

CENTRAL BANKING

# LEGISLATION

## CHAPTER I. ESTABLISHMENT AND PURPOSE

Art. 1. There is hereby established a bank to be called The Bank of Korea, which, under special law, shall be organized as a juridical person with all the rights and obligations pertaining thereto. The Bank shall be governed by the provisions of this Act, by its by-laws, and by other pertinent legislation, including duly ratified international agreements relating to banking and monetary matters.

Art. 2. The Bank shall have its domicile in Seoul, the Republic of Korea, and may have such branches, offices, agencies, and correspondents in the Republic of Korea and in foreign countries as are deemed necessary for the orderly and efficient execution of its business.

Art. 3. The primary purposes of the Bank shall be:

- (a) To promote the achievement and maintenance of domestic monetary stability.
- (b) To further orderly economic progress and development and the fullest and most efficient utilization of the nation's resources by promoting the liquidity, solvency and efficient functioning of the nation's banking system.
- (c) To administer the nation's international monetary reserves in the interests of achieving and maintaining an orderly pattern of international trade and exchange relationships.

## CHAPTER II. CAPITAL, PROFITS, AND RESERVE FUND

Art. 4. The capital of the Bank shall be one billion five hundred million won (1,500,000,000), which shall be totally subscribed and paid in by the Republic of Korea. The Bank shall also be provided with an initial reserve fund of three hundred million won (₩ 300,000,000) which shall be contributed by the Republic of Korea.

Art. 5. The annual net profits of the Bank, after adequate allowances are made for depreciation in assets, shall be used in the following manner:

- (a) Twenty five per cent (25%) of the net profits shall be credited to the reserve fund until such time as the fund amounts to five hundred million won (₩ 500,000,000).
- (b) The net profits remaining after fulfilling the conditions described in clause (a) of this Article shall be paid into the General Fund of the Government.

Art. 6. Any losses incurred by the Bank during any fiscal year shall be debited to the reserve fund, and, if the fund be insufficient, the balance shall be debited to the capital of the Bank. In the latter case, the capital shall promptly be restored to its original amount by the Republic of Korea.

## CHAPTER Ia. DIRECTION AND ADMINISTRATION

### SECTION 1. THE MONETARY BOARD

Art. 7. The Bank shall function under the general direction of a Monetary Board, which shall, within the framework of this Act, formulate monetary, credit, and exchange policies and shall be responsible for the general direction and supervision of the operations, management and administration of the Bank, and for the exercise of other functions and powers explicitly granted it. In the independent exercise of its duties the Monetary Board may issue to all juridical and natural persons subject to its control all rules, regulations and instructions necessary within the framework of this Act for the effective discharge of its responsibilities. It shall, on the recommendation of the Governor, fix remunerations and appoint or remove any officer or employee of the Bank, excepting the Governor. The Board, however, may delegate to the Governor the responsibility for fixing remunerations and appointing or removing employees other than officers. It shall approve the Bank's annual budget and, subject to the approval of the President of the Republic of Korea, shall establish and amend the by-laws.

Art. 8. The Monetary Board shall be composed of the following seven members and the same number of alternates.

- (a) The Minister of Finance shall be a member (ex officio) and the Vice Minister of Finance shall be his alternate.
- (b) The Governor of the Bank shall be a member and the ranking deputy governor shall be his alternate.

Two titular members and two alternates shall be appointed annually for a term of one year by the President of the Republic of Korea with the approval of the State Council from a panel of eight persons elected by banking institutions. For the election of these persons, each of the banking institutions shall have equal voting power.

(d) A titular member and an alternate shall be appointed for a term of four years by the President of the Republic of Korea with the approval of the State Council from a panel of four persons submitted by the Korea Chamber of Commerce and Industry.

A titular member and an alternate shall be appointed for a term of four years by the President of the Republic of Korea with the approval of the State Council from a panel of four persons submitted by the Ministry of Agriculture and Forestry.

- (f) A titular member and an alternate shall be appointed for a term of four years by the President of the Republic of Korea with the approval of the State Council from a panel of four persons submitted by the Economic Board of the Office of Planning.

All the members and their alternates shall have the status and rank of public officials. The first members appointed under the provisions of clauses (d), (e), and (f) of this Article shall have terms of three, two, and one years, respectively.

Art. 9. The Minister of Finance shall preside at the meetings of the Monetary Board. Whenever the Minister of Finance is unable to attend a meeting of the Board, the Governor of the Bank shall preside. In case the Minister of Finance and the Governor are unable to attend, the Vice Minister shall preside, and if the Minister, the Governor, and the Vice Minister are unable to attend, the ranking deputy governor shall preside.

Art. 10. For purposes of this Act, "banking institutions" shall be defined to comprise all juridical persons, other than the Bank of Korea, which regularly and systematically engage in the *business* of lending funds acquired through the assumption of obligations to the public whether in the form of deposits, securities or other evidences of debt. The Federation of Financial Associations and its related local Financial Associations shall be considered a single "banking institution". It shall also be considered a Government Agency, to the extent that it carries out projects as defined in Art. 85. Insurance companies and companies that engage exclusively in the lottery business or exclusively in the trust business shall not be considered banking institutions.

Art. 11. The alternates shall replace the respective titular members in case of their absence. If the absence of titular members and their alternates occurs simultaneously, the other alternates shall replace them in the order of their seniority. The alternates may attend the meetings of the Board when not substituting for the titular members but, in such case, they shall not have the right to vote.

Art. 12. Any vacancy occurring in the Monetary Board because of the inability of a member to complete his term shall be filled by the appointment of a new member to complete the term of the vacating member, such appointment to be made in the same manner as that of the vacating member.

Art. 13. Appointments of members of the Monetary Board to replace members whose terms have expired must be made within the 30 days prior to the expiration of such terms. Titular members and alternates shall be eligible for reappointment.

