

Content

Title :	Securities Investor and Futures Trader Protection Act Ch
Date :	2015.02.04
Legislative :	<p>1. Full text of 41 articles enacted and promulgated per 17 July 2002 Presidential Order No. ROC-President-I-Yi-09100142260 Issued per 31 October 2002 Executive Yuan Order No. Yuan-Taiwan-Finance-0910054773, for enforcement from 1 January 2003</p> <p>2. Articles 2, 3, 21, 26, 28, 29, 31, 35, and 37 amended and promulgated and Articles 10-1, 25-1, 25-2, and 28-1 added per 20 May 2009 Presidential Order No. ROC-President-I-Yi-09800121971 For enforcement from 1 August 2009 per 27 July 2009 Executive Yuan Order No. Yuan-Taiwan-Finance-0980044212</p> <p>3. Article 3 amended and promulgated per 4 February 2015 Presidential Order No. ROC-President-I-Yi-10400012441 For enforcement from 1 April 2015 per 19 March 2015 Executive Yuan Order No. Yuan-Taiwan-Finance-1040013918C</p>
Content :	<p>Article 1 (Legislative Intent) This Act is specially promulgated to safeguard the rights and interests of securities investors and futures traders and promote the sound development of the securities and futures markets.</p> <p>Article 2 (Applicable Scope) Protection of the rights and interests of securities investors and futures traders shall be carried out in accordance with this Act; the relevant provisions of the Securities and Exchange Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, and other applicable acts shall apply with regard to any matters not provided for herein.</p> <p>Article 3 (Competent Authority) The term "competent authority" as used in this Act shall mean the Financial Supervisory Commission.</p> <p>Article 4 (Scope of Securities Investors and Futures Traders) The term "securities investor" as used in this Act shall be construed according to the Securities and Exchange Act. The term "futures trader" as used in this Act shall be construed according to the Futures Trading Act.</p> <p>Article 5 (Definition of Protection Institution) The term "protection institution" as used in this Act means the foundation established pursuant to this Act.</p>

Article 6

(Definition of Protection Fund)

The term "protection fund" as used in this Act means any assets contributed, donated, or allocated in accordance with this Act for custody and utilization by the protection institution, and any earnings derived therefrom.

Article 7

(Designation of Organizations to Establish Protection Institution)

The competent authority shall designate the following securities and futures market organizations to establish a protection institution:

1. Taiwan Stock Exchange Corporation.
2. Taiwan Futures Exchange Corporation.
3. Taipei Exchange.
4. Taiwan Securities Central Depository Company.
5. Chinese Securities Association.
6. Securities Investment Trust and Consulting Association of the R.O.C..
7. Federation of Futures Industry Associations.
8. All securities finance enterprises.
9. Other securities- or futures-related organizations or enterprises as designated by the competent authority.

The securities- and futures-related organizations referred to in the preceding paragraph shall contribute a certain amount of assets, with the amount contributed to be determined through coordination by the competent authority.

Article 8

(Supervision and Regulation of Protection Institution)

Organization, establishment, management, and supervision of the protection institution shall be carried out pursuant to this Act; the Civil Code and other applicable acts shall apply with regard to any matters not provided for herein.

Regulations governing matters including the guidance, supervision, financial auditing, and amendment registration of the protection institution, the qualifications of its directors, supervisors, managers and employees, and other matters to be observed by the protection institution shall be prescribed by the competent authority.

Article 9

(Required Content of Articles of Incorporation)

The articles of incorporation of the protection institution shall set forth the following:

1. The name of the institution, the purpose of incorporation, and its office location.
2. The types and amounts of contributed assets and the manner of their custody and utilization.
3. Matters to be undertaken by the protection institution.
4. The organization and powers of the board of directors.
5. The qualifications, numbers, terms, and method of selection of directors and supervisors.

6. The organization of functional departments within the institution.
7. The disposition of assets after the protection institution's dissolution or revocation of its establishment permit.
8. Other matters prescribed in the regulations of the competent authority.

