Article 21-2 (Scope of Competent Authorities)

"Institutions set forth in Presidential Decree" in subparagraph 4 of [Article 14-4 of the Act](#) means an institution engaged in services of transfer agency in conformity with the [Financial Investment Services and Capital Markets Act](#), and a credit information concentration institution pursuant to subparagraph 6 of [Article 2 of the Use and Protection of Credit Information Act](#). <Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20947, Jul. 29, 2008; Presidential Decree No. 21765, Oct. 1, 2009>

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 21-3 (Scope of Disclosed Information concerning Current Status, etc. of Enterprise Groups subject to Limitations on Mutual Investment)

(1) "Information prescribed by Presidential Decree" in [Article 14-5 \(1\) 1 of the Act](#) means the information falling under any of the following subparagraphs:

1. Name, details of business, significant shareholders, executives, financial status, and other general status of a company that belongs to an enterprise group subject to limitations on mutual investment;
2. Composition and operation of the board of directors of a company that belongs to an enterprise group subject to limitations on mutual investment and the committees installed within the board of directors pursuant to [Article 393-2 of the Commercial Act](#), the method of exercising voting rights at general meetings of shareholders, and other information about current status of its governance.

(2) "Information prescribed by Presidential Decree" in [Article 14-5 \(1\) 2 of the Act](#) means the information falling under any of the following subparagraphs: <Amended by Presidential Decree No. 21492, May 13, 2009>

1. Current status related to contribution, such as stocks mutually held by companies that belong to an enterprise group subject to limitations on mutual investment, or stocks mutually held by a company that belongs to an enterprise group subject to limitations on mutual investment and its specially related persons;
2. Current status of debt guarantees under [Article 10-2 \(2\) of the Act](#) between companies that belong to an enterprise group subject to limitations on mutual investment;
3. Current status of funds, securities, assets, goods, services, and other transactions between companies that belong to an enterprise group subject to limitations on mutual investment or between a company that belongs to an enterprise group subject to limitations on mutual investment and its specially related person.

[This Article Newly Inserted by Presidential Decree No. 20166, Jul. 13, 2007]

Article 21-4 (Categories of and Standards for Unlawful Practices)

(1) Unlawful practices prohibited under [Article 15 \(1\) of the Act](#) means practices falling under any of the following subparagraphs: <Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 16777, Apr. 1, 2000; Presidential Decree No. 17176, Mar. 27, 2001; Presidential Decree No. 17564, Mar. 30, 2002; Presidential Decree No. 18768, Mar. 31, 2005; Presidential Decree No. 20360, Nov. 2, 2007; Presidential Decree No. 20947, Jul. 29, 2008>

1. Deleted; <by Presidential Decree No. 18768, Mar. 31, 2005>

2. Practices which are performed by a company belonging to an enterprise group subject to limitations on debt guarantee under [Article 10-2 \(1\) of the Act](#) and which fall under any of the following items:

- (a) Running debts of the same contents without releasing its affiliated company from their existing debts to domestic financial institutions in accordance with the provisions of [Article 10-2 \(2\) of the Act](#);
- (b) Making debt guarantee for another company and its affiliated company against debt guarantee for the affiliated company of its own by the other company;

2-Any of the following practices performed by a company belonging to an enterprise group subject to limitations on mutual investment under [Article 9 \(1\) of the Act](#):

- (a) Causing a trust business entity to acquire its own shares through a specific money trust

under subparagraph 1 of [Article 103 of the Enforcement Decree of the Financial Investment Services and Capital Markets Act](#), or to obtain or possess shares of affiliated companies it owns, and practically exercising voting rights over the relevant shares through a contract with a trust business entity;

(b) Obtaining its own shares or obtaining or possessing shares of its affiliated companies on its own account by using another's name;

3. Other practices similar to those falling under subparagraph 2 or 2-2, which are determined and announced by the Fair Trade Commission.

(2) Deleted. <by Presidential Decree No. 18768, Mar. 31, 2005>

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 22 Deleted. <by Presidential Decree No. 16221, Mar. 31, 1999>

Article 23 Deleted. <by Presidential Decree No. 18768, Mar. 31, 2005>

Article 23-2 (Scope of Standard Balance Sheet)

"Balance sheet prescribed by Presidential Decree" in [Article 17 \(4\) 1 of the Act](#) means the balance sheet that includes a first violation of [Article 8-2 \(2\) through \(4\) of the Act](#): Provided, That where the fact of such violation is not included in the balance sheet because such violation (excluding any violation of [Article 8-2 \(2\) 1 of the Act](#)) is corrected before the balance sheet is drawn up, the standard balance sheet shall be the balance sheet that is prepared on the basis of the date of the violation.

[This Article Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005]

Article 23-3 Deleted. <by Presidential Decree No. 21492, May 13, 2009>

Article 23-4 (Imposition, Collection, etc. of Compulsory Performance Money)

(1) The Fair Trade Commission shall, when imposing compulsory performance money pursuant to [Article 17-3 of the Act](#), impose it for a period ranging from the date following the closing date of a period set in corrective measures to the date the corrective measures are implemented. In such cases, the compulsory performance money shall be imposed within 30 days from the date when the period set in the corrective measures comes to an end except cases where special reasons exist that prevent the imposition. <Amended by Presidential Decree No. 17564, Mar. 30, 2002>

(2) In deciding the date when corrective measures referred to in paragraph (1) are implemented, where such corrective measures are for the disposal of stocks, it shall be the date when stock certificates are issued, where such measures are for the resignation of an executive, it shall be the date when his/her resignation as an executive is registered, and where such measures are for the transfer of the business, it shall be the date when the transfer of the ownership of the related real estate is registered.

(3) Notwithstanding the provisions of paragraph (1), the Fair Trade Commission shall, when imposing compulsory performance money on a person who has failed to implement the corrective measures referred to in [Article 16 \(1\) 7 and 8 of the Act](#), which contain a certain obligation by the period, such as each quarter and each business year, impose it according to a period for which the corrective measures are not implemented. In such cases, compulsory performance money shall be imposed within 30 days from the date when it is confirmed that the corrective measures are not implemented, unless extenuating circumstances exists.

(4) The standards for imposition of compulsory performance money pursuant to [Article 17-3 \(1\) of the Act](#) shall be as specified in attached Table 1. <Amended by Presidential Decree No. 22160, May 14, 2010>

(5) The Fair Trade Commission shall, when it imposes compulsory performance money, notify in writing, expressly indicating the *per diem* amount of compulsory performance money (referring to the amount set according to a period for which the corrective measures are not implemented in cases of the compulsory performance money referred to in paragraph (3)), grounds for the imposition, a deadline for paying the compulsory performance money, a receipt agency, methods of raising an objection and a period for which the objection is raised.

- (6) A person in receipt of a notification under paragraph (5) shall pay compulsory performance money within a deadline set according to each of the following subparagraphs: *Provided*, That where he/she is unable to pay the compulsory performance money within a deadline due to natural disasters or other extenuating circumstances, he/she shall pay it within 30 days from the date such grounds cease to exist:
1. In cases of compulsory performance money referred to in paragraph (1), within 30 days from the date when the Fair Trade Commission sets the amount of the compulsory performance money and then notifies its payment after confirming the date the act of implementing the corrective measures is completed;
 2. In cases of compulsory performance money referred to in paragraph (3), within 30 days from the date when the Fair Trade Commission notifies the payment of such money.
- (7) In collecting compulsory performance money referred to in paragraph (1), the Fair Trade Commission may, if any corrective measures are not implemented after the lapse of 90 days from the date when the period set in the corrective measures comes to an end, collect the compulsory performance money on the basis of the date when 90 days elapse every time reckoning from the date when the period comes to an end.
- (8) The provisions of [Articles 64](#) and [64-2](#) shall apply *mutatis mutandis* to demands for the payment of compulsory performance money and the entrustment of dispositions taken to collect compulsory performance money in arrears, respectively.
- (9) Detailed standards for imposition of compulsory performance money, and necessary matters concerning the imposition thereof shall be determined and announced by the Fair Trade Commission. <Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007>
[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

Article 23-5 Deleted. <by Presidential Decree No. 21492, May 13, 2009>

CHAPTER IV RESTRICTION ON UNFAIR COLLABORATIVE ACTS

Article 24 (Requirements for Authorization of Collaborative Acts)

"Requirements prescribed by Presidential Decree" in the main sentence of [Article 19 \(2\) of the Act](#) means requirements as prescribed in [Articles 24-2 through 28](#).