Art. 14. None of the following may be titular members or alternates of the Monetary Board:

- (a) Persons not of Korean nationality.
- (b) Persons less than thirty years of age.
- (c) Directors, officers, or employees of other banks, except in the case of titular and alternate members appointed in accordance with clause (c) of Article 8.
  - (d) Persons who have been adjudged incompetent by the Court; persons who have been declared by the Court to be insolvent and who have not yet been restored to solvency; persons who have been convicted of crimes, unless three years have elapsed since completion of their prison sentences or periods of parole; persons who have been removed by disciplinary procedures of the Inspection Committee unless two years have elapsed since their removal; or persons whose citizenship has been revoked or suspended by law.
- (a)

Art. 15. If any of the disqualifications mentioned in Article 14 is disclosed or occurs, the appointment of the affected member shall immediately terminate and he shall be replaced as provided for in the case of a vacancy. It shall be the responsibility of the Monetary Board to find and declare the disqualification. Any acts or

contracts authorized by the member prior to his disqualification shall not be invalidated.

Art. 16. A member of the Monetary Board shall be removed by the President of the Republic of Korea but only in case of criminal sentence, or disciplinary procedures by the Inspection Committee, or if any of the disqualifications mentioned in Article 14 is disclosed and the Monetary Board does not act in accordance with Article 15.

Art. 17. The meetings of the Monetary Board shall be called by the Minister of Finance, by the Governor, by each of their alternates, or by any member with the approval of a majority of the Board. The Board shall meet validly with the attendance of at least six titular members or alternates and its resolutions shall be adopted by a simple majority of those present. In case of a tie, the vote of the presiding officer shall be decisive, except when the provisions of this Act require a special majority. Art

18. The senior officer in charge of the Research Department, the Superintendent of Banks, and the Auditor shall participate in the Board's deliberations in the capacity of advisers but shall not have the right to vote.

Art. 19. The Board may invite other qualified advisers to participate in the Board's proceedings, but they shall not have the right to vote.

Art. 20. Whenever the proceedings of the Board concern a personal or commercial interest of one of the attendants or of his relatives within the fourth degree of consanguinity or second degree of affinity, he must withdraw from the session. This provision does not include the members of the Board mentioned in clause (c) of Article 8 in cases in which general banking matters are under consideration.

Art. 21. Any illegal act or omission by the Monetary Board which causes damage to the Bank shall make all members present at the session

at which the act or omission occurred, except those who registered a protest at the same session, personally and jointly liable to the Government or to the Bank for the damages incurred. The damage suit against the responsible members of the Board may be brought in the name of the Bank by the Procurator General. In addition to such a damage suit, the provisions of Article 114 shall apply to the disclosure or the use for personal gain of any information of a confidential nature about the affairs of the Board or of the Bank by any member of the Board or by any officer or employee of the Bank.

## SECTION 2. THE GOVERNOR AND DEPUTY GOVERNOR

Art. 22. The Governor shall be appointed for a term of four years from among persons of integrity and of recognized experience in financial affairs by the President of the Republic of Korea with the concurrence of the State Council. As chief executive of the Bank he shall be required to devote his entire time to its business and shall hold no other positions excepting those of a public or educational character related to central banking policy. He shall be entitled to participate in the meetings of the State Council.

Art. 23. The salary of the Governor shall be fixed by the Monetary Board with the approval of the President of the Republic of Korea.

Art. 24. The powers and duties of the Governor shall be:

- (a) To administer and direct the operations and internal affairs of the Bank, in accordance with the policies approved by the Monetary Board and to exercise such other powers as may be vested in him by the by-laws of the Bank.
- (b) To keep the Monetary Board currently informed concerning matters which require its attention and to provide the data, statistics, and advice necessary for the formulation of its policies.

Art. 25. The Governor shall represent the Bank, either personally or through counsel, in dealings with all other persons or entities. Upon his own responsibility, he may delegate his power to represent the Board and the Bank to other officers of the Bank.

Art. 26. In case of war or other emergencies, the Governor, if unable to call a meeting of the Monetary Board, may, with the approval of the Minister of Finance, take any action within the authority of the Board he deems to be in the best interests of the Board. The Governor shall call a meeting of the Board as soon as possible, at which time he shall report his action. The Board may then confirm, modify, or revoke such action.

Art. 27. In the absence of the Governor, the ranking deputy governor shall serve as chief executive and shall have all the powers and perform all the duties of the Governor.

## SECTION 3. SUPERVISION, EXAMINATIONS AND AUDITS

Art. 28. The Bank shall have a Supervision and Examination Department which, subject to instructions of the Monetary Board, shall be responsible for the supervision and periodic examination of all banking institutions within the purview of this Act. The chief of the department shall be known as the Superintendent of

Banks. He shall be appointed and discharged by the President of the Republic of Korea on recommendations of the Monetary Board and shall have the status and rank of a public official.

Art. 29. The Superintendent of Banks must be a person of unquestioned integrity and of recognized experience in banking, accounting and auditing procedures. Neither he nor his subordinates may be directors, officers, employees or shareholders, directly or indirectly, of any institution subject to their supervision or examination.

Art. 30. The Superintendent of Banks, personally or through his examiners, shall examine the condition of each institution under the supervision of the Supervision and Examination Department at least once each year and without previous notice. When executing this function, the Superintendent of Banks and his examiners shall demand, if necessary, documents, subpoena witnesses, and receive testimony or opinions for purposes of supervision and inspection and an accurate appraisal of such institution. A complete report on the condition of each institution examined, with recommendations of measures to correct any malpractices or deficiencies discovered, shall be submitted to the Monetary Board, which shall request or take such remedial action as it deems necessary and desirable.

Art. 31. The Superintendent of Banks and his subordinates shall not solicit or accept, directly or indirectly, any loan, gift or object of value from any institution within the purview of this Act or from any officer, director, or employee thereof. Nor shall they make any unauthorized disclosure of information obtained in the performance of their duties. Violation of any provision of this Article shall carry prompt dismissal and penalties which the law may provide including the penalty provided in Article 114 of this Act.