Article 10

(Required Content of Operating Rules)

The protection institution shall provide for the following in its operating rules:

1. Procedures for handling civil disputes between securities investors or futures traders and securities firms, securities service enterprises, futures enterprises, the Stock Exchange, the Taipei Exchange, clearing institutions and other interested parties, arising out of securities offering, issuance, trading, or futures trading, and other related matters.
2. The means of custody and utilization of the protection fund.
3. The means of conducting inquiries into the financial operations of issuers, securities firms, securities service enterprises, and futures enterprises.
4. Consultation services in relation to acts and regulations governing securities and futures trading.
5. Matters to be handled on behalf of the competent authority.
6. Other matters helpful to achieving the purposes of this Act.

The operating rules referred to in the preceding paragraph and any amendments thereto shall be reported to the competent authority for approval.

Article 10-1

(Handling of Conduct by a Director or Supervisor of an Exchange-Listed or OTC-Listed Company in Course of Performing Duties that is Injurious to the Company or is a Legal Violation)

When the protection institution carries out matters under paragraph 1 of the preceding article and discovers conduct by a director or supervisor of an exchange-listed or OTC-listed company in the course of performing his or her duties that is materially injurious to the company or is in violation of laws, regulations, and/or provisions of the company's articles of incorporation, it may handle the matter in accordance with the following provisions:

1. The protection institution may request the supervisors of the company to institute an action against the director on behalf of the company, or may request the board of directors of the company to institute an action against the supervisor on behalf of the company. If the supervisors or the board of directors fail to institute an action within 30 days after receiving the request made by the protection institution, then the protection institution may institute the action on behalf of the company without regard to the restrictions of Article 214 of the Company Act or Article 227 of the Company Act as applied mutatis mutandis through Article 214. The protection institution's request shall be made through a written instrument.
2. The protection institution may institute a lawsuit in court for an order dismissing the given director or supervisor, without regard to the

restrictions of Article 200 of the Company Act or of Article 227 of the Company Act applied mutatis mutandis through Article 200.

If the company has duly established an audit committee, the term "supervisor" as used in the preceding paragraph shall be taken to mean the audit committee or its member independent directors.

The provisions of Articles 34 through 36 apply mutatis mutandis when the protection institution, pursuant to paragraph 1, institutes an action or an appeal, or petitions for an injunctive or executory proceeding.

When the company's exchange listing or OTC listing is terminated for any reason, the protection institution may still apply the provisions of the preceding three paragraphs with respect to any circumstance of paragraph 1 that occurred during the company's period of listing.

Article 11

(Appointment of Board of Directors)

The protection institution shall have a board of directors comprised of no less than three persons.

Directors shall be selected (or appointed) in the following manner:

1. Selection by the competent authority from among representatives recommended by a contributor.
2. Appointment by the competent authority of academics, experts, and impartial members of the public who are not representatives of a contributor, and whose number shall comprise not less than two-thirds of the total number of directors.

The term of a director shall be three years; successive terms may be served pursuant to continued selection or appointment.

Article 12

(Method for Appointment of Chairman)

A chairman of the board of directors, who shall not be a contributor's representative, shall be selected by a majority vote at a meeting of the board of directors attended by a quorum of no less than two-thirds.

Selection of a chairman will become effective upon approval by the competent authority.

Article 13

(Convening of Board Meetings and Extraordinary Board Meetings)

Meetings of the board of directors shall be convened by the chairman, provided that for the first meeting of any given period, the competent authority will designate one of the directors selected for that period to act as convener.

The board of directors shall be convened once a month, with extraordinary meetings to be convened as needed.

Article 14

(Matters Requiring a Resolution of a Board Meeting)

The following matters shall be subject to resolutions of the board of directors:

1. Amendments to the protection institution's articles of incorporation.
2. Adoption and amendment of the operating rules of the protection

institution.

3. Utilization of the protection fund.
4. Amendments regarding the manner of custody and utilization of the protection fund.
5. Borrowing and lending of capital.
6. Matters requiring resolutions of the board of directors pursuant to the articles of incorporation.
7. Other matters requiring resolutions of the board of directors pursuant to regulations of the competent authority.