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 24-2 (Requirements for Collaborative Acts for Industrial Rationalization)

The authorization of a collaborative act for industrial rationalization as prescribed in [Article 19 \(2\) 1 of the Act](#) may be granted only when the collaborative act satisfies the following requirements: <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17564, Mar. 30, 2002>

1. Where the effect of technical advancement, quality improvement, cost curtailment, efficiency promotion, etc. by the collaborative act is obvious;
2. Where it is difficult to attain the industrial rationalization through any way, other than the collaborative act;
3. Where the effect of industrial rationalization is greater than that of the restriction on competition.

Article 24-3 (Requirements for Collaborative Acts for Research and Technical Development)

The authorization of a collaborative act for research and technical development as prescribed in [Article 19 \(2\) 2 of the Act](#) may be granted only when it conforms to the following requirements: <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17564, Mar. 30, 2002>

1. Where such research and technical development is requisite for the reinforcement of industrial competitiveness, and might give a far-reaching effect on the economy;
2. Where the investment needed for such research and technical development is so

- excessive that a single enterpriser will have difficulty procuring it;
3. Where it is required for diversification of risks due to the uncertainty of the result of such research and technical development;
 4. Where the effect of such research and technical development is greater than that of the restriction on competition.

[This Article Newly Inserted by Presidential Decree No. 13842, Feb. 20, 1993]

Article 25 (Requirements for Collaborative Acts to Overcome Economic Depression)

The authorization of any collaborative act to overcome economic depression under the proviso to [Article 19 \(2\) 3 of the Act](#) may be granted only when the collaborative act meets the following requirements: *<Amended by Presidential Decree No. 15328, Mar. 31, 1997>*

1. Where the demand for specified goods or services continues to be reduced for a considerable period, and the supply exceeds considerably the demand, and where such state is obviously going to continue in the future;
2. Where the market price of the goods or services remains below the average production costs for a considerable period;
3. Where a considerable number of enterprises in the business field might find it difficult to continue business activities due to economic depression;
4. Where matters as referred to in subparagraphs 1 through 3 are unable to be overcome through the rationalization of enterprises.

Article 26 (Requirements for Collaborative Acts for Industrial Restructuring)

The authorization of any collaborative act for industrial restructuring under the proviso to [Article 19 \(2\) 4 of the Act](#) may be granted only when the collaborative act meets the following requirements: *<Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17564, Mar. 30, 2002>*

1. Where the supply capability of any specified industry is remarkably in an excessive state due to changes in economic conditions in Korea and abroad, or where the production efficiency or international competitiveness shows a noticeable drop due to falling behind of the equipment and methods of production;
2. Where matters as referred to in subparagraph 1 are unable to be overcome by the rationalization of enterprises;
3. Where the effect obtained by industrial restructuring is greater than that obtained by the restriction on competition.

Article 27 (Requirements for Collaborative Acts for Rationalization of Trade Terms and Conditions)

The authorization of any collaborative act for the rationalization of trade terms and conditions under [Article 19 \(2\) 5 of the Act](#) may be granted only where the collaborative act satisfies the following requirements: *<Amended by Presidential Decree No. 17564, Mar. 30, 2002>*

1. Where the rationalization of trade terms and conditions contributes significantly to improving productivity, facilitating transactions, and enhancing consumers' convenience or interests;
2. Where the details of rationalization of trade terms and conditions are accessible, in technical or economic terms, to most enterprisers in the relevant business field;
3. Where the effect of the rationalization of trade terms and conditions is greater than that of the restriction on competition.

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 28 (Requirements for Collaborative Acts to Improve Competitiveness of Small and Medium Enterprises)

The authorization of any collaborative act to improve the competitiveness of small and medium enterprises under [Article 19 \(2\) 6 of the Act](#) may be granted only when the collaborative act meets the following requirements: *<Amended by Presidential Decree No. 15328, Mar. 31, 1997>*

1. Where the effect of the collaborative act on the improvement of productivity, such as improvement of the quality, know-how, etc. of small and medium enterprises, or the strengthening of the bargaining power on the trading conditions, is obvious;

2. Where all the participating enterprisers are the small and medium enterprisers;
3. Where it is difficult to compete efficiently with, or oppose large enterprises by means, other than any collaborative act.

Article 29 (Limitations of Authorization of Collaborative Acts)

Notwithstanding the provisions of [Articles 24-2 through 28](#), if a collaborative act falls under any of the following subparagraphs, the Fair Trade Commission may not authorize it:

<Amended by Presidential Decree No. 15328, Mar. 31, 1997>

1. Where it might exceed the degree necessary for achieving its objective;
2. Where it might unfairly infringe the interests of consumers and related enterprisers;
3. Where any unfair discrimination exists in contents of the collaborative act among enterprisers participating in it;
4. Where the participation in or withdrawal from the collaborative act is restricted unfairly.

Article 30 (Procedures, etc. for Authorization of Collaborative Acts)

(1) Any person who intends to obtain authorization of any collaborative act under [Article 19 \(2\) of the Act](#) shall submit to the Fair Trade Commission a request stating the following matters: *<Amended by Presidential Decree No. 15328, Mar. 31, 1997>*

1. Number of participating enterprisers;
2. Names of participating enterprisers and seats of business places;
3. Addresses and names of the representative and executives;
4. Reason why he/she intends to perform collaborative acts and particulars thereof;
5. Period in which he/she intends to perform collaborative acts;
6. Details of business conducted by the participating enterpriser.

(2) The following documents shall be attached to a request as referred to in paragraph (1): *<Amended by Presidential Decree No. 15328, Mar. 31, 1997>*

1. Business reports, balance sheets and income statements of the participating enterpriser for the latest two years;
2. Copy of the agreement or resolution on collaborative acts;
3. Documents attesting that collaborative acts conform to the requirements for authorization;
4. Documents attesting that collaborative acts conform to the provisions of [Article 29](#).

(3) Where the Fair Trade Commission receives a request as referred to in paragraph (1) and authorizes it, the Commission shall deliver a certificate of authorization to the requesting person.

(4) If a person who has obtained the authorization of the collaborative act intends to modify authorized matters, he/she shall request such modification to the Fair Trade Commission with the documents as referred to in paragraphs (1) and (2), which are related to modified matters accompanied by the certificate of authorization.

(5) Where the Fair Trade Commission receives a request for authorization pursuant to [Article 19 \(2\) of the Act](#), it shall determine as to whether to grant authorization, within 30 days (in cases of notification pursuant to [Article 31](#) (3), the period computed by aggregating 30 days and the period of notification) after receipt of such request: *Provided*, That where the Fair Trade Commission deems necessary, such period may be extended by up to 30 days. *<Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997>*

Article 31 (Public Announcement on Particulars of Request for Authorization of Collaborative Acts)

(1) The Fair Trade Commission may, where it deems necessary, invite interested persons to present their views prior to the granting of authorization in accordance with [Article 19 \(2\) of the Act](#) by issuing public announcement with regard to the subjects of the request. The same shall also apply to changes in particulars of authorization. *<Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997>*

(2) If particulars of a request for authorization or modification of a collaborative act are announced by the Fair Trade Commission under paragraph (1), the particulars of public announcement shall include the following matters: *<Amended by Presidential Decree No. 15328, Mar. 31, 1997>*

1. Name and address of the requesting enterpriser;
 2. Details of the collaborative act;
 3. Reason why it intends to perform the collaborative act;
 4. Period in which it intends to perform the collaborative act;
 5. In cases of a request for modification, the modified matters in the particulars of the initial authorization and the reason thereof.
- (3) In making the public announcement as referred to in paragraph (1), the period of such announcement shall be made within 30 days. <Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997>
- (4) Any interested person who has any opinion on the particulars of the public announcement as referred to in paragraph (2), may submit to the Fair Trade Commission a written opinion specifying the following matters within the period of public announcement:
<Amended by Presidential Decree No. 15328, Mar. 31, 1997>
1. Name or title and address of the person stating the opinion;
 2. Details of opinion and the reason for presenting such opinion;
 3. Other matters necessary for stating the opinion.

Article 32 (Discontinuation of Authorized Collaborative Acts)

Where an enterpriser, who has been authorized to perform collaborative acts under [Article 19 \(2\) of the Act](#), discontinues the collaborative acts, he/she shall promptly report it to the Fair Trade Commission.