Art. 32. The provisions of the Criminal Code which apply to public officials shall apply to the Superintendent of Banks and his examiners.

Art. 33. The Bank shall, at least once each year, be examined by the National Board of Audit to verify the Bank's accounts and holdings. It shall also be examined at least once each year by the Ministry of Finance to assure the observance of laws relating to the Bank.

Art. 34. An annual fee, to be determined by the Monetary Board shall be paid to the Bank by the institutions under the supervision of the Superintendent of Banks in order to defray the costs of examination services.

Art. 35. The Monetary Board shall appoint the Auditor of the Bank who shall, with direct responsibility to the Monetary Board, conduct audits and examinations of the Bank's accounts and holdings, and exercise continuous inspection of the Bank. The Monetary Board shall also appoint the necessary personnel to assist the Auditor in the performance of his duties. The Auditor must be a person of unquestioned integrity and of recognized experience in his field.

#### SECTION 4. RESEARCH DEPARTMENT

Art. 36. There shall be established in the Bank a Research Department which, subject to such instructions as may be issued by the Monetary Board, shall be charged with the duty of preparing statistical data and conducting economic research relating to money and banking, public finance, prices and wages, production, the balance of payments and other subjects in order to provide the Board with the information requisite for the proper formulation and execution of its monetary, credit and exchange policies.

Art. 37. The Research Department shall assist in the preparation of the Annual Report of the Bank and shall publish a monthly statistical bulletin, and it may periodically issue other publications of a similar sort. It shall collaborate with other departments of the Bank and with official agencies in an effort to improve the statistical services of the country and to promote public education and enlightenment on economic, monetary and banking matters.

Art. 38. The Research Department shall have the power, subject to rights and provisions guaranteed under other laws, to request from any natural or juridical person, as well as the Government, any data or information necessary for the proper execution of its duties.

#### SECTION 5. FOREIGN DEPARTMENT

Art 39. There shall be established in the Bank a Foreign Department, which shall assume the functions hitherto performed by the Korean Foreign Exchange Bank, Ltd.

Art. 40. All foreign exchange held by the Government of the Republic of Korea in the Korean Foreign Exchange Bank, Ltd., and all foreign exchange owned by that Bank shall be transferred to the Bank of Korea.

Art. 41. All foreign exchange held by other natural and juridical persons in the Korean Foreign Exchange Bank, Ltd., shall be transferred to the Bank of Korea for the account of the persons concerned.

## SECTION 6. BALANCE SHEETS AND ANNUAL REPORT

**Art. 42.** Within the first ten days of each month the Bank shall publish a general balance sheet showing in appropriate detail its assets and liabilities as of the last working day of the preceding month.

**Art. 43.** Within three months after the conclusion of its fiscal year, the Bank shall publish an Annual Report outlining the condition of the Bank, its operations, and its monetary, credit, and exchange policies during that year, and analyzing the financial and economic conditions of the country during the same period. The Annual Report shall also include, as appendices, monthly statistics relating to the major balance sheet items of the Bank and banking institutions; the money supply; government revenues, expenditures and debt; foreign trade and foreign exchange transactions; production, wages and prices; and other pertinent statistical series. It shall also contain the texts of any major legal and administrative measures adopted by the Government and the Monetary Board during the preceding year which bear upon the operations and functions of the Bank or of banking institutions.

**Art 44.** The balance sheets of the Bank shall be signed by the officers responsible for their preparation, by the Governor, and by the Auditor of the Bank. The Annual Report shall be approved by the Monetary Board.

## SECTION 7. MISCELLANEOUS PROVISIONS

**Art 45.** In addition to the Supervision and Examination Department, the Research Department, and the Foreign Department, described elsewhere in this Act, the Monetary Board shall establish, and determine the powers and duties of, such other departments as it deems necessary for the efficient functioning of the Bank.

**Art 46.** The Bank is authorized to engage the services of foreign experts, when it deems such services necessary.

## CHAPTER IV. OPERATIONS OF THE BANK

### SECTION I. THE NOTE ISSUE

**Art. 47.** The Bank of Korea shall have the exclusive right to issue currency within the Republic of Korea.

**Art. 48.** Notes issued by the Bank shall be legal tender in the Republic of Korea for all debts, private and public.

**Art 49.** Notes may be issued by the Bank in any form, style or denomination decided upon by the Monetary Board, subject to the approval of the State Council.

**Art. 50.** Notes in possession of the Bank shall not form part of the Bank's assets or liabilities.

**Art. 51.** The Bank shall accept its notes in payment of obligations. It shall also exchange its notes for equivalent deposits, provided that the party seeking to exchange such notes is entitled to hold deposits in the Bank. The Bank shall similarly pay out its notes on demand in exchange for any

amount of deposits lodged with it, provided that any time requirements governing the withdrawability of the deposits in question are first satisfied.

**Art. 52.** The Bank shall exchange on demand its notes of any denomination for its notes of any other denomination that it has at its disposal.

**Art. 53.** The Bank shall permanently withdraw from circulation any of its notes which, because of deterioration or for any other reasons, are no longer fit for circulation, and it shall replace them with new notes.

**Art 54.** The Bank may also issue coins in the Republic of Korea, subject to the approval of the Minister of Finance. The regulations governing such coins shall be the same as those governing notes, as provided in Articles 48 to 53 inclusive.

### SECTION 2. DEPOSITS AND RESERVES OF BANKING INSTITUTIONS

**Art. 55.** The Bank may receive and hold deposits on behalf of banking institutions carrying on business in the Republic of Korea.

**Art. 56.** Banking institutions operating in the Republic of Korea are required to maintain reserves, in a prescribed proportion of their deposit liabilities, in the form of deposits in the Bank of Korea payable on demand. The Monetary Board may require the Bank to pay interest on such deposits.

**Art 57.** The Monetary Board is empowered to fix, and when deemed desirable to alter, the minimum ratios of reserve to deposits that each banking institution must maintain, provided that the ratios fixed at any time, except under the conditions described in Article 58, shall not be less than 10 per cent nor more than 50 per cent, and that the ratios are applied uniformly to all banking institutions.