Resolutions of the board of directors shall be passed by a majority of directors at meetings where the required quorum shall be a majority of the directors. Resolutions on matters set forth in subparagraphs 1 through 5 of the preceding paragraph shall be passed by a majority of directors at meetings with a quorum of two-thirds of the directors.

Article 15

(Appointment of Supervisors)

The protection institution shall have from one to three supervisors.

A supervisor may at any time investigate the operations or finances of the protection institution, inspect account books or documents, or require its board of directors to produce a report.

Supervisors may each exercise their supervisory powers independently. Upon discovering that the board of directors is acting in violation of an act or regulation or the articles of incorporation or operating rules of the protection institution, a supervisor shall immediately notify the board to cease the conduct.

Paragraphs 2 and 3 of Article 11 shall apply mutatis mutandis to supervisors.

Article 16

(Competent Authority's Supervisory Authority)

As necessary for the protection of securities investors and futures traders, the competent authority may order the protection institution to amend its articles of incorporation, operating rules, or resolutions, or to produce materials from financial or operating reports, and may inspect its operations, assets, account books, documents, and other relevant items.

Article 17

(Assistance from Relevant Bodies)

The protection institution may request issuers, securities firms, securities service industries, futures enterprises, or relevant bodies in securities and futures markets to assist with the following matters or to provide relevant documents or materials:

1. Mediations carried out in accordance with this Act.
2. Payments made to securities investors or futures traders for unrepaid creditor's rights pursuant to Article 21, paragraph 1.
3. Initiation of litigation or arbitration pursuant to Article 28.
4. Matters undertaken on behalf of the competent authority.
5. Other matters beneficial to the operation of the protection institution in its protective capacity.

Where the protection institution discovers violations of an act or regulation through documents or materials obtained pursuant to the preceding paragraph, or where necessary for protection of the public interest, it shall report and request the handling of such matters by the competent authority; the same shall apply to any failure to provide assistance or the documents or materials requested pursuant to the preceding paragraph.

Article 18

(Establishment and Sources of the Protection Fund)

For the furtherance of its operations, the protection institution shall establish a protection fund. In addition to assets contributed in accordance with Article 7, paragraph 2, sources of fund assets shall include the following:

1. Allocation by every securities firm of 0.00000285 (2.85 millionths) of the total volume of consigned securities trades during the previous month, to be made by the 10th of each month.
2. Allocation by every futures commission merchant of NT\$1.88 for each futures consignment contract executed during the previous month, to be made by the 10th of each month.
3. Allocation of 5 percent of the transaction charges received during the previous month by, respectively, the Taiwan Stock Exchange Corporation, the Taiwan Futures Exchange Corporation and the Taipei Exchange, to be made by the 10th of each month.
4. Interest on and proceeds from utilization of the protection fund.
5. Assets donated by ROC or foreign companies, corporate bodies, groups or individuals.

The amounts or allocation ratios under subparagraphs 1 to 3 of the preceding paragraph may be adjusted by the competent authority in view of market conditions or the financial status or the effectiveness of risk management at any individual securities firm or futures commission merchant, provided that any increase shall be limited to no more than 50 percent.

When the protection fund's net value exceeds NT\$5 billion, the competent authority may order a temporary suspension of allocations from a securities firm or a futures commission merchant pursuant to paragraph 1, subparagraphs 1 and 2, when the given securities firm or futures commission merchant has allocated funds for a period in excess of ten years.

When the protection fund is insufficient for the purposes given in Article 20, paragraph 1, the protection institution may borrow funds from financial institutions, subject to approval by the competent authority.

Given failure to pay the amounts to be allocated in accordance with paragraph 1, subparagraphs 1 to 3, the protection institution may report to the competent authority and request that it order payment within a specified period; given continued failure to pay at the conclusion of the specified period, the competent authority may duly seek compulsory execution under the law.