[This Article Wholly Amended by Presidential Decree No. 16221, Mar. 31, 1999]

Article 33 (Types of Collusion in Auction and Bidding)

"Matters prescribed by Presidential Decree" in [Article 19 \(1\) 8 of the Act](#) means matters falling under any of the following subparagraphs:

1. Ratio of successful bidding or auctioning;
2. Methods of design or construction work;
3. Other matters that constitute competition factors in bidding or auction.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 34 (Submission of Data on Bidding Required for Diagnostic Analysis of Bidding Collusion in Public Sector)

(1) "Public agency prescribed by Presidential Decree" in [Article 19-2 \(2\) of the Act](#) means any public agency falling under any of the following subparagraphs: <Amended by Presidential Decree No. 21492, May 13, 2009>

1. Central administrative agencies established under the [Government Organization Act](#) or other Acts;
2. Local governments under [Article 2 of the Local Autonomy Act](#);
3. Public corporations under [Article 5 of the Act on the Management of Public Institutions](#).

(2) Submission of data on bidding under [Article 19-2 \(2\) of the Act](#) shall be applicable to cases only where the number of participating companies in the bidding concerned is not more than 20, and the estimated price is equal to or greater than the amount as prescribed in the following subparagraphs:

1. Bidding on construction projects under subparagraph 4 of Article 2 of the Framework Act on Construction Industry: Five billion won;
2. Bidding on construction projects, other than those under subparagraph 1: 500 million won;
3. Bidding on purchase of goods or provision of services: 500 million won.

(3) Data on bidding under [Article 19-2 \(3\) of the Act](#) means matters prescribed in the following subparagraphs:

1. Agencies ordering bid and bidding agencies;
2. Kind and methods of bidding;
3. Date and details of bidding announcement;
4. Estimated prices, expected prices and low-end price;
5. Number of bidding participants;
6. Bidding details by bidding participants;

7. Profile of successful bidder;
 8. Successful bid price;
 9. Number of failed bid and number of price increase in expected price;
 10. Other data requested by the Fair Trade Commission for diagnostic analysis of bidding collusion.
- (4) Heads of public agencies under each subparagraph of paragraph (1) shall submit matters prescribed by each subparagraph of paragraph (3) to the Fair Trade Commission through the Korea On-line e-Procurement System under [Article 8 \(2\) of the Government Procurement Act](#) within 30 days from the date when a successful bidder is determined: *Provided*, That where the heads of public agencies under each subparagraph of paragraph (1) do not request the Administrator of the Public Procurement Service to conclude a contract, the heads of public agencies may submit the relevant data by directly entering the data in the information processing unit operated by the Fair Trade Commission. <Amended by Presidential Decree No. 20884, Jun. 25, 2008>
 [This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 35 (Standards for Mitigation or Exemption for Persons, etc. who have Voluntarily Reported)

- (1) The standards for mitigating or exempting the corrective measures or penalty surcharges under [Article 22-2 \(3\) of the Act](#) shall be as follows: <Amended by Presidential Decree No. 20360, Nov. 2, 2007; Presidential Decree No. 20884, Jun. 25, 2008; Presidential Decree No. 21492, May 13, 2009>
1. Where a person makes a voluntary report to the Fair Trade Commission before its investigation is commenced and falls under all of the following items, the penalty surcharge and corrective measures shall be exempted:
 - (a) He/she is required to be the first person to provide independently evidence necessary to substantiate an unfair collaborative act: *Provided*, That even where two or more enterprisers involved in the collaborative act jointly provide evidence, such evidence shall be deemed to have been provided by a single enterpriser if enterprisers are affiliated companies having controlling relations in effect, or companies involved in division of company or transfer of business, meeting requirements prescribed by the Fair Trade Commission;
 - (b) He/she is required to voluntarily report an unfair collaborative act under circumstances that the Fair Trade Commission fails to obtain information on the unfair collaborative act or fails to fully secure evidence necessary to substantiate the unfair collaborative act;
 - (c) He/she is required to conscientiously cooperate in an investigation of the unfair collaborative act, such as stating all facts related to such collaborative act and submitting the relevant materials, until such investigation is complete;
 - (d) He/she is required to suspend the commission of the unfair collaborative act;
 2. Where a person cooperates in an investigation by the Fair Trade Commission after its investigation is commenced and falls under all of the following items, the penalty surcharge may be exempted and corrective measures may be mitigated or exempted:
 - (a) He/she is required to cooperate in an investigation, when the Fair Trade Commission has failed to obtain data necessary on the unfair collaborative act, or to obtain sufficient evidence necessary to substantiate the unfair collaborative act;
 - (b) He/she is required to fall under subparagraph 1 (a), (c), and (d);
 3. Where a person makes a voluntary report prior to an investigation or cooperates after an investigation is commenced by the Fair Trade Commission, and falls under all of the following items, the penalty surcharge shall be reduced by 50/100, and corrective measures may be mitigated:
 - (a) He/she is required to be the second person to provide independently evidence necessary to substantiate an unfair collaborative act: *Provided*, That even where two or more enterprisers involved in the collaborative act jointly provide evidence, such evidence shall be deemed to have been provided by a single enterpriser if enterprisers are affiliated companies in substantially controlling relation, or companies involved in

- division of company or transfer of business, meeting requirements prescribed by the Fair Trade Commission;
- (b) He/she is required to fall under subparagraph 1 (c) and (d);
4. Where a person who is already subject to a penalty surcharge or corrective measures due to an unfair collaborative act meets the requirements described in the items of subparagraph 1 or 2 with respect to any other unfair collaborative act in which he/she is involved, the penalty surcharge may be reduced or exempted and the corrective measures may be mitigated, against such other unfair collaborative act;
5. Even if a person falls under subparagraphs 1 through 4, he/she shall not be exempted from corrective measures and penalty surcharge, where he/she has forced another enterpriser to participate in unfair collaborative acts against his/her will, or forced him/her not to cease such acts.
- (2) Cases where the identity of those who voluntarily report or cooperate in an investigation, details of reporting, and other matters concerning reporting may be divulged to a third party under [Article 22-2 \(2\) of the Act](#) shall fall under any of the following subparagraphs: *<Amended by Presidential Decree No. 20360, Nov. 2, 2007>*
1. Where those who voluntarily report consent to provide the information concerned;
2. Where the information is necessary to file a suit related to the case concerned, and implement thereof, etc.
- (3) The Fair Trade Commission may separately deliberate or decide upon the case concerned to ensure that the identity of the voluntary reporter, etc. is not divulged, where there is a request by those who voluntarily report or cooperate in an investigation. *<Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007>*
- (4) Matters relating to the extent of specific mitigation and exemption for reporters, etc., the detailed procedures for operating the mitigation and exemption system, the methods of providing relevant evidence, etc. shall be determined and published by the Fair Trade Commission.
- [This Article Wholly Amended by Presidential Decree No. 18768, Mar. 31, 2005]*

CHAPTER V PROHIBITION OF UNFAIR TRADE PRACTICES

Article 36 (Designation of Unfair Trade Practices)

- (1) Categories or standards of unfair trade practices in accordance with [Article 23 \(2\) of the Act](#) shall be as set out in attached Table 1-2. *<Amended by Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 22160, May 14, 2010>*
- (2) The Fair Trade Commission may, where deemed necessary, determine and publish details for the application of categories or standards of unfair trade practices pursuant to paragraph (1) to a specified area or practice. In such cases, the Fair Trade Commission shall seek in advance views from the head of a competent administrative agency.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 37 (Fair Competition Code)

- (1) If the Fair Trade Commission receives a request for review on a fair competition code under [Article 23 \(5\) of the Act](#), it shall notify the requesting person of the result of the review within 60 days after it receives the request for review. *<Amended by Presidential Decree No. 15328, Mar. 31, 1997>*
- (2) Deleted. *<by Presidential Decree No. 16221, Mar. 31, 1999>*

Article 38 Deleted. *<by Presidential Decree No. 16221, Mar. 31, 1999>*

Article 38-2 Deleted. *<by Presidential Decree No. 15328, Mar. 31, 1997>*

CHAPTER VI ENTERPRISERS' ORGANIZATION

Article 39 Deleted. <by Presidential Decree No. 16221, Mar. 31, 1999>

Article 40 (Authorization for Restricting Competition of Enterprisers' Organization)

- (1) Any enterprisers' organization which intends to obtain, under [Article 26 \(2\) of the Act](#), the authorization for restricting competition as prescribed in [Article 26 \(1\) 1 of the Act](#), shall submit to the Fair Trade Commission a written request specifying the following matters with documents attesting to the necessity of such restriction of competition: <Amended by Presidential Decree No. 15328, Mar. 31, 1997>
1. Reasons why it intends to conduct restrictions of competition, and details thereof;
 2. Criteria for and scope of the participating enterprisers.
- (2) The provisions of [Articles 24-2 through 29, 30](#) (3), (4) and (5), [31](#), and [32](#) shall apply *mutatis mutandis* to authorization for restricting competition. <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 16221, Mar. 31, 1999>