**Art 58.** The Monetary Board may, in periods of pronounced inflation, require banking institutions to maintain minimum reserves of more than 50 per cent and up to 100 per cent against any subsequent increases in deposits above the amounts outstanding on the date on which such requirement becomes effective. In such case the Monetary Board may require the Bank of Korea to pay interest, at a rate which may not exceed the Bank's lowest discount rate, on that part of the required minimum reserves which exceeds 50 per cent of the deposit liabilities of the individual banking institutions.

**Art. 59.** Within the limits of Articles 57 and 58, the Monetary Board may, when it deems it desirable:

(a) Fix different minimum reserve requirements for different classes of bank deposits according to whether the deposits are payable on demand or are withdrawable only after a specified period of time, or according to any other basis of classification decided upon by the Board.

(b) Authorize banking institutions to hold up to 25 per cent of their required minimum reserves at any time in the form of notes of the Bank.

Art. 60. The amount of required minimum reserves to be held by each banking institution shall be computed semi-monthly on the basis of averages of deposits held at the end of each day. Whenever the semi-monthly average of reserves held by any banking institution at the end of each day falls below the required minimum reserve so computed, that banking institution shall pay a fine to the Bank of Korea of 1 per cent of the amount of the average deficiency during that half-month period. If the deficiency persists for more than five half-month periods, the Monetary Board shall be authorized to prohibit the delinquent banking institution from making new loans and investments or from paying out dividends to its shareholders until it maintains its reserves at the required minimum level for at least a full month. If the deficiency persists for over a year, or if in a two year period the banking institution has deficiencies for more than half of that period, the Monetary Board may punish it by applying the provisions of Articles 114, 115 or 116 of this Act.

Art. 61. In the computation of minimum required reserves of each banking institution, its head office and all its branches in Korea shall be considered a single unit.

Art. 62. Whenever the Monetary Board decides to raise reserve requirements, it shall do so in as gradual and orderly a manner as possible, and shall give the banking institutions appropriate advance notice.

Art. 63. The deposits held by banking institutions in the Bank of Korea as required reserves shall be used as the basis for the clearing of checks and the settlement of interbank balances according to rules and regulations to be prescribed by the Monetary Board.

### SECTION 3. SELECTIVE CONTROLS OVER BANK OPERATIONS

Art. 64. The Monetary Board may fix maximum rates of interest or, other payments which banking institutions may charge for different types of loans, advances or other credit operations. Any banking institution which charges rates in excess of the maxima fixed at any time by the Board shall be punished according to the provisions of Articles 114 or 115 of this Act.

Art. 65. The Monetary Board may fix maximum rates of interest or other payments which banking institutions may make to their clients on the various classes of deposits. Any banking institution which pays rates in excess of the maxima fixed at any time by the Monetary Board shall be punished according to the provisions of Articles 114 or 115 of this Act.

Art. 66. In case of grave inflationary pressures, the Monetary Board may fix ceilings on the aggregate outstanding volume of loans, advances and investments of banking institutions or place limits on the rate of increase in the aggregate of such assets within specified future periods of time. Such ceilings or limits may also be applied to individual categories of loans, advances or investments. They must be removed as soon as the inflationary pressures have subsided.

Art. 67. Within the limits provided by other legislation relating to banking institutions, the Monetary Board may, when it deems it necessary, issue regulations relating to the maximum maturities of the loans and advances of banking institutions and the types and amounts of collateral to be required against such loans and advances

Art. 68. In periods of pronounced inflation the Board may require that all applications for loans in excess of specified amounts made to banking institutions by their customers be submitted to the Board for prior approval.

### SECTION 4. LOANS TO BANKING INSTITUTIONS

Art. 69. The Bank may conduct the following credit operations with banking institutions in the Republic of Korea:

(a) Rediscount, discount, buy and sell promissory notes, bills of exchange, and other credit documents acquired by banking institutions as a result of operations associated with:

1. The production or processing of agricultural, pastoral, mineral, fishery or industrial products, provided that the maturities of the documents do not exceed one year from the date of their acquisition by the Bank.
2. The importation, exportation, purchase, sale or transport of readily salable products, provided that the maturities of the documents do not exceed six months from the date of their acquisition by the Bank.
3. The storage, for legitimate nonspeculative purposes, of nonperishable goods, insured and deposited in authorized warehouses or other places approved by the Monetary Board, provided that the maturities of the documents do not exceed six months from the date of their acquisition by the Bank.
4. Loans to Government Agencies as defined in Article 85, provided that the maturities of the documents do not exceed one year from the date of their acquisition by the Bank, and that the loans in question are legally authorized by the National Assembly and guaranteed by the Government.
5. Loans to lottery companies, provided that the maturities of the documents do not exceed one year from the date of their acquisition by the Bank.

(b) Grant advances for fixed periods, not to exceed one year against the following types of collateral:

1. The credit documents specified in (a) of this Article.
2. Negotiable securities representing obligations of, or obligations guaranteed by, the Government of the Republic of Korea.
3. Negotiable securities representing obligations of the Bank of Korea.

(c) Grant advances in periods of grave emergency when monetary and banking stability is directly threatened, against the security of any assets which the Monetary Board by a vote of at least five of its members defines temporarily as acceptable collateral. As long as such advances are outstanding, the borrowing bank cannot increase the total of its outstanding loans and investments without permission of the Monetary Board.

Art. 70. The Bank shall not permit renewals or substitutions of the credit documents which it acquires, or renewals of the advances and loans which it makes, under Article 69, clauses (a) and (b), without authorization of the Monetary Board. In such case, the renewals or substitutions may be made only once and for a period not exceeding one-half of the original period.

Art. 71. All credit documents rediscounted, discounted, bought or accepted as collateral under Article 69 must bear the endorsement or assignment of the banking institution from which they are received. Banking institutions shall have the right at any time to withdraw any credit documents pledged as collateral against advances from the Bank upon payment of the principal and interest on the advances.