Article 19

(Custody and Utilization of the Protection Fund)

The protection fund shall be custodized by means of government bond purchases or deposit with financial institutions. Subject to approval by the competent authority, amounts totaling no more than 30 percent of the net value of the fund may be utilized for the following:

1. Purchase of real property for use by the protection institution.
2. Investment in exchange-listed or OTC-listed securities.
3. Other investments beneficial to the fund's capital maintenance.

The total amount utilized pursuant to subparagraph 1 of the preceding paragraph may not exceed 10 percent of the total assets contributed at the time of the fund's establishment.

The amount of original investment in the stock of any exchange-listed or OTC-listed company pursuant to paragraph 1, subparagraph 2 may not exceed 1,000 shares.

Article 20

(Use of the Protection Fund)

Use of the protection fund shall be limited to the following:

1. Payments to securities investors or futures traders in accordance with Article 21.
2. Expenditures by the protection institution for operation in accordance with this Act and other necessary expenses.
3. Payment of fees for initiation of litigation or arbitration procedures in accordance with this Act.
4. Other uses as approved by the competent authority.

Budgeting for expenditures referred to under subparagraph 2 of the preceding paragraph shall be limited to the interest earned on fund assets in the given year, provided that the competent authority may make appropriate adjustments in view of financial and operating conditions.

Article 21

(Circumstances for Use of the Protection Fund for Payment)

Under any of the following circumstances with respect to a securities investor or a futures trader, the protection institution may use the protection fund for payment:

1. When an investor's consigned securities firm breaches contract due to financial difficulties leaving it unable to make payment, where the investor, after completing settlement obligations for a trade of securities on the stock market, or after having requested exercise of warrant rights with the issuer of call (put) warrants through the securities firm, while having already made the necessary payment or delivery of securities, is unable to obtain the securities or payment of funds due.
2. When a futures trader's consigned futures commission merchant breaches contract due to financial difficulties leaving it unable to make payment, where the futures trader has engaged in futures trading on the futures market but is unable to obtain the margin or option premium due and to realize capital gains after completion of clearing procedures at the futures clearing house.

Limits on payments to each securities investor or futures trader from the protection fund pursuant to the preceding paragraph, and limits on the total amount of such payments to all securities investors or futures

traders at any given securities firm or futures commission merchant, as well as the regulations and procedures governing such payments, shall be prescribed by the competent authority.

After making a payment pursuant to paragraph 1, the protection institution assumes the rights of the securities investor or futures trader against the securities firm or futures commission merchant in breach of contract within the amount of the payment made.

The provisions of Articles 34 through 36 apply mutatis mutandis when the protection institution, pursuant to the preceding paragraph, institutes an action or an appeal or petitions for an injunctive or executory proceeding against the securities firm or futures commission merchant in breach of contract.

Article 22

(Application for Mediation and Establishment of a Mediation Committee)

When a civil dispute occurs between a securities investor or a futures trader and an issuer, a securities firm, a securities service enterprise, a futures commission merchant, the Stock Exchange, the Taipei Exchange, a clearing institution or another interested party, where the dispute arises out of offerings, issuance, trading, futures transactions, or other securities-related matters, the securities investor or futures trader may apply to the protection institution for mediation.

The protection institution may establish a mediation committee comprising 7 to 15 committee members to perform mediation. Regulations governing organization of the committee and mediation procedures shall be prescribed by the competent authority.

Article 23

(Causes for Refusal to Mediate)

Under any of the following circumstances, an application for mediation will be refused:

1. The matter is not a civil dispute as referred to in paragraph 1 of the preceding article.
2. The application is not made by a securities investor or a futures trader.
3. No specific counterparty is named.
4. Oral arguments for the same matter have already concluded in the court of first instance.
5. The mediation subject matter falls within the scope of a final and unappealable court judgment.
6. An application for mediation of the same subject matter in accordance with this Act has already been made.

Except under the circumstances set forth in the preceding paragraph or where supplementation or correction of the application is necessary, the mediation committee shall begin mediation procedures within 15 days from receiving an application.

Article 24

(Circumstances Under Which Mediation Will Not Interrupt Prescription)

The extinctive prescription for an applicant's right of claim for mediation

of the application's subject matter shall be interrupted by the application.