Article 41 Deleted. <by Presidential Decree No. 16221, Mar. 31, 1999>

Article 42 Deleted. <by Presidential Decree No. 15328, Mar. 31, 1997>

CHAPTER VII RESTRICTION ON RESALE PRICE MAINTENANCE

Article 43 (Literary Works for which Maintaining Resale Prices is Permitted)

"Literary works prescribed by Presidential Decree" in [Article 29 \(2\) of the Act](#) means the published literary works among published literary works (including electronic publications), which are prescribed by the Fair Trade Commission after consultations with the heads of related central administrative agencies under [Article 2 of the Copyright Act](#). <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 16221, Mar. 31, 1999; Presidential Decree No. 18768, Mar. 31, 2005>

Article 44 (Procedures for Designation of Goods subject to Resale Price Maintenance)

- (1) Any enterpriser who intends to have goods for resale price maintenance designated under [Article 29 \(3\) of the Act](#), shall submit to the Fair Trade Commission a written request specifying the following matters: <Amended by Presidential Decree No. 15328, Mar. 31, 1997>
1. Details of the business;
 2. Actual results of operation for the latest one year;
 3. Contents of goods concerned;
 4. Distribution channels of goods concerned and sales price trends by distribution stage for the latest one year;
 5. Situation on distributors organization for goods concerned;
 6. Reasons for the request for designation.
- (2) A request as referred to in paragraph (1) shall be accompanied by the following documents: <Amended by Presidential Decree No. 15328, Mar. 31, 1997>
1. Documents attesting that the act maintaining the resale price of goods concerned is not detrimental unfairly to the interest of general consumers;
 2. Document attesting that the act is conformed to the requirements of each subparagraph of [Article 29 \(2\) of the Act](#).

Articles 45 and 46 Deleted. <by Presidential Decree No. 16221, Mar. 31, 1999>

Article 46-2 Deleted. <by Presidential Decree No. 15328, Mar. 31, 1997>

CHAPTER VIII RESTRICTION ON CONCLUSION OF UNFAIR INTERNATIONAL CONTRACTS

Article 47 (Types of International Contracts)

"International agreements or contracts prescribed by Presidential Decree" in [Article 32 \(1\) of](#)

[the Act](#) means international agreements or contracts falling under any of the following subparagraphs (hereinafter referred to as "international contracts"): <Amended by Presidential Decree No. 18903, Jun. 30, 2005>

1. Contractual licenses of industrial property rights:
Contracts for the purpose of taking rights of implementation or uses of industrial property rights, such as patent rights, model utility rights, industrial designs rights, and trademark rights;
2. Contractual licenses of copyright:
Contracts for the purpose of taking copyright of books, records, cinematographic works, computer programs, etc.;
3. Contractual know-how licenses:
Contracts for the purpose of taking rights of implementation or uses of confidential business information or any other technology similar thereto;
4. Franchise agreement:
Contracts for the purpose of taking rights of implementation or uses of business franchises to provide products or services under the franchiser's business denomination in the form of a business franchise, or to assist the franchisee through guidance of business management;
5. Joint research and development agreement;
6. Import agency agreement:
Import agency agreement for the purpose of continuous transactions of the importation of products or the introduction of services (excluding issuing services of warranty of sales of goods) whose duration is not less than one year;
7. Joint venture agreement.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 48 (Request for Review on International Contracts)

- (1) Any person who intends to enter into an international contract, and to request a review on the details of the contract under [Article 33 of the Act](#), shall file with the Fair Trade Commission the written request for review determined and announced publicly by the Fair Trade Commission. <Amended by Presidential Decree No. 15328, Mar. 31, 1997>
- (2) Any person who has entered into an international contract, and intends to request a review on the contract under [Article 33 of the Act](#), shall file with the Fair Trade Commission the written request determined and announced publicly by the Fair Trade Commission, together with a copy of such contract (including a translated version thereof) within 60 days after concluding such contract. The same shall also apply where he/she revises or modifies the terms of contract. <Amended by Presidential Decree No. 15328, Mar. 31, 1997>
- (3) The Fair Trade Commission shall, upon receiving the request for review as referred to in paragraphs (1) and (2), notify in writing the result to the person requesting the review, within 20 days after receiving the request for review, unless any justifiable ground exists to the contrary.
- (4) If a person requesting a review receives from the Fair Trade Commission, a notification to the effect that the terms of the contract requested for review is contrary to the provisions of [Article 32 \(1\) of the Act](#), he/she may request a re-review after revising the related clauses of the contract, within 60 days after he/she receives the notification. <Amended by Presidential Decree No. 15328, Mar. 31, 1997>

[This Article Wholly Amended by Presidential Decree No. 14566, Apr. 1, 1995]

CHAPTER IX OPERATION OF FAIR TRADE COMMISSION

Article 49 (Constitution of Chambers)

- (1) Five or fewer chambers shall be established within the Fair Trade Commission, pursuant to [Article 37-2 of the Act](#). <Amended by Presidential Decree No. 22160, May 14, 2010>

- (2) The chairman of the Fair Trade Commission (hereinafter referred to as the "chairman") may designate commissioners of each chamber and change, if necessary, them.
- (3) Where a commissioner of a chamber is subject to grounds of challenge, discharge, or withdrawal with regard to a specific case as provided for in [Article 44 of the Act](#), the chairman may refer such case raised before the relevant chamber to another chamber or may designate a commissioner of another chamber to carry out functions as a commissioner of the relevant chamber only with regard to such case.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 50 (Functional Division of Chambers)

The chairman may apportion functions and duties for each chamber and change, if necessary, them.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 51 (Discharge or Withdrawal of Commissioners)

- (1) A person intending to apply for discharge of a commissioner under [Article 44 \(2\) of the Act](#) shall make a request with specified reasons to the chairman.
- (2) Grounds of discharge shall be attested to, in writing, not later than three days after the request of challenge.
- (3) With respect to the application for discharge, any challenged commissioner shall present, without delay, his/her views in writing to the chairman.
- (4) Where a commissioner intends to withdraw in accordance with [Article 44 \(3\) of the Act](#), he/she shall obtain permission therefor from the chairman.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 52 (Establishment of Local Administrative Organizations)

In order to implement local affairs concerning fair trade work, the Fair Trade Commission may establish any local administrative organization, as otherwise prescribed by Presidential Decree.

Article 53 (Allowances, etc. of Commissioners)

Non-standing commissioners of the Fair Trade Commission are entitled to be paid allowances and other necessary expenses within budgetary limits.

Article 53-2 (Qualification for Membership of Fair Trade Dispute Mediation Council)

- (1) "Public official meeting the requirements prescribed by Presidential Decree" in [Article 48-3 \(4\) 1 of the Act](#) means a public official of Grade IV or higher rank.
- (2) "Period prescribed by Presidential Decree" in [Article 48-3 \(4\) 2 through 4 of the Act](#) means seven years.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 53-3 (Meetings of Council)

- (1) In cases where the chairperson of the Fair Trade Dispute Mediation Council (hereinafter referred to as the "Council") under [Article 48-3 \(1\) of the Act](#) intends to convene a meeting of the Council, he shall notify the date, venue and agenda to members of the Council seven days before the meeting is held: this shall not apply in cases of emergency.
- (2) The meeting of the Council shall not be open to public: in cases where the chairperson of the Council deems it necessary, he may allow the parties to a dispute, and other stakeholders to attend the meeting.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 53-4 (Application, etc. of Mediation)

- (1) A person who intends to apply for mediation of dispute under [Article 48-6 \(1\) of the Act](#) shall submit documents stating the following matters (hereinafter referred to as "application for dispute mediation") to the Fair Trade Commission or the Council:
<Amended by Presidential Decree No. 22160, May 14, 2010>
 1. Names of an applicant and a respondent (where the party to a dispute is a corporation, the title of the corporation, address of its main office and the name and address of its