Art. 72. The Monetary Board shall determine the rates of discount and interest to be charged in connection with the credit operations provided for in Article 69. It may also establish, within the limits specified in Article 69, other standards and regulations relating to those operations.

Art. 73. The Bank shall have complete freedom to reject any application for credit presented to it by any banking institution, regardless of the acceptability of the credit documents offered for rediscount or discount or as collateral if the Monetary Board deems: (1) that the extension of such credit would contribute to inflationary pressures or (2) that the applicant institution has been taking, relative to other institutions, excessive recourse to the credit of the Bank or has been pursuing loan and investment policies of an unsound character. The Bank may also charge higher rates of discount and interest on credit extended to banking institutions to which (2) is deemed to apply.

Art. 74. There shall be established a Discount Committee, the composition and duties of which shall be determined by the Monetary Board.

Art. 75. The Bank shall endeavor, in its credit operations with banking institutions, to maintain at all times a well-balanced portfolio with diversified maturities and a reasonable fraction of its assets and claims falling due

at short intervals. The Monetary Board shall review its portfolio at least once every two months and take such steps as may be necessary to achieve this objective.

Art. 76. In periods of pronounced inflationary pressures, the Bank shall restrict its credit extensions to banking institutions, granting new credits only in exceptional circumstances, and shall endeavor as speedily as possible to contract the volume of its outstanding credit extensions to banking institutions.

#### SECTION 5. RELATIONS WITH THE GOVERNMENT AND

- GOVERNMENT AGENCIES



Art. 77. The Bank shall be the official depository of the funds of the Government of the Republic of Korea, its Ministries, Bureaus and Sections. The Monetary Board may designate banking institutions within the country to accept deposits from such entities subject to such rules and regulations as it may prescribe, but it may order that any such deposits be transferred to the bank at any time it deems suitable.

Art 78. The Bank may accept custody of securities, documents and other valuable objects belonging to the Government, its Ministries, Bureaus and Sections.

Art. 79. Subject to such rules and regulations as may be issued by the Government, the Bank may assist in the collection of public revenues, supervise public flotations of sales of securities representing obligations of the Government, and handle the servicing and redemption of such securities.

Art. 80. The Bank shall represent the Government in all dealings, negotiations, and transactions with any international monetary and banking organizations in which the Republic of Korea may become a member.

Art. Si. The Bank may charge a fee or commission for the services which it renders the Government, its Ministries, Bureaus and Sections, but such charges shall not exceed a sum representing the actual cost to the Bank of such services.

Art. 82. The Monetary Board shall be solicited for and render its advice in connection with current and contemplated fiscal and financial operations on the part of the Government.

Art. 83. The Bank may make advances and loans to the Government on overdraft or in other forms, or may make direct purchases from the Government of securities representing obligations of the Government, provided that the aggregate of all such loans, advances and direct purchases of securities at any time does not exceed the amount of indebtedness which, in conjunction with any borrowing made by the Government from other banking institutions and the public, has been duly authorized up to that time by

the National Assembly. Interest and other conditions or loans and advances by the Bank to the Government shall be subject to the decisions of the Monetary Board.

Art. 84. The Bank may accept deposits from, and make loans and advances to, Government Agencies.

Art. 85. For purposes of this Act, Government Agencies shall be defined as juridical persons designated by the Government to execute on its behalf projects or functions of a public character in the fields of production, purchase, sale or distribution.

Art. 86. The Monetary Board shall determine the rates of interest to be charged on all loans and advances by the Bank to Government Agencies. All such loans and advances must be fully guaranteed as to payment of principal and interest by the National Assembly.

Art. 87. Subject to the provisions of Article 86, the Bank may grant loans and advances to Government Agencies for the purpose of purchasing agricultural and other products for sale and distribution to the public, provided that the loans and advances are repaid as soon as the products are sold and are in no case outstanding for more than one year.

Art. 88. Subject to the provisions of Article 86, the Bank may grant loans and advances to Government Agencies for other purposes, provided that the maturities do not ordinarily exceed one year. Such loans and advances may be extended or renewed only once with the authorization of the Monetary Board and for a period not exceeding one-half of the original period.

Art 89. In periods of inflation the Bank shall attempt to the maximum degree possible to restrict its loans and advances to Government Agencies and to contract the outstanding volume of such loans and advances.

#### SECTION 6. SALES AND PURCHASES OF SECURITIES IN THE OPEN MARKET

Art. 90. For purposes solely of implementing the requirements of national monetary and credit policy, as defined in Section 8 of this Chapter, the Bank may sell or buy in the open market securities of the sort specified in Articles 91 and [92. Net](#) sales may be made only in periods of inflation when the Monetary Board deems it desirable to contract the money supply, while net purchases may be made only in periods of deflation when the Monetary Board deems it desirable to expand the money supply.

Art. 91. In keeping with the provisions of Article 90, the Bank may sell or buy in the open market for its own account:

(a) Securities representing obligations of the Government of the Republic of Korea.

(b) Other securities fully guaranteed by the Government. The securities referred to in (a) and (b) must be freely negotiable and regularly serviced.

Art. 92. In keeping with the provisions of Article 90, the Bank may issue, sell and buy in the open market special negotiable obligations of its own to be designated "Bank of Korea Stabilization Bonds," with interest rates, maturity dates and repayment terms determined by the Board. Such bonds may be issued, subject to the approval of the National Assembly, when deemed desirable to contract the money supply, and may be repurchased in the open market or redeemed at par and by lot before maturity when deemed desirable to expand the money supply. All such bonds repurchased or redeemed by the Bank shall be immediately retired and cancelled. Bank of Korea Stabilization Bonds in the possession of the Bank shall not form part of the Bank's assets or liabilities.