However, if the application for mediation is withdrawn or refused or mediation is unsuccessful, prescription will be deemed not to have been interrupted.

Article 25

(Determination of Mediation Success)

Mediation will be deemed successful when both parties to the mediation reach an agreement.

When there is difficulty achieving agreement through mediation, then in consideration of the relevant circumstances and a balance of both parties' interests, the mediation committee, with the assent of the majority of its members, may produce a mediation proposal and set a period of not more than 45 days during which it will seek the assent of both parties to the proposal. When necessary, the stipulated period may be extended by 45 days. Where the parties to the mediation express no dissent within the period stipulated pursuant to the preceding paragraph, the mediation will be deemed successful on the basis of the mediation proposal.

Where, within the period stipulated under paragraph 2, dissent is expressed by one or more persons belonging to a group with common interests comprising a party to a mediation, the mediation proposal will be void with respect to those dissenting, but mediation will be deemed successfully concluded on the basis of the proposal with respect to all other parties.

Where the number expressing dissent constitutes a majority of the members of the party in question, the mediation will be deemed failed.

In seeking assent to the mediation proposal in accordance with paragraph 2, the mediation committee may under appropriate circumstances make the proposal public.

Article 25-1

(Mediation Proposal)

When a securities investment or a futures trading dispute involves a small amount of money, if the securities investor or futures trader applies to the protection institution for mediation and the counterparty, without due cause, fails to appear on the mediation date, then the mediation committee members, in consideration of the circumstances, may put forward a mediation proposal in accordance with the applicant's request or its own ex officio powers, and serve the proposal on the parties to the mediation.

The mediation proposal of the preceding paragraph shall be passed by a majority of mediation committee members at a meeting of the mediation committee with a three-member quorum. The proposal shall state the period prescribed pursuant to Article 25-2, paragraph 1 and the legal consequences of failing to express dissent within the statutory period.

Service of process of the mediation proposal under paragraph 1 may not be effected through public announcement.

The amount of the "small amount of money" referred to in paragraph 1 shall be proposed by the protection institution and reported to and approved by the competent authority.

Article 25-2

(Determination of Mediation Success)

A party may express dissent with respect to the mediation proposal of paragraph 1 of the preceding article within a peremptory period of ten days after receipt of delivery of the proposal; if no dissent is expressed within that period, the mediation will be deemed successfully concluded on the basis of the proposal.

When a party expresses dissent within the period stated in the preceding paragraph, then if, after mediation committee members schedule another mediation date and give notice to the parties, and a party without due cause then fails to appear at mediation, the mediation will be deemed successfully concluded on the basis of the proposal.

Article 26

(Mediation Agreement)

When a mediation is successful, a mediation agreement shall be produced. The mediation agreement shall be produced, reviewed, and served by application, mutatis mutandis, of Articles 25 and 26 of the Act Governing Dispute Resolution in Cities and Urban and Rural Townships.

A mediation ratified by a court shall have the same force and effect as a final and unappealable civil judgment.

When there is reason for finding a mediation ratified by a court invalid or void, a party to the dispute may institute an action to declare the mediation invalid or void in the court that originally ratified the mediation. That action may be joined with an action on an original mediation matter, or a cross-action may be instituted and the court requested to decide the matter jointly when issuing a declaration invalidating or revoking the mediation agreement. The action will be deemed to have been instituted from the time of application for mediation.

Actions as referred to in the previous paragraph must be instituted within 30 days from receipt of service of the court-ratified mediation agreement, provided that mediation agreements void under the Civil Code shall not be subject to this restriction.

A mediation that is void or a judgment in an action for voidance of the mediation shall not prejudice rights obtained in good faith by a third party.

Article 27

(Withdrawal of Action Upon Successful Mediation)

For a civil action pending in court, where mediation is successfully concluded prior to the issuance of a final and unappealable judgment and the mediation agreement is ratified by a court, the action will be deemed withdrawn from the time of the mediation's successful conclusion.