- representative);
2. Where an agent is hired, his/her name and address;
 3. The purport of an application and the reason thereof.
- (2) The following documents shall be attached to an application for dispute mediation:
1. Documents evidencing reasons and facts of application for dispute mediation;
 2. Where an agent files an application, his/her letter of designation;
 3. Other evidentiary documents or data necessary for dispute mediation.
- (3) "Acts falling under the standard prescribed by Presidential Decree" in [Article 48-6 \(1\) 1 of the Act](#) means suspicion of violation of the Act falling under any of the following subparagraphs: *<Amended by Presidential Decree No. 22160, May 14, 2010>*
1. [Article 23 \(1\) 7 of the Act](#);
 2. Subparagraph 1 (a) of attached Table 1-2;
 3. Subparagraph 2 (c) or (d) of attached Table 1-2;
 4. Subparagraph 3 (a) of attached Table 1-2 (applicable only to acts which have a great likelihood of excluding competing enterprisers of its own or of its affiliated companies by continuously providing goods or services at prices significantly lower than costs required for supply without justifiable grounds).
- (4) Where the Fair Trade Commission or the Council finds it difficult to ascertain if suspicion of violation of the Act by a respondent simply by referencing to an application for dispute mediation or its attached documents submitted by an applicant falls under any subparagraph of paragraph (3), or the facts and circumstances are unclear for acts subject to dispute mediation, a considerable period may be designated so as to request the applicant to supplement data.
- (5) "Period prescribed by Presidential Decree" in [Article 48-6 \(2\) of the Act](#) means ten days. In such cases, a period needed to supplement data under paragraph (4) shall not be included herein.
- (6) Where the Council directly receives an application for dispute mediation from an applicant, the Council shall immediately send a copy of the application for dispute mediation to the Fair Trade Commission. *<Amended by Presidential Decree No. 22160, May 14, 2010>*
- (7) Where the Council has received an application for dispute mediation, it shall issue a receipt of the application for dispute mediation to an applicant and send a copy of the application for dispute mediation to a respondent. In such cases, it may transmit such document by an electronic document referred to in subparagraph 7 of [Article 2 of the Electronic Government Act](#). *<Amended by Presidential Decree No. 22160, May 14, 2010>*
- (8) The chairperson of the Council may, where he/she deems that it is required to supplement an application for dispute mediation pursuant to [Article 48-6 of the Act](#), request an applicant to supplement the application with a reasonable fixed period. In such cases, the period for supplementation shall not be included in the period referred to in [Article 48-7 \(4\) 2 of the Act](#). *<Newly Inserted by Presidential Decree No. 22160, May 14, 2010>*

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 53-5 (Designation of Representatives)

- (1) Where a multiple number of enterprisers file an application for dispute mediation on the same issue, three or fewer persons from among applicants may be designated as representatives. *<Amended by Presidential Decree No. 22160, May 14, 2010>*
- (2) Where applicants fails to designate representatives under paragraph (1), the chairperson of the Council may recommend that applicants designate representatives.
- (3) Where applicants designate or change representatives, they shall immediately notify the chairperson of the Council of such fact.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 53-6 (Ascertainment of Facts and Circumstances of Parties to Dispute)

- (1) Where the Council intends to request parties to a dispute to attend in accordance with

[Article 48-7 \(2\) of the Act](#), the Council shall notify the time and venue to the parties by seven days prior to the requested date of attendance: *Provided*, That this shall not apply where there is an emergency or a consent by the person requested to attend.

- (2) Where there exist extenuating circumstances to keep the parties to a dispute who have received a request to attend under paragraph (1) from attending a meeting of the Council, the parties may submit written opinions in advance.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 53-7 (Notification of Application for Adjudication)

Where the parties to a dispute apply for an adjudication after applying for dispute mediation, they shall immediately notify the Council of such fact.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 53-8 (Mediation, etc.)

- (1) Where the Council has rejected an application for mediation under [Article 48-7 \(3\) of the Act](#), or has terminated a mediation procedure under paragraph (4) 2 or 3 of the same Article, the Council shall prepare a termination statement of dispute mediation stating the following matters, and report to the Fair Trade Commission along with the copy thereof and relevant documents attached:

1. General information of parties to a dispute;
2. Background of dispute;
3. Main issues;
4. Reasons for rejection of dispute application or termination of mediation procedure.

- (2) Where mediation has been made, the Council shall prepare a mediation report stating the following matters, and report the mediation results along with the copy of a mediation report and relevant documents to the Fair Trade Commission:

1. Matters prescribed in paragraph (1) 1 through 3;
2. Mediation results.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 53-9 (Detailed Rules for Operation of Council)

Matters necessary for operation and structure of the Council, other than those prescribed by this Decree, shall be determined by the chairperson of the Council following the resolution by the Council. *<Amended by Presidential Decree No. 22160, May 14, 2010>*

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

CHAPTER X PROCEDURES FOR INVESTIGATION, ETC.

Article 54 (Method of Reporting on Violations)

Any person who intends to file a report as prescribed by [Article 49 \(2\) of the Act](#), shall submit to the Fair Trade Commission a document specifying the following matters: *Provided*, That if the matters to be reported require settlement urgently or if they are inevitable, the report may be made by telephone or orally: *<Amended by Presidential Decree No. 15328, Mar. 31, 1997>*

1. Name and address of the reporting person;
2. Address, name of representative, and business of the reported person;
3. Details of the reported person's violation;
4. Other matters to clarify the details of the violation.

Article 55 (Investigation, etc. of Fair Trade Commission)

- (1) Where the Fair Trade Commission intends to have parties, etc. attend and to hear their opinions under [Article 50 \(1\) 1 of the Act](#), it shall issue a notice of summons specifying the subject of the case, name of the other party, date, time and place of attendance, and other matters. *<Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17176, Mar. 27, 2001>*

- (2) The designation of an appraiser under [Article 50 \(1\) 2 of the Act](#) shall be made by a

document specifying the subject of the case, name of appraiser, and period, object, details, etc. of appraisal. <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17176, Mar. 27, 2001>

- (3) Any order to report the cost and operating situation and to present other necessary material under [Article 50 \(1\) 3 of the Act](#) shall be issued in writing with the subject of case, date and time of presentation, material to be reported or presented: *Provided*, That for enterprisers, etc. present at the meeting of the Fair Trade Commission, this may be made orally. <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17176, Mar. 27, 2001>

Article 56 (Investigation, etc. of Subordinate Public Officials)

- (1) "Designated place" in [Article 50 \(2\) of the Act](#) means an office or place of business of an enterpriser or enterprisers' organization and a place designated in a notice of summons issued by the Fair Trade Commission. <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17176, Mar. 27, 2001>
- (2) Any order to present material or articles or to keep presented material or articles in custody under [Article 50 \(3\) of the Act](#) shall be issued or made only when the evidence might be destroyed. <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17176, Mar. 27, 2001>

Article 57 (Payment of Expenses)

If the Fair Trade Commission hears the opinion of interested parties or witnesses under [Article 50 \(1\) 1 of the Act](#), or commissions an appraiser under [Article 50 \(1\) 2 of the Act](#), it may pay necessary expenses to the person concerned within budgetary limits: *Provided*, That this shall not apply where it hears such opinion at the office or business place of the interested parties or witness. <Amended by Presidential Decree No. 15328, Mar. 31, 1997; Presidential Decree No. 17176, Mar. 27, 2001>

Article 57-2 (Application for Postponing Investigation, etc.)

- (1) "Grounds prescribed by Presidential Decree" in [Article 50-3 \(1\) of the Act](#) means those as stipulated in any of the following subparagraphs:
1. Where the procedures of a merger, acquisition, composition, legal management application, bankruptcy, etc. are under way;
 2. Where books and other evidentiary documents are seized or kept in custody by an authorized agency;
 3. Where there is a serious obstacle in the way of the performance of business by any enterpriser or enterprisers' organization on the grounds of fire, etc.
- (2) Any person who intends to postpone implementing disposition or undergoing investigation under [Article 50-3 \(1\) of the Act](#) shall submit to the Fair Trade Commission the documents stating the following matters:
1. The name of the enterpriser or the enterprisers' organization that intends to receive the postponement of the disposition or investigation, and the name and address of the representative;
 2. The period for which the disposition or investigation is to be postponed;
 3. The reason why the disposition or investigation is to be postponed.

[This Article Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005]

Article 58 (Procedure for Recommendation of Correction)

The recommendation of correction under [Article 51 \(1\) of the Act](#) shall be made by a document specifying the following matters: <Amended by Presidential Decree No. 15328, Mar. 31, 1997>

1. Details of violation;
2. Matters to be recommended;
3. Period of correction;
4. Deadline for notification on the acceptance or nonacceptance;
5. Measures to be taken when the acceptance is refused.