#### SECTION 7. RELATIONS WITH THE PUBLIC

**Art 93.** Except as provided for in Section 9 of this Chapter and in Article 94, the Bank shall not accept deposits from, make loans or advances to or purchase the obligations of natural or juridical persons in the Republic of Korea other than banking institutions, the Government, Government Agencies, and, in the case of accepting deposits, Government Ministries, Bureaus and Sections.

**Art. 94.** Notwithstanding Article 93, the Bank may, with an affirmative vote of five members of the Monetary Board, grant loans or advances to any commercial, industrial, or other profit-making enterprise in periods of severe deflation and credit contraction when banking institutions are calling outstanding loans and advances and refraining from making new ones. Such loans or advances by the Bank shall be on such terms and conditions as the Monetary Board may prescribe.

#### SECTION 8. DOMESTIC MONETARY AND CREDIT POLICIES

**Art. 95.** The Bank shall attempt to counteract any inflationary or deflationary movements in the money supply and in prices deemed by the Monetary Board to be detrimental to the achievement and maintenance of high levels of production, real income and employment and to the orderly economic progress and development of the nation. When such undesirable movements occur, the Monetary Board is charged with the responsibility of initiating appropriate counteracting measures, as provided for elsewhere in this Act.

**Art 96.** The term "money supply" in Article 95 shall be understood to comprise Bank of Korea currency held outside banking institutions, plus all deposit liabilities of banking institutions and of the Bank of Korea payable

by check or otherwise payable on demand, except interbank deposits and deposits held for the account of the Government, its Ministries, Bureaus and Sections.

Art. 97. In its attempt to counteract abnormal movements in the money supply and in prices, the Bank may utilize any one or any combination of the instruments of control conferred upon it by this Act, which the Monetary Board deems most appropriate, including the power to:

- (a) Alter the ratio of minimum reserves to deposits which each banking institution must maintain (Articles 56 to 59 inclusive).
- (b) Fix the rates of rediscount and interest to be charged in connection with the Bank's credit operations with banking institutions (Article 72).
- (c) Sell or buy Government and Government-guaranteed securities in the open market (Articles 90 and 91).
- (d) Issue, sell, repurchase or redeem the Bank's own "Stabilization Bonds" (Articles 90 and 92).
- (e) Reject any application for credit by any banking institution (Article 73).
- (f) Fix ceilings on the aggregate volume of outstanding loans, advances and investments of banking institutions, or individual categories thereof, or place limits on the rate of increase in the aggregate of such assets, or individual categories thereof, within specified future periods of time (Article 66).
- (g) Issue regulations relating to the maximum maturities of loans and advances by banking institutions and the types and amounts of collateral to be required against such loans and advances (Article 67).
- (h) Fix the maximum rates of interest or other payments which banking institutions may charge for loans, advances and other credit operations (Article 64).
- (i) Grant loans to any industrial, commercial, or other profit-making enterprise in periods of severe deflation (Article 94).
- (j) Authorize other banking institutions to accept Government deposits or order that any such deposits be transferred to the Bank (Article 77).

(k) Require that all applications for loans over certain specified amounts made to banking institutions by their customers be submitted to the Board for prior approval (Article 68).

Art. 98. In periods of inflation the Bank, in addition to such counteracting measures as it may take under the provisions of Article 97, is bound by obligations of Articles 76 and 89.

Art. 99. During periods of inflation and deflation requiring counteracting measures, the Monetary Board shall submit to the President of the Republic of Korea every three months reports, which shall be made public, analysing the causes and effects of the abnormal movements in the money supply or prices, outlining the counteracting measures already taken, and making any recommendation regarding other measures, outside the powers of the Monetary Board, deemed necessary to correct the situation.

Art. 100. The Monetary Board shall use the various powers provided in this Act to restrict the granting of loans and advances by banking institutions for speculative purposes deemed prejudicial to the nation's economic interests.

#### SECTION 9. FOREIGN EXCHANGE OPERATIONS AND POLICIES

Art. 101. All foreign exchange holdings shall be centralized in the Bank of Korea, and no banking institution shall hold foreign exchange for its own account or for the account of its clients without authorization of the Monetary Board.

Art. 102. All foreign exchange accruing to the Government from sales of goods and services and from other sources shall be credited to the Government's foreign exchange account in the Bank.

Art. 103. All approved foreign exchange acquired by resident nationals of Korea, natural or juridical, from sales of goods and services, from incoming remittances, or from other sources, shall be credited to the accounts of such persons in the Bank (the disposition of such exchange to be subject to regulations of the Monetary Board), or may be sold to the Bank under conditions prescribed by the Board.

Art. 104. The Government may at any time sell its foreign exchange holdings to the Bank, and the Bank shall buy such holdings, against a corresponding reduction in the Government's overdraft in the Bank.

Art. 105. The Foreign Department may, on behalf of the Bank and subject to regulations of the Monetary Board, carry out, handle, or supervise the following functions or operations:

- (a) Open and maintain correspondent relations with foreign banking institutions, or act as correspondent for such institutions.
- (b) Open import letters of credit through the Bank's foreign correspond-
- (c) ents on behalf of Korean importers, including the Government.
- (d) Negotiate export letters of credit opened by foreign correspondents of the Bank on behalf of Korean exporters, including the Government
- (e) Grant loans to Korean exporters against their shipping documents up to specified percentages of the value of the export shipments and for periods not exceeding 90 days.
- (f) Supervise the Government's foreign exchange account in the Bank.
- (g) Supervise private foreign exchange accounts in the Bank and mediate the transfer of such accounts between authorized depositors.

(g) Sell or allot foreign exchange to authorized persons on such terms and in such manner as is determined by the Monetary Board.

(h) Purchase approved foreign exchange offered to it from any source under conditions prescribed by the Board.

(i) Accept deposits from foreign and international banking or financial institutions, foreign governments and their instrumentalities, and intergovernmental organizations.

(l) Engage in any other operations deemed appropriate by the Monetary Board for the efficient execution of Korea's foreign exchange and international banking business.

Art. 106. The list of approved foreign exchange that the Bank may purchase shall periodically be determined by the Monetary Board. As far as possible the Bank shall endeavor to hold only freely convertible exchange.