Article 28

(Instituting an Action or Submitting a Matter to Arbitration)

For protection of the public interest, within the scope of this Act and its articles of incorporation, the protection institution may submit a matter to arbitration or institute an action in its own name with respect to a securities or futures matter arising from a single cause that is injurious

to multiple securities investors or futures traders, after having been so empowered by not less than 20 securities investors or futures traders. The securities investors or futures traders may withdraw the empowerment to submit a matter to arbitration or institute an action prior to the conclusion of oral arguments or examination of witnesses and shall provide notice to the arbitral tribunal or court.

After the protection institution has submitted a matter to arbitration or instituted an action in accordance with the preceding paragraph, and other securities investors or futures traders suffering damages due to a securities or futures matter arising from the same cause empower it to submit a matter to arbitration or institute an action, it may expand the claims asserted for arbitration or judgment prior to the conclusion of oral arguments or examination of witnesses in the court of first instance.

The empowerment to submit a matter to arbitration or to institute an action under the preceding two paragraphs includes compulsory execution, provisional attachment, provisional injunction, participation in reorganization or bankruptcy proceedings, and other powers necessary to the protection institution's exercise of rights in a securities or futures matter arising from a single cause.

The empowerment to submit a matter to arbitration or institute an action under paragraphs 1 and 2 shall be effected through a written instrument. Article 4 of the Arbitration Act and Article 167 of the Securities and Exchange Act shall not apply when a protection institution institutes an action or expands the claims asserted for judgment pursuant to paragraphs 1 and 2.

Article 28-1

(Establishment of Special Tribunal or Designation of Specialist to Handle an Action)

A court may establish a special tribunal or designate a specialist for the purpose of handling an action instituted by the protection institution pursuant to paragraph 1 of the preceding article.

Article 29

(Instituting an Action or Submitting a Matter to Arbitration)

In the event that securities investors or futures traders withdraw the empowerment to institute an action or to submit matters to arbitration pursuant to Article 28, paragraph 1, that portion of the action or arbitration proceedings shall be interrupted, and the securities investors or futures traders shall declare their intention of resuming the proceedings in the action or arbitration. The court or arbitral tribunal may also order, ex officio, the securities investors or futures traders to resume the proceedings.

When the protection institution has instituted an action or submitted a matter to arbitration in accordance with Article 28 and a portion of the securities investors or futures traders withdraw their empowerment for the same, so that the securities investors or futures traders remaining number fewer than 20, the protection institution may nevertheless continue proceedings with regard to remaining portions of the action or mediation.

Article 30

(Calculation of Extinctive Prescription of Rights of Claim for Damages)
Extinctive prescription for individual securities investors or futures traders' rights of claim for damages under Article 28, paragraphs 1 and 2 shall be calculated separately.

Article 31

(Restriction of Power to Make Waivers, Accept Liability, Withdraw, or Enter into a Settlement)

The protection institution shall have the power to perform all procedural acts in relation to an action or an arbitration it is empowered to institute by securities investors or futures traders, provided that those securities investors or futures traders may restrict its power to make waivers, accept liability, withdraw, or enter into a settlement. The effect of a restriction set by one member of the group of securities investors or futures traders shall not extend to other securities investors or futures traders.

Any restriction as referred to in paragraph 1 shall be set out in the written instrument referred to in Article 28, paragraph 4, or in a memorandum submitted to the court or the arbitral tribunal.

Article 32

(Conditions and Period for Investor or Trader to Bring Own Appeal)

In the event a securities investor or futures trader objects to the judgment in an action instituted pursuant to Article 28, then prior to the expiration of the period for appeal by the protection institution, the investor or trader may withdraw the empowerment to institute an action and duly appeal under the law.

After its receipt of a judgment or decision's exemplification, the protection institution shall immediately notify the securities investors and futures traders of the outcome, and within seven days shall provide written notice of whether it intends to prefer an appeal.

Article 33

(Protection Institution May Not Seek Remuneration)

The protection institution shall disburse compensation it receives in an action or arbitration to the securities investors or futures traders who empowered it to institute the action or arbitration after deducting the expenses required in either of those procedures. The protection institution is not entitled to seek remuneration for itself.