Article 58-2 Deleted. <by Presidential Decree No. 15328, Mar. 31, 1997>

Article 59 (Procedures and Period for Appeal)

- (1) A person intending to file an appeal under the provisions of [Article 53 \(1\) of the Act](#) shall file an application containing subjects or contents of complaints, grounds of complaints, etc. with the Fair Trade Commission, together with relevant documents necessary for evidencing the grounds or contents of the appeal.
- (2) Where it deems a submitted complaint or documents accompanied therewith in accordance with the provisions of paragraph (1) insufficient, the Fair Trade Commission may issue an order to supplement the documents by setting the deadline thereof. In such cases, a period for supplementation (including the dates on which an order to supplement has been sent and on which supplemented documents have arrived at the Fair Trade Commission) shall not be included within the period computed under [Article 53 \(2\) of the Act](#).
- (3) "Extenuating circumstances" in the proviso to [Article 53 \(2\) of the Act](#) means any of the following cases:
 1. Where it is required to conduct independent economic analysis, such as investigation or review of the extent or structure of the market, market share, status of exports or imports, etc. for determining whether or not any measure is illegal or unreasonable;
 2. Where it is required to conduct elaborate legal analysis or review for determining whether or not any measure is illegal or unreasonable;
 3. Where a long period is required to investigate claims or materials which are newly presented during the procedures of deliberation of complaints;
 4. Where the parties, interested persons, etc. are not cooperative in the investigation by exercising their rights of silence or by not submitting materials at the right time;
 5. Where it is unavoidable to extend such period for reasons falling under subparagraphs 1 through 4.

[This Article Wholly Amended by Presidential Decree No. 15328, Mar. 31, 1997]

Article 60 (Suspension of Enforcement of Orders for Corrective Measures)

A person intending to make a request for the suspension of enforcement of corrective measures or for the revocation of decisions as to the suspension of enforcement of corrective measures in accordance with the provisions of [Article 53-2 of the Act](#) shall submit to the Fair Trade Commission an application containing claims or causes of the request, together with documents necessary for providing evidence regarding the grounds or contents of the request.

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

CHAPTER XI IMPOSITION AND COLLECTION OF PENALTY SURCHARGES

Article 61 (Standards for Imposing Penalty Surcharges)

- (1) The standards for imposing penalty surcharges under [Articles 6, 17, 22, 24-2, 28, 31-2 and 34-2 of the Act](#) are as shown in attached Table 2. *<Amended by Presidential Decree No. 18356, Apr. 1, 2004; Presidential Decree No. 21492, May 13, 2009>*
- (2) *Deleted. <by Presidential Decree No. 18356, Apr. 1, 2004>*
- (3) Detailed standards necessary to impose penalty surcharges, other than matters provided for in this Decree, shall be prescribed and announced by the Fair Trade Commission.

[This Article Wholly Amended by Presidential Decree No. 16221, Mar. 31, 1999]

Article 61-2 (Collection of Penalty Surcharges and Additional Dues)

- (1) The Fair Trade Commission shall, when it intends to impose a penalty surcharge pursuant to [Article 55-3 \(1\) of the Act](#), expressly indicate the type of the act of violation and the amount of the penalty surcharge, and notify in writing the payment of the penalty surcharge.
- (2) A person in receipt of the notification made under paragraph (1) shall pay a penalty surcharge to a receipt agency designated by the Fair Trade Commission within 60 days from the date when he/she is notified thereof: *Provided*, That if he/she is unable to pay

the penalty surcharge within the period due to natural disasters or other unavoidable reasons, he/she shall pay it within 30 days from the date when such reasons cease to exist.

(3) Deleted. <by Presidential Decree No. 18768, Mar. 31, 2005>

[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

Article 62 (Standards and Limitations of Application of Extension of Deadline for Payment of Penalty Surcharges and Payment in Installments)

- (1) "Amount determined by Presidential Decree" in [Article 55-4 \(1\) of the Act](#) means either the amount computed by multiplying turnover as prescribed in [Article 9](#) by 1/100, or one billion won.
- (2) The deadline for payment of penalty surcharges pursuant to [Article 55-4 \(1\) of the Act](#) may be extended within one year after the date following the deadline for payment.
- (3) In the event of payment in installments under [Article 55-4 \(1\) of the Act](#), the intervals between periods of installments shall not exceed six months, and the number of installments shall not exceed three times.

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 63 (Application for Extension of Deadline for Payment of Penalty Surcharges and Payment in Installments)

An application for the extension of the deadline for payment of penalty surcharges or payment in installments under [Article 55-4 \(2\) of the Act](#) shall be made in the form determined by the Fair Trade Commission.

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

Article 64 (Demand)

- (1) The demand referred to in [Article 55-6 \(2\) of the Act](#) shall be made in writing within 15 days after the elapse of the deadline for payment. <Amended by Presidential Decree No. 18768, Mar. 31, 2005>
- (2) Where a written demand is made pursuant to paragraph (1), a deadline for paying a penalty surcharge in arrears shall be within ten days from the day when the written demand is made.

[This Article Wholly Amended by Presidential Decree No. 16221, Mar. 31, 1999]

Article 64-2 (Entrustment of Disposition for Collecting Penalty Surcharges in Arrears)

- (1) When the Fair Trade Commission entrusts the work of taking dispositions to collect penalty surcharges in arrears pursuant to [Article 55-6 \(3\) of the Act](#) to the Commissioner of the National Tax Service, it shall make a written entrustment, attached with the following documents: <Amended by Presidential Decree No. 18768, Mar. 31, 2005>
 1. A written resolution made by the Fair Trade Commission;
 2. A written resolution made to collect revenues and notices;
 3. A demand note for payment of penalty surcharge.
- (2) Where the Commissioner of the National Tax Service is entrusted with the work of taking dispositions to collect penalty surcharges in arrears under paragraph (1), he/she shall notify in writing the Fair Trade Commission of matters falling under any of the following subparagraphs within 30 days from the date when the reason thereof occurs:
 1. Where the work of taking a disposition is finished, the date the work is finished and other necessary matters;
 2. Where the Fair Trade Commission asks to keep it informed of progress in the work, the progress in the work.

[This Article Newly Inserted by Presidential Decree No. 16221, Mar. 31, 1999]

Article 64-3 (Procedures for Requesting Information on Imposition of National Taxes)

- (1) The Fair Trade Commission shall, when it requests the Commissioner of the National Tax Service to furnish information pertaining to the imposition of national taxes under [Article 55-6 \(4\) of the Act](#), file with the Commissioner a written request, accompanied by the following documents: <Amended by Presidential Decree No. 18768, Mar. 31, 2005>
 1. A written resolution made by the Fair Trade Commission;

2. A written resolution made to collect revenues and notices;
 3. A demand note for tax payments.
- (2) The Commissioner of the National Tax Service shall, upon receiving the request filed under paragraph (1), furnish information pertaining to the imposition of national taxes in writing within 30 days from the day on which he/she receives such request unless special grounds exist that make it impossible for him/her to do so.

[This Article Newly Inserted by Presidential Decree No. 17176, Mar. 27, 2001]

Article 64-4 (Rates of Additional Amount to Refund)

The additional payment for the refund under [Article 55-7 of the Act](#) shall be an amount calculated by applying the rates fixed and published by the Fair Trade Commission taking into account the interest rates set by financial institutions for time deposits to the penalty surcharge to be refunded. <Amended by Presidential Decree No. 18768, Mar. 31, 2005>

[This Article Newly Inserted by Presidential Decree No. 17176, Mar. 27, 2001]

Article 64-5 (Deficit Disposal)

"Grounds prescribed by Presidential Decree" in [Article 55-8 \(1\) 6 of the Act](#) means any of the following subparagraphs:

1. In cases of exemption from liability under [Article 251 of the Debtor Rehabilitation and Bankruptcy Act](#);
2. Where it is deemed that redemption is impossible for inevitable reasons, and the Fair Trade Commission determines and publicly announces such matters.

[This Article Newly Inserted by Presidential Decree No. 20360, Nov. 2, 2007]

Article 64-6 (Giving Reward)

(1) An offense against the Act which is subject to giving a reward pursuant to [Article 64-2 of the Act](#) means an act falling under any of the following subparagraphs: <Amended by Presidential Decree No. 18921, Jun. 30, 2005; Presidential Decree No. 21148, Dec. 3, 2008; Presidential Decree No. 22003, Jan. 27, 2010; Presidential Decree No. 22160, May 14, 2010>

1. An unfair collaborative act referred to in subparagraphs of [Article 19 \(1\) of the Act](#);
2. An unfair trading practice in newspaper business (referring to the business of publishing or selling newspapers under subparagraph 1 (a) through (d) of [Article 2 of the Act on the Promotion of Newspapers, etc.](#)) from among those provided for in [Article 23 \(1\) 1 through 5 of the Act](#);
3. Enticing customers of his/her competitor to do business with him/her unfairly from among acts referred to in [Article 23 \(1\) 3 of the Act](#);
4. Compelling executives and employees of his/her company or affiliated companies to purchase or sell goods or services of his/her company or affiliated companies unfairly from among acts referred to in [Article 23 \(1\) 3 of the Act](#);
5. An unfair trading practice in the business of operating a large-scale retail store (referring to the business of selling various daily necessities at the same store with the salerooms the total area of which is not less than the size determined by the Fair Trade Commission) from among those provided for in [Article 23 \(1\) 4 of the Act](#);
6. An unfair trading practice referred to in [Article 23 \(1\) 7 of the Act](#);
7. A prohibited act done by any enterprisers' organization referred to in [Article 26 \(1\) 1 through 3 of the Act](#).

