

Content

Title :	Regulations Governing Receivership of Banking Institutions Ch
Date :	2010.12.23
Legislative :	1.Promulgated per Order Jin-Guan-Yin-(1)-Zi-No.09910006900 dated December 23, 2010
Content :	<p>Article 1</p> <p>The Regulations are enacted in accordance with Paragraph 3, Article 62, Paragraph 2 Article 62-3 of the Banking Act, Article 37 of the Credit Cooperatives Act and Article 52 of the Act Governing Bills Finance Business; Paragraph 3, Article 62, Paragraph 2 Article 62-3 of the Banking Act shall apply mutatis mutandis under Article 37 of the Credit Cooperatives Act and Article 52 of the Act Governing Bills Finance Business.</p> <p>Article 2</p> <p>The Banking institutions as referred in the Regulations shall mean banks, credit cooperatives and bills finance companies.</p> <p>Upon the beginning or termination of the receivership over a banking institution by the competent authority, the authority shall advise the concerned domestic or foreign agencies/institutions about the fact of the said receivership beginning or termination, make public announcement on its own website and, if necessary, notify in advance the foreign financial authority concerned.</p> <p>Article 3</p> <p>Where the competent authority assigns officials to take receivership over a Bank, it shall assign an appropriate agency/institution as the official receiver to undertake the receivership duty.</p> <p>The said receiver shall organize a receivership task force, which is constituted by the officials assigned by the receiver, or if requested by the receiver, officials assigned by the competent authority or sent or transferred from other agency/institution by the competent authority, and, among which members, assign one as the receiver representative to perform the duty.</p> <p>The competent authority shall request the competent authority in charge of the Company Act to register the receiver and its legal representative for the preceding two paragraphs.</p> <p>Article 4</p> <p>The order of receivership shall be delivered by the person assigned by the receiver and shall be announced at the headquarters of the banking institutions under receivership located within the territory of the Republic of China, or the foreign banking institution' s branch in our country.</p> <p>The responsible person and staff members of the banking institution under receivership shall deliver all books, documents, seals and properties together with an inventory thereof to the receiver under his or her</p>

instructions, disclose all necessary information relating to the assets and liabilities of the said banking institution to the receiver and take other necessary actions to comply with such receivership as per the receiver' s request

Article 5

Upon taking receivership over a banking institution by the competent authority, the receiver shall apply to the competent authority for discontinued public offering of the said banking institution.

In the preceding paragraph, the banking institution under receivership that has not printed stock certificates shall remain registration its stock in scripless form after the annulment of its public offering.

Article 6

Where the Competent Authority has assigned officials to take receivership over a banking institution, the said banking institution' s operation and management and disposal of the banking institution' s properties shall be handled by the receiver. The receiver has the authority to represent the banking institution under receivership in litigation and non-litigation matters.

In the event a banking institution is placed under receivership, the duties and powers of the institution' s shareholders' meeting (general meeting of the membership representatives), board of directors, directors, supervisors (supervisor committee) or audit committee are ipso facto suspended; all matters to be proposed for review and decision to the said shareholders' meeting (general meeting of the representatives), board of directors, and directors, supervisors (supervisor committee), or the audit committee shall be reviewed and decided by the receiver.

With regards to the following actions toward a banking institution under receivership, the receiver shall formulate a feasibility action plan with the approval of the competent authority:

1. Mandating other Banks, financial institutions or the Central Depository Insurance Company to operate all or part of the business.
2. Increasing capital, reducing capital or increasing capital after reducing capital.
3. Sale of all or part of the business, assets or liabilities.
4. Merger with another bank or financial institution.
5. Significant property disposition outside the scope of its business.
6. Waiver or assignment of important rights or commitment to important obligations;
7. Appointment and removal of important personnel.
8. Other important matters required by the competent authority.

Article 7

The receiver shall report the financial and business status of the banking institution under receivership to the competent authority with carbon copy to the Central Bank on a monthly basis.

The receiver shall promptly report to the competent authority or other concerned agency/institution to take actions upon the finding of any of the following situations concerning the banking institution under receivership, its responsible person or staff members:

1. Violation of the laws, regulations or articles of incorporation.
2. Seriously inadequacy in liquidity resulting in a concern of insolvency.

3. Failure to cooperate with the disposition by the receiver.
4. Other actions to the detriment of the interest of the banking institution under receivership or its creditors.