Art. 107. The Monetary Board may designate banking institutions in Korea to act as agents of the Bank in buying, selling and holding foreign exchange, or it may authorize such institutions, under regulations which it shall prescribe, to engage in other transactions relating to foreign exchange.

**Art. 108.** The Bank shall buy and may sell all gold and silver coin and bullion offered to it, and may export and import gold and silver coin and bullion, under conditions approved by the State Council.

#### CHAPTER V. MISCELLANEOUS PROVISIONS

**Art. 109.** All powers, duties and functions vested in the Ministry of Finance and its Bureaus which by the provisions of this Act shall be exercised by the Bank shall be transferred to the Bank.

**Art. 110.** The Bank shall be exempt from all national, provincial and municipal taxes and assessments on its property and on its operations.

**Art. 111.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Art. 112.** The Bank shall not participate, directly or indirectly, in the ownership or management of any commercial, industrial, or other profitmaking enterprise. Nor may the Bank purchase or permanently retain ownership of real estate except the premises necessary for the conduct of its business.

**Art. 113.** The Bank shall be established and commence business on a date to be determined by Presidential Decree.

**Art. 114.** Whenever any person willfully violates this Act or any order, instruction, rule or regulation legally issued by the Monetary Board, the person or persons responsible for such violation shall be subject to a fine not in excess of five million won (5,000,000), notwithstanding such other punishments as may be inflicted under other laws.

**Art. 115.** Whenever any banking institution willfully violates this Act or any order, instruction, rule or regulation legally issued by the Monetary Board, the Board may advise the shareholders of that institution to replace the director or directors responsible.

**Art. 116.** In the case of any banking institution which persists in violating any order, instruction, rule or regulation legally issued by the Monetary Board, or conducts its business in an unlawful or unsound manner, the Board shall invoke the assistance of the proper authorities, subject judicial to Judicial review by the Supreme Court of the Republic of Korea, to compel the banking institution to discontinue such violations or malpractices. If necessary, the Board may, with the assistance of the proper authorities and subject to review by the Supreme Court, direct the Superintendent of Banks to liquidate the business of the institution concerned.

#### CHAPTER VI. TRANSITORY PROVISIONS

**Art. 117.** Notes issued by the Bank of Chosun shall be regarded as being the notes issued by the Bank of Korea under this Act. The Bank of Korea may also issue, as its own, notes bearing the name of the Bank of Chosun.

**Art. 118.** On the date on which the Bank commences business it shall assume the liability for all outstanding currency of the Bank of Chosun as well as for certain other liabilities of that Bank as agreed upon between the Minister of Finance and the Governor of the Bank of Chosun. In consideration for assuming these liabilities, the Bank of Chosun shall transfer to the Bank all available assets which are acceptable to the latter. The Bank shall be authorized to charge to the overdraft account of the Government the amount by which the liabilities assumed by the Bank exceed the assets transferred to it.

**Art. 119.** All assets and liabilities assumed by the Bank from the Bank of Chosun which do not conform to the requirements of this Act and such assets acquired in accordance with permissible credit operation by the Bank shall be removed as speedily as possible from the books of the Bank in accordance with rules and regulations to be laid down by the Monetary Board.

### The General Banking Act'

#### SUMMARY

The General Banking Act contains 43 articles arranged in 9 chapters, as follows: Chapter I, General Provisions (Arts. 1-14); Chapter II, Capital and Surplus (Arts. 15-17); Chapter III, Banking Operations (Arts. 18-26); Chapter IV, Prohibitions (Arts. 27-29); Chapter V, Selective Controls on Bank Operations (Art. 30); <sup>2</sup> Chapter VI, Reserve Requirements (Art. 31); <sup>2</sup> Chapter VII, Examinations (Arts. 32-34); Chapter VIII, Balance Sheets and Reports (Arts. 35-37); Chapter IX, Miscellaneous Provisions (Arts. 38-43).

The Act applies to banking institutions operating in the Republic of Korea, including the branches or agencies of foreign banking institutions (Art. 1).

"Banking institutions" are defined as all juridical persons, other than the Bank of Korea, which regularly and systematically engage in the business of lending funds acquired through the assumption of obligations to the public, whether in the form of deposits, securities, or other evidences of debt (Art 3).<sup>3</sup>

All banking institutions, unless they are established by virtue of a special law or are agencies of foreign banking institutions, shall be established as autonomous entities in accordance with the relevant procedures of the Commercial Code (Art. 2).

Authorization of the Monetary Board of the Bank of Korea, acting on the recommendation of the Superintendent of Banks, is required for (1) the opening of a new bank or a new branch or agency of a bank; (2) a change in the capital, statutes, or firm name of a bank; (3) the merger of two or more banks; (4) change of the seat of the head office or of a branch or agency of a bank; or (5) voluntary liquidation of a bank (Art. 9).

Every banking institution shall normally maintain an amount of paid-in capital and surplus equivalent to at least 10 per cent of its assets (Art. 15).

For text of the Act in English, see *The General Banking Act* (published by the Bank of Korea, Seoul, no date). The Act was passed by the National Assembly of the Republic of Korea on April 21, 1950.

Arts. 30 and 31 are given below, pp. 482-483.

The Federation of Financial Associations and its related local *Financial Associations* are, under the Act, considered a single banking institution (Art 3).

The Act prescribed originally that any banking institution established after its entry into force shall have paid-in capital of at least 100 million won and that the required minimum capital may be increased by the Monetary Board in proportion to the number of branches a bank proposes to establish (Art. 16).

A banking institution may engage both in commercial banking operations and in long-term financing operations (Art. 19)

Banks may not invest in bonds or other obligations with maturities exceeding three years (excluding Bank of Korea Stabilization Bonds) in aggregate amounts exceeding 20 per cent of their demand deposits (Art. 22).

Special prohibitions of or limitations on transactions by banks are provided for in Art. 27.