(2) Persons who are entitled to the payment of rewards under [Article 64-2 of the Act](#) shall be those who make a reporting or provide information on an act provided for in subparagraphs of paragraph (1) and first offer evidence necessary to substantiate such act: *Provided*, That the enterprisers who commit the act of violating the Act shall be excluded therefrom.

(3) The Fair Trade Commission shall pay a reward to any person who makes a report or provides information on an act of violating the Act within three months from the day when it is decided that the act in question is in violation of the Act (where an objection is raised thereagainst, the day when the adjudication thereon is rendered), unless there exist any special circumstances to the contrary.

- (4) A public official who makes an investigation into an act of violating the Act in relation to the payment of a reward shall be prohibited from divulging the identity of the person who makes a report or provides information on the said act and other matters related to the report and the providing of information or from providing another person with them.
- (5) Detailed standards for payment of rewards by the type of violations shall be determined and published by the Fair Trade Commission, taking into consideration the gravity of the acts of violating the Act, the admissibility of evidence, etc.
- (6) A deliberative committee on reports and rewards (hereafter referred to as the "deliberative committee" in this Article) may be established at the Fair Trade Commission to deliberate on the matters relating to the payment of rewards.
- (7) Matters relating to the establishment and operation of the deliberative committee and other necessary matters for the payment of rewards shall be determined and published by the Fair Trade Commission.

[This Article Newly Inserted by Presidential Decree No. 18768, Mar. 31, 2005]

Article 64-7 (Reexamination of Regulations)

The Fair Trade Commission shall examine whether the scope of companies, which may be excluded from the enterprise group under [Article 3-2](#) is appropriate, by December 31, 2013, and, accordingly, take measures, such as abolition, mitigation or maintenance.

[This Article Newly Inserted by Presidential Decree No. 21626, Jul. 7, 2009]

Article 65 (Criteria for Imposition of Fines for Negligence)

- (1) The criteria for imposing fines for negligence under [Article 69-2 \(1\) 1 and 2 of the Act](#) shall be as referred to in attached Tables 3 and 4, respectively.
- (2) The Fair Trade Commission may reduce, or aggregate fines for negligence by up to a half the amount of, such fines for negligence determined by attached Tables 3 and 4 by considering the severity of violation, reason for violation or result thereof, etc.: *Provided*, That even in cases of aggregation, the amount shall not exceed the upper limit of fines for negligence under [Article 69-2 \(1\) of the Act](#).

[This Article Wholly Amended by Presidential Decree No. 21492, May 13, 2009]

Article 66 (Detailed Regulations of Application)

Matters necessary for the application of this Decree shall be determined and published by the Fair Trade Commission.

[This Article Newly Inserted by Presidential Decree No. 15328, Mar. 31, 1997]

ADDENDA

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures concerning Matters in Settlement)

Matters which the Mayor/Do Governor is investigating over, or recommending the correction under the previous [Articles 34](#) and [35](#) as at the time this Decree enters into force, shall be subject to the previous provisions.

Article 3 Omitted.

ADDENDA <Presidential Decree No. 13842, Feb. 20, 1993>

Article 1 (Enforcement Date)

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

Article 2 Omitted.

ADDENDA <Presidential Decree No. 14566, Apr. 1, 1995>

- (1) (Enforcement Date) This Decree shall enter into force on the date of its promulgation.
- (2) (Transitional Measures concerning Exception Recognized Investment) Any investment for which an exception is recognized by the Fair Trade Commission under subparagraph 3 of the

previous Article 17-2, as at the time this Decree enters into force, shall be subject to the previous provisions.

(3) (Applicability) The revised provisions of subparagraph 3 of [Article 17-2](#) shall apply exclusively to the new shares acquired or owned after this Decree enters into force.

ADDENDA <Presidential Decree No. 15328, Mar. 31, 1997>

Article 1 (Enforcement Date)

This Decree shall enter into force on April 1, 1997.

Article 2 (Applicability to Filing Financial Statements, Audit Reports, etc.)

The amended provisions of [Articles 3-2](#) (4), [17](#) (3) and [17-4](#) (2) shall apply from January 1, 1998.

Article 3 (Transitional Measures as to Contributions for Improvement of International Competitiveness of Enterprises)

The acquirement or ownership of shares or stocks recognized by the Fair Trade Commission pursuant to the previous provisions of subparagraph 3 of [Article 17-2](#), as at the time this Decree enters into force, shall be subject to the previous provisions.

Article 4 (Transitional Measures as to Sound Ownership-Diversified Companies)

One of the sound ownership-diversified companies as at the time this Decree enters into force shall be deemed to have been recognized by the Fair Trade Commission in accordance with the amended provisions of [Article 17-4](#): *Provided*, That as respects requirements for the sound ownership-diversified companies, the previous provisions of this Decree shall be effective for the duration of three years from the date this Decree enters into force.

Article 5 Omitted.

ADDENDA <Presidential Decree No. 15569, Dec. 31, 1997>

Article 1 (Enforcement Date)

This Decree shall enter into force on January 1, 1998.

Articles 2 through 5 Omitted.

ADDENDUM <Presidential Decree No. 15767, Apr. 1, 1998>

This Decree shall enter into force on April 1, 1998: *Provided*, That the amended provisions of [Articles 17-2 through 17-4](#) shall enter into force on the date of its promulgation.

ADDENDA <Presidential Decree No. 16221, Mar. 31, 1999>

(1) (Enforcement Date) This Decree shall enter into force on April 1, 1999.

(2) (Transitional Measures concerning Literary Works for which Maintaining Resale Prices is Permitted) The literary works for which maintaining resale prices is permitted under the previous provisions as at the time this Decree enters into force shall, notwithstanding the amendment provisions of [Article 43](#), be governed by the previous provisions by December 31, 2002.

(3) (Transitional Measures concerning Delinquent Penalty Surcharges) The delinquent penalty surcharges as at the time this Decree enters into force shall, notwithstanding the amended provisions of [Article 61-2](#) (3), shall be dealt with by the previous provisions.

ADDENDA <Presidential Decree No. 16430, Jun. 30, 1999>

(1) (Enforcement Date) This Decree shall enter into force on July 1, 1999.

(2) Omitted.

ADDENDUM <Presidential Decree No. 16685, Dec. 31, 1999>

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

ADDENDA <Presidential Decree No. 16777, Apr. 1, 2000>

(1) (Enforcement Date) This Decree shall enter into force on April 1, 2000: *Provided*, That the amended provisions of [Article 17-2](#) shall enter into force on April 1, 2001.

(2) (Transitional Measures concerning Debt Guarantee of Investors in Infrastructure Facilities) Where a company belonging to a large-scale enterprise group which invests in any of its affiliates engaged in private investment business in a manner described in subparagraph 1 or 2 of [Article 4 of the Act](#) on Private Participation in Infrastructure, as at the time this Decree enters into force, guarantees repayment of credits extended by domestic financial institutions to such affiliate, the debt guarantee under the amended provisions of [Article 17-5](#) (2) 7 shall be deemed to have been made.

ADDENDA <Presidential Decree No. 17176, Mar. 27, 2001>

(1) (Enforcement Date) This Decree shall enter into force on April 1, 2001: *Provided*, That the amended provisions of [Article 8](#) shall enter into force on June 1, 2001.

(2) (Transitional Measures concerning Holding Companies) Any company that satisfies the requirements for a holding company (excluding any company that has filed a report with the Fair Trade Commission as a holding company) by owning a company, as a subsidiary, falling under the standards under the amended provisions of [Article 2](#) (3) as at the time this Decree enters into force, shall file a report thereon with the Fair Trade Commission under Article 15 (1) within four months from the date this Decree enters into force.

ADDENDUM <Presidential Decree No. 17317, Jul. 24, 2001>

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

ADDENDA <Presidential Decree No. 17564, Mar. 30, 2002>

(1) (Enforcement Date) This Decree shall enter into force on April 1, 2002.