Article 34

(Ruling for Exemption from Requirement to Provide Security)

When the protection institution institutes an action pursuant to Article 28 and applies for a provisional injunction or a provisional attachment, it shall state the reasons for the claim and the provisional injunction or provisional attachment.

A court may rule that the protection institution's application as referred to in the preceding paragraph be exempted from the requirement for provision of security.

Article 35

(Exemption from Court Costs)

In the event the protection institution institutes an action or an appeal pursuant to Article 28, it shall be temporarily exempted from court costs on that portion of the value of the object of litigation or the compensation sought that is in excess of NT\$30 million. In the event an opposing party institutes an appeal and receives a final and unappealable judgment in its favor, its advance payment of court costs shall be returned after deduction of the other fees for which it is responsible.

With respect to the temporary exemption from court costs of the preceding paragraph, after the given action is concluded, the court of first instance shall make an ex officio ruling to collect the court costs from the party responsible for their payment. However, that portion of the value of the object of litigation or the compensation sought that is in excess of NT\$30 million and for which the protection institution is responsible shall be exempted from this requirement.

When the protection institution institutes an action or an injunctive proceeding in accordance with Article 28, obtains title of execution, and petitions for compulsory execution, it may be temporarily exempted from payment of execution fees on that portion of the value of the object of litigation or the compensation sought that is in excess of NT\$30 million, and the execution fees for which it received temporary exemption shall be deducted from the proceeds from the execution.

Article 36

(Exemption from Provision of Security for Provisional Execution)

If the protection institution institutes an action or an appeal pursuant to Article 28 and explains that, in the absence of execution before the judgment becomes final and unappealable, resulting damages would be excessive or not easily calculated, the court shall declare provisional execution exempt from provision of security in accordance with the protection institution's application.

Article 37

(Deposits of Funds of a Securities Firm and Its Customers Shall Be Kept Separately and Independently)

A securities firm shall keep separate and independent from its own assets the dedicated accounts it duly opens in accordance with acts and regulations for the deposit of customer monies and the assets it receives as a result of accepting customer orders in the course of business.

A securities firm may not utilize the monies or assets referred to in the preceding paragraph except for the purpose of making required payments or utilizing assets on behalf of its customers.

Creditors seeking payment of a securities firm's debt in respect of the securities firm's own assets may not seek to attach or to exercise other rights against the dedicated customer accounts or assets the securities firm receives as a result of accepting customer orders in the course of business referred to in paragraph 1.

Article 38

(Penal Provisions)

Where a securities firm violates Article 37, paragraph 2, the person responsible for committing the act shall be punished with imprisonment for not more than three years, or detention, or in lieu thereof or in addition thereto, a fine of not more than NT\$100 million.

Article 39

(Penal Provisions)

If the protection institution refuses to cooperate with an order of the competent authority given pursuant to Article 16, or if the management or utilization of the protection fund violates Articles 19 or 20, the competent authority may order the discharge of directors, supervisors, managers, or employees of the protection institution.

If the protection institution's directors, supervisors, managers, employees or mediation committee members violate the management rules adopted pursuant to Article 8, paragraph 2, or the regulations adopted pursuant to Article 22, paragraph 2 regarding qualifications or prohibited conduct, the competent authority may order their discharge.

Article 40

(Penal Provisions)

An administrative fine of not less than NT\$120,000 and not more than NT\$600,000 will be imposed for any of the following circumstances:

1. Failure to pay or allocate funds required under Article 18, paragraph 1, subparagraphs 1 and 2.
2. Violation of Article 37, paragraph 1.

Under either circumstance in the preceding paragraph, the competent authority will impose an administrative fine and order compliance within a specified time period. Upon failure to comply by the end of that period, the competent authority may continue to order compliance within specified periods, and impose fines of not less than NT\$240,000 and not more than NT\$1.2 million for each instance of failure until compliance is effected.

Article 41

(Date of Enforcement)

The date of enforcement of this Act shall be set by the Executive Yuan.