Article 8

The annual report of the banking institution under receivership shall document the following:

1. Introduction of the banking institution;
2. General status of the operation; and
3. Material financial and business information

Financial statements that the receiver shall compile for the banking institution under receivership shall include the balance sheet, income statement, cash flow statement, and statement of changes in shareholders' (members') equity.

Article 9

The performance or extension of the contracts made and entered into prior to the receivership may not be subject to Paragraph 2 of Article 33 of the Banking Act; Paragraph 2, Article 33 of the Banking Act concerning the credit limit for interested parties, which is, mutatis mutandis, applicable pursuant to Article 37 of the Credit Cooperatives Act, and Article 49 of the Act Governing Bills Finance Business; Article 33-3 of the Banking Act; Article 33-3 of the Banking Act concerning the restriction on the credit given to and other transactions conducted by the same person, the same related person or the same subsidiary, which is, mutatis mutandis, applicable pursuant to Article 37 of the Credit Cooperatives Act; and Article 30 of the Act Governing Bills Finance Business concerning the restriction on the warranty and endorsement of short term bills by the same company, the same related person or the same subsidiary.

Article 10

The receiver shall retain attorneys, accountants or other professionals, or request for the said professionals from the competent authority, to assist with the matters concerning the receivership.

The receiver shall retain accountants or financial consultant companies to provide services pertaining to asset/liability evaluation, strategy planning and tendering sale of the financial institution under receivership when handling tasks specified in Subparagraphs 3 and 4, Paragraph 1 of Article 62-3 of the Banking Act.

The methods for the above-mentioned tendering sale include public auctions, price comparison or price negotiation.

Article 11

The receiver shall handle tasks specified in Subparagraph 3 and 4, Paragraph 1 of Article 62-3 of the Banking Act through public auctions. However, with one of the following situations, the receiver shall adopt price comparison or price negotiation made available to specific parties:

1. Public auctions have failed for two times or more;
2. The competent authority determines the situation to be critical and is likely to trigger systematic risk;
3. It is determined by the receiver that public auctions are not feasible, which is reported to and approved by the competent authority.
4. Other situations that have been reported to and approved by the competent authority.

Article 12

The receiver, while managing the banking institution under receivership, may separately organize an evaluation task force to handle the following matters:

1. Review the auction strategy and the principles and methods of asset/liability evaluation proposed by the unit retained by the receiver;
2. Review the evaluation report of the financial institution under receivership and the minimum price range for the auction proposed by the unit retained by the receiver; and
3. Review the matters concerning the auction proposed by the receiver.

The receiver shall report the establishment of the above-mentioned evaluation task force to the competent authority for reference.

Article 13

The expenses and liabilities accruing from the receiver's efforts to maintain the operation of the banking institution under receivership and perform duties shall be borne by the banking institution under receivership and paid with the property of the banking institution under receivership from time to time. The said necessary expenses and liabilities include:

1. The expenses and liabilities accruing from the contract made and entered into between the banking institution under receivership and the institution doing credit card business, deposit insurance corporations or service businesses established in accordance with Article 47-3 of the Banking Act;
2. The expenses of arbitration and compulsory execution procedures and the payables ordered through enforceable arbitration;
3. The expenses or liabilities accruing from the routine operation and management of the banking institution under receivership;
4. The non-deposit debts of the banking institution under receivership that have been guaranteed with pledge, mortgage or lien against its own debts and that may be fully repaid;
5. The expenses of communication, salary for the extended working hours, business travel and personal accident and liability insurances incurred by or for the receiver's personnel. The standard of business travel for the receiver's officials shall be defined according to the internal rules of the receiver.
6. The expenses of the professionals retained, assigned or contracted by the receiver to perform the receivership duty; and
7. The payables incurred from collection and payment agency services and other service-oriented businesses.

Article 14

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

1. The receivership deadline is due;
2. All of the businesses, assets and liabilities of the banking institution under receivership have been generally assigned or merged to other financial institutions;
3. Verifiable facts have proved that the purpose of the receivership has been served;
4. Verifiable facts have proved that the purpose of the receivership can not be served; or

5. Other situations under which the termination of the receivership is necessary.

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

Article 15

The receiver of a bank or a credit cooperative under receivership shall acknowledge the Central Deposit Insurance Corporation with carbon copy for all reports submitted to and application for permission from the competent authority pursuant to the Regulations or the rules provided by the competent authority.

Article 16

The Regulations shall become effective on the date of promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System