No director, officer, or employee of any banking institution may at the same time be a director, officer, or employee of the Bank of Korea or any other banking institution, except that he may serve as a member of the Monetary Board of the Bank of Korea in accordance with the relevant provisions of the central bank law (Art. 28).

All banking institutions shall be subject to the credit control measures adopted by the Monetary Board of the Bank of Korea under Chapter IV, Section 3, of the central bank law; Art. 30 (1)-(5) of the General Banking Act specifies the credit control measures that may be applicable to banks.

Similarly, the authority of the Monetary Board to prescribe minimum legal reserve requirements for banks, provided for in Chapter IV, Section 2, of the central bank law, is reaffirmed in Art. 31 of the General Banking Act.

Banks are obligated to furnish the Superintendent of Banks—who under Arts. 28 and 30 of the central bank law is charged with the periodic examination of all banking institutions—with such information as he may require for the effective discharge of his duties (Art. 32).

Each banking institution shall submit to the Research Department of the Bank of Korea a general month-end balance sheet in the form prescribed by that Department (Art. 37).

Twice a year, within 60 days after March 31 and September 30, i.e., the statutory end of the fiscal terms of banking institutions,

"Ford definitions of "commercial banking operations" and "long-term financing operations," see Arts. 20 and 21.

each bank shall publish its general balance sheet as of the end of the fiscal term in the form prescribed by the Superintendent of Banks (Art 35)

The Monetary Board of the Bank of Korea may advise shareholders of a bank to replace the director or directors, if that bank willfully violates the General Banking Act or any order, instruction, rule, or regulation legally issued by the Monetary Board of the Bank of Korea (Art. 39).

The Monetary Board may, with the assistance of the proper authorities and subject to review by the Supreme Court, compel a bank which persists in violating the applicable law, rules, or regulations or which conducts its business in an unlawful or unsound manner, to discontinue such violations or malpractices. If necessary, the Board may, with the assistance of the proper authorities and subject to review by the Supreme Court, direct the Superintendent of Banks to liquidate the business of such a bank (Art. 40)

## ARTICLES 30 AND 31

### CHAPTER V. SELECTEE CONTROLS OVER BANK OPERATIONS

Art 30. All banking institutions shall be subject to the powers relating to the selective control of bank operations granted to the Monetary Board under Chapter IV, Section 3 of the Act Establishing the Bank of Korea, including the power to:

- (1) Fix maximum rates of interest or other payments which banking institutions may charge for different types of loans, advances or other credit operations.
- (2) Fix maximum rates of interest or other payments which banking institutions may make to their clients on the various classes of deposits.
- (3) Fix ceilings on the aggregate outstanding volume of loans, advances and investments, or individual categories thereof, of banking institutions, and place limits on the rate of increase in the aggregate of such assets, or individual categories thereof, within specified future periods of *time*.
- (4) Require that all individual applications for loans in excess of specified amounts made to banking institutions by their customers be submitted to the Monetary Board for prior approval.
- (5) Issue regulations relating to the maximum maturities of loans by banking institutions and the types and amounts of collateral to be required against such loans. These regulations shall be subject to the limitations of Articles 20, 21, 22 and 27 of this Act.

### CHAPTER VI RESERVE REQUIREMENTS

Art 31. Each banking institution must maintain legal reserves against its deposit liabilities in at least the minimum proportions and in the form determined by the Monetary Board in accordance with Chapter IV, Section 2 of the Act Establishing the Bank of Korea. Any banking institution whose existing reserves do not meet the requirement so determined shall be subject to penalties stipulated therein.

## The Bretton Woods Agreements Law

Art. 1. The purpose of this law is to take necessary procedures for the Government of the Republic of Korea to join the International Monetary Fund (hereafter referred to as "the Fund") and the International Bank for Reconstruction and Development (hereafter referred to as "the Bank") and to enable the Government to carry out the provisions of the Articles of Agreement of the International Monetary Fund (hereafter referred to as "the Fund Agreement") and of the International Bank for Reconstruction and Development (hereafter referred to as "the Bank Agreement") and of Resolution No. 9-6 of the Board of Governors of the Fund and of Resolution No. 88 of the Board of Governors of the Bank (hereafter referred to as "Membership Resolutions").

Art. 2. In accordance with the relevant provisions of the Fund and the Bank Agreements and of the Membership Resolutions, the Government shall pay to both the Fund and the Bank subscriptions not exceeding an amount equivalent to twelve million five hundred thousand United States dollars, respectively.'

Art. 3. The Government shall pay the subscriptions stipulated in Article 2 in gold and national currency in the case of the Fund and in gold or United States dollars and national currency in the case of the Bank.

Art. 4.—(1) The Government may order the Bank of Korea to sell the necessary quantity of its own gold for covering a part of its subscription to the Fund, pursuant to Article 3 of this law.

(2) The Minister of Finance, subject to the approval by the State Council, may determine the price and other conditions for the sale of the above-mentioned gold.

Art 5.—(1) Instead of the national currency to be paid to the Fund and the Bank in accordance with Article 3 of this law, the Government may pay to the Fund and the Bank a part of its subscription in notes in terms of national currency which shall be non-negotiable and payable on demand.

(2) These notes shall be non-interest bearing.

Art. 6.—(1) Upon request of the Fund and/or the Bank, the Government shall reimburse, without delay, all or part of the notes paid in under the provision of Article 5, Paragraph 1.

(2) The Government may borrow from the Bank of Korea the amount

necessary for such reimbursement.

Art. 7. The Government shall designate the Bank of Korea as depository for its national currency held by the Fund and the Bank, pursuant to Article XIII, Section 2(a) of the Fund Agreement and Article V, Section 11(a) of the Bank Agreement.

Art 8. The President may by Presidential order issue such regulations, other than those provided in this law, as are necessary to carry into effect the provisions of the Fund Agreement, the Bank Agreement, and Membership Resolutions.

SUPPLEMENTARY PROVISIONS. This Law shall enter into force on the date of its promulgation.

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