

Content

Title : Regulations Governing Conservatorship of Banking Institutions [Ch](#)

Date : 2010.12.23

Legislative : 1.Promulgated per Order Jin-Guan-Yin-(1)-Zi-No.09910006920 dated December 23, 2010

Content : Article 1

The Regulations are enacted in accordance with Paragraph 5, Article 44-2 of the Banking Act and Article 37 of the Credit Cooperatives Act, in which, Paragraph 5, Article 44-2 of the Banking Act shall apply mutatis mutandis.

Article 2

The duration of conservatorship for a bank or a credit cooperative (herein after referred to as the “banking institution”) shall be 180 days from the date on which the competent authority assigns a conservator to supervise the said institution in accordance with the laws, and may be extended if necessary with the approval of the competent authority.

Article 3

Upon the beginning or termination of the conservatorship of a financial institution by the competent authority, the authority shall advise the concerned agencies/institutions about the fact of the said conservatorship beginning or termination, and make public announcement on its own website .

Article 4

The competent authority may assign an appropriate agency/institution as the conservator to perform the conservatorship duty.

The said conservator may organize a conservatorship task force, which is constituted by the officials assigned by the conservator or the officials sent or transferred from other agency/institution by the competent authority to perform the conservatorship duty.

Article 5

The conservator may retain attorneys, accountants or other professionals to assist with the matters concerning the conservatorship; the expenses required shall be paid by the banking institution under conservatorship.

Article 6

The expenses incurred by the conservator when performing the conservatorship duty, including the travel expenses of the conservatorship task force, salary for the extended working hours, personal accident insurance and liability insurance and other necessary expenses for the performance of the conservatorship task shall be borne by the banking institution under conservatorship. The payment standard for the said expenses shall follow the internal rules of the conservator.

Article 7

The conservator shall report the financial and business status of the banking institution under conservatorship to the competent authority with carbon copy to the Central Bank and Central Deposit Insurance Corporation on a monthly basis.

The conservator shall report to the competent authority or other concerned agency/institution upon the discovery of any of the following that concerns the responsible person or its staff members; the banking institution under conservatorship:

1. Violation of laws, regulations or articles of incorporation with serious conditions;
2. Reduced ratio of equity capital to risk asset by one percent;
3. Losses in excess of one third of the capital (paid-in-capital);
4. Inadequacy in liquidity resulting in a concern of insolvency.;
5. Severe failure to follow the opinion proposed or disposition implemented by the conservator; or
6. Other actions that seriously undermine the interest of the banking institution under conservatorship or its creditors

Article 8

The responsibilities of the conservator shall include:

1. Supervise and help improve business operation polices;
2. Supervise and help correct business and financial shortfalls and improve the ratio of equity capital to risk asset;
3. Supervise and help ensure creditor's right receivables;
4. Supervise the control over assets, titles, certificates, contracts and certificates of entitlement;
5. Supervise and help with the appropriation of asset loss reserve, allowance for bad debt and written-off of bad debt;
6. Supervise and help with the handling of operation accounts and compilation and production of financial statements;
7. Supervise and help with procurement and disposition of properties;
8. Supervise and help review credit and investment cases and manage debts;
9. Supervise and help with bill exchange processing and correspondence on the related matters;
10. Demand the board of directors to replace managers;
11. Attend the meetings of the board of directors, supervisors (supervisors committee) or auditors committee meetings, shareholders' meeting (general meeting of the members), loan/investment review meetings, other statutory meetings or related meetings;
12. Demand the supervisors to perform their duties;
13. Demand the banking institution under conservatorship to produce and deliver business, financial and other reports or statements based on facts within a given deadline;
14. Audit the related account books, documents and properties, supervise and help the internal audit unit strengthen internal control and business or expenditure audit; and
15. Other tasks designated or approved by the competent authority.

Article 9

The banking institution under conservatorship shall draft practical policies along with professional evaluation reports and submit for approval by the competent authority and concurrently inform the conservator on the following matters:

1. Increasing capital, reducing capital or increasing capital after reducing capital.;
2. Assignment of all or part of businesses, assets or liabilities;

3. Merger with other banks or financial institutions; or
4. Other important tasks designated by the competent authority.

Article 10

The shareholders' meeting (general meeting of the members), board of directors, supervisors (supervisors committee) or auditors committee meetings, loan/investment review meetings, or other related and important meeting summoned by the banking institution under conservatorship shall be subject to reporting of their subject matters, agenda and related information in writing to the conservator seven days prior to the said meetings; the related meeting minutes shall be submitted to the conservator within ten days after the said meetings.

If the banking institution under conservatorship is a bank subsidiary of a financial holding company, the said holding company shall submit the plan and meeting minutes on how to help the banking institution under conservatorship to restore normal operation.

Article 11

The banking institution under conservatorship shall take the initiative to inform the conservator of major claims, liabilities, contacts or litigations, and take other necessary actions to comply with such conservatorship; the responsible person or staff members of the financial institution under conservatorship shall not refuse to answer relevant inquiries or make false representations.

The banking institution under conservatorship shall assign a dedicated person to follow up and report periodically the improvements requested in the letter or notice issued or the disposition or opinion proposed in the important meetings by the conservator.

Article 12

The conservator shall draft and propose a conservatorship termination plan to the competent authority for approval of terminating the conservatorship provided any of the following sustains:

1. The banking institution under conservatorship has restored the normal financial and business operations;
2. All of the businesses, assets and liabilities of the banking institution under conservatorship have been generally assigned or merged to other financial institutions;
3. Verifiable facts have proved that the purpose of the conservatorship can not be served;
4. The capital of the banking institution under conservatorship continues to deteriorate to the extent of severe insufficiency of capital;
5. Severe insufficiency in liquidity of the banking institution under conservatorship takes place and results in insolvency without other sources of financing;
6. The conservatorship deadline is due, or
7. Other situations mandating ending of conservatorship.

The above-mentioned conservatorship termination plan shall include the asset and liability status of the banking institution under conservatorship as of the end of the month prior to the month in which the termination of the conservatorship is intended and the respective follow-up measures.

Article 13

The Regulations shall become effective on the date of promulgation.