(2) Omitted.

(3) (Transitional Measures concerning Exceptions from Limitations on Total Investment Amount) With respect to the stocks acquired or owned as at the time this Decree enters into force, which satisfy the provisions of previous Article 17-2 (1) 6, the previous provisions shall govern notwithstanding the amended provisions of [Article 17-2](#).

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

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

ADDENDA <Presidential Decree No. 18356, Apr. 1, 2004>

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

(2) (Transitional Measures concerning Imposition of Penalty Surcharges) The previous provisions shall govern the imposition of penalty surcharges for violations committed before this Decree enters into force.

ADDENDA <Presidential Decree No. 18736, Mar. 8, 2005>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 18768, Mar. 31, 2005>

(1) (Enforcement Date) This Decree shall enter into force on April 1, 2005.

(2) (Transitional Measures concerning Debt Guarantee of Investors in Infrastructure Facilities) Where a company affiliated with an enterprise group subject to the limitations on debt guarantees invests in any of its affiliated companies engaged in private investment business in a manner described in subparagraphs 1 through 4 of Article 4 of the [Act on Public-Private](#)

[Partnerships in Infrastructure](#) and guarantees repayment of credits extended by domestic financial institutions to such affiliated company, as at the time this Decree enters into force, the debt guarantee under the amended provisions of Article 17-5 (2) 7 shall be deemed to have been made.

(3) (Transitional Measures concerning Scope of Enterprise Group subject to Limitations on Total Investment Amount) With respect to an enterprise group which is not subject to the application of Article 10 (1) of the Act pursuant to the previous provisions of Article 17 (2) 3 as at the time this Decree enters into force, the previous provisions shall prevail for one year from the date this Decree enters into force, notwithstanding the amended provisions of [Article 17](#) (2) 3.

(4) (Transitional Measures concerning Penalty Surcharges Imposed on Unfair Collaborative Acts) In the application of a penalty surcharge to any act committed before this Decree enters into force and terminated before the partially amended [Enforcement Decree of the Monopoly Regulation and Fair Trade Act](#) (Presidential Decree No. 20360) enters into force, the previous provisions shall prevail.

ADDENDA <Presidential Decree No. 18903, Jun. 30, 2005>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 2005.

Article 2 Omitted.

ADDENDUM <Presidential Decree No. 18921, Jun. 30, 2005>

This Decree shall enter into force on July 1, 2005: *Provided*, That the amended provisions of Article 64-5 (1) 2 shall enter into force on July 28, 2005.

ADDENDA <Presidential Decree No. 19023, Aug. 31, 2005>

Article 1 (Enforcement Date)

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

Articles 2 through 4 Omitted.

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

Article 1 (Enforcement Date)

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

Article 2 Omitted.

ADDENDUM <Presidential Decree No. 19447, Apr. 14, 2006>

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

ADDENDA <Presidential Decree No. 19574, Jun. 29, 2006>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 20166, Jul. 13, 2007>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 14, 2007.

Article 2 (Applicability to Resolution by Board of Directors concerning Large-Scale Internal Trading and Publication thereof)

The amended provisions of [Article 17-8](#) (2) shall apply to the transactions for the quarter that begins on or after the date this Decree enters into force.

Article 3 (Transitional Measures concerning Change of Standards of Subsidiary Companies)

In applying the part concerning the prohibition of owning stocks of any domestic affiliated company, which is not a subsidiary company, in the main sentence of [Article 8-2 \(2\) 3 of the Act](#), if a subsidiary company of a holding company becomes a domestic affiliated company, which is not a subsidiary company, as a consequence of the amendment to [Article 2 \(3\) 2](#), it shall be deemed that the company is not included in the scope of domestic affiliated companies of the holding company for one year from the date this Decree enters into force.

Article 4 (Transitional Measures concerning Publication of Important Matters by Unlisted Companies, etc.)

Where decisions are made pursuant to the former provisions of Article 17-10 (3) 2 through 5 and (4) 7 as at the time this Decree enters into force, the publication of such decisions shall be governed by the former provisions, notwithstanding the amended provisions of [Article 17-10 \(3\) through \(5\)](#).

ADDENDA <Presidential Decree No. 20331, Oct. 23, 2007>

Article 1 (Enforcement Date)

This Decree shall enter into force on October 28, 2007. (Proviso Omitted.)

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 20360, Nov. 2, 2007>

Article 1 (Enforcement Date)

This Decree shall enter into force on November 4, 2007: *Provided*, That the amended provisions of Article 34 shall enter into force on January 1, 2009.

Article 2 (Applicability to Voluntarily Reporting Persons, etc.)

The amended provisions of Article 35 shall be preferentially applicable to those who voluntarily report or cooperate in an investigation after this Decree enters into force.

Article 3 (Transitional Measures concerning Financial Institutions Related to Debt Guarantee)

With regard to companies which provide debt guarantees under [Article 10-2 \(2\) of the Act](#) in connection with credit of mutual savings banks under the Mutual Savings Banks Act as at the time this Decree enters into force, the previous provisions shall apply for two years from the date this Decree enters into force, notwithstanding the amended provisions of [Article 17-6](#).

Article 4 (Transitional Measures concerning Reporting of Combination of Enterprises)

With regard to cases where reasons for reporting of combination of enterprises have already occurred as at the time this Decree enters into force, the previous provisions shall apply, notwithstanding the amended provisions of [Article 18 \(1\) through \(3\)](#).

ADDENDA <Presidential Decree No. 20884, Jun. 25, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on July 1, 2008: *Provided*, That the amended provisions of [Article 34 \(4\)](#) shall enter into force on January 1, 2009.

Article 2 (Transitional Measures concerning Exclusion of Designation of Enterprise Groups subject to Limitations on Mutual Investment, etc.)

Where an enterprise group, which has been designated as enterprise group subject to limitations on mutual investment and enterprise group subject to limitations on debt guarantees under the previous provisions as at the time this Decree enters into force, fails to meet the standards for designation prescribed in the amended provisions of [Article 17 \(1\)](#), the enterprise group shall be deemed to have been excluded from designation of an enterprise group subject to limitations on mutual investment and enterprise group subject to limitations on debt guarantees in accordance with [Article 21 \(1\), \(2\), and \(6\)](#) on the date this Decree enters into force.

ADDENDA <Presidential Decree No. 20947, Jul. 29, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on February 4, 2009. (Proviso Omitted.)

Articles 2 through 28 Omitted.

ADDENDA <Presidential Decree No. 21148, Dec. 3, 2008>

Article 1 (Enforcement Date)

This Decree shall enter into force on December 6, 2008.

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 21480, May 6, 2009>

Article 1 (Enforcement Date)

This Decree shall enter into force on May 8, 2009.

Articles 2 and 3 Omitted.

ADDENDA <Presidential Decree No. 21492, May 13, 2009>

Article 1 (Enforcement Date)

This Decree shall enter into force on the date of its promulgation: *Provided*, That the amended provisions of [Articles 17-11](#) and [18](#) shall enter into force on June 26, 2009.

Article 2 (Applicability)

The amended provisions of [Article 35](#) (1) shall also apply to unfair collaborative acts where a person has voluntarily reported or cooperated in an investigation before the amended provisions of [Article 35](#) (1) pursuant to the main sentence of Article 1 of the Addenda enter into force, but the Fair Trade Commission fails to resolve thereon by the date the same amended provisions enter into force.

ADDENDUM <Presidential Decree No. 21626, Jul. 7, 2009>

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

ADDENDA <Presidential Decree No. 21765, Oct. 1, 2009>

Article 1 (Enforcement Date)

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

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 22003, Jan. 27, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on February 1, 2010.

Articles 2 through 5 Omitted.

ADDENDA <Presidential Decree No. 22151, May 4, 2010>

Article 1 (Enforcement Date)

This Decree shall enter into force on May 5, 2010.

Articles 2 through 4 Omitted.

ADDENDA <Presidential Decree No. 22160, May 14, 2010>

Article 1 (Enforcement Date)

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

Article 2 (Applicability to Trading Practices subject to Public Announcement of Large-Scale Internal Trading)

The amended provisions of [Article 17-8](#) (3) shall apply beginning with the first trading practice after July 1, 2010.

Article 3 (Applicability to Period of Supplementation of Dispute Mediation)

The amended provisions of [Article 53-4](#) (8) shall apply beginning with the first issue for which an application for dispute mediation is received after this Decree enters into force.

ADDENDUM <Presidential Decree No. 22467, Nov. 2, 2010>

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