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### **Agricultural Finance Act**

Taiwan: Legislative Yuan

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## Article Content

**Title :** Agricultural Finance Act  CH

**Amended Date :** 2017-01-18

**Category :** Council of Agriculture ( 行政院農業委員會 )

### Chapter 1 General Provisions

- Article 1** This Act was devised to provide sound management of agricultural finance institutes, ensure the rights of depositors, promote the economic development of agriculture and fishery villages.
- Article 2** The agricultural finance institutes mentioned in this Act refers to include credit departments of agriculture associations, credit departments of fishery associations (hereinafter referred to as the credit departments) and the Agricultural Bank of Taiwan. Credits departments refer to departments for handling credit services according to Agriculture Association Act, Fishery Association Act and this Act. The Agricultural Bank of Taiwan is the regulatory organization of the credit departments.
- Article 3** With a common goal to create an agricultural finance system, the Agricultural Bank of Taiwan and all levels of agriculture and fishery associations cooperated in establishing this Act. The central authorities would decide the procedures, conditions, attachments for inspection, approval, void approvals and other rules to follow that the Agricultural Bank of Taiwan applied for its establishment.
- Article 4** Credit departments are responsible for providing financing and consumption loans for agriculture, forestry, fishery and livestock industries. The Agricultural Bank of Taiwan is responsible for guiding credit departments in developing services that provide financing in agriculture, forestry, fishery and livestock industries, and stabilizing agricultural finance.
- Article 5** The authorities in-charge of this regulation: COA of the Executive Yuan and the competent authority under the municipal or county (city) government.
- Article 6** The Central Authorities shall plan and promote Policy Oriented Special Agricultural Loans. The regulations governing the qualification, maturity, interest rate and the commission of the loans shall be as prescribed by the Central Authorities. The Agricultural Bank of Taiwan and Credit Departments shall be

progressive in promoting and processing the loans prescribed in the preceding paragraph.

The expenses incurred from the Policy Oriented Special Agricultural Loan prescribed in paragraph 1 shall be budgeted preferentially by the Central Authorities in the Agricultural Development Fund.

The Central Authorities may commission the Agricultural Bank of Taiwan with the Policy-Oriented Special Agricultural Loans, including the promotion, accomplishment, accounting treatment, revenue and expenditure, statistics, as well as coaching and audit towards management institutions.

- Article 7** The central authorities should empower financial regulatory institutions or financial inspection organizations for the supervision of agricultural finance institutions. The central authorities would have to dispatch personnel to inspect the operations, finance and other related responsibilities of the Agricultural Bank of Taiwan, credit departments and other related personnel randomly. The central authorities can also order the bank, credit department, or other related personnel to provide accurate financial reports, balance sheets or other related reports in a period. The central authorities would authorize specialist and technical personnel (if necessary) to inspect the required items, reports or information mentioned in the previous paragraph and then report them to the central authorities. The bank or credit department should be responsible for these costs.
- Article 8** In order to protect the rights of depositors, agricultural finance institutions should participate in the deposit insurance program held by Central Deposit Insurance Corporation in accordance with Article 3 of Deposit Insurance Act.
- Article 9** Agricultural finance institutions should give priority to loans that are used for agricultural purposes. Agricultural finance institutions should also assist farmers or agriculture enterprises that lack the ability to provide guarantees in applying guarantees from agricultural credit guarantee organizations.
- Article 10** If the management of agricultural finance institutions is not regulated in this Act, they would be regulated according to Agriculture Association Act, Fishery Association Act and other related laws.

## **Chapter 2 Agricultural Bank of Taiwan**

- Article 11** The Agricultural Bank of Taiwan is a corporation and its total capital is not lower than NT\$20 billion.

- Article 12 The founders of the Agricultural Bank of Taiwan are limited to the government and all levels of agriculture and fishery associations.  
Agriculture and fishery associations with credit departments, with the exception of ones with negative net asset values, have the obligation to provide funds. Those agriculture and fishery associations without credit departments would provide funds voluntarily.
- Article 13 When agriculture and fishery associations with credit departments act as founders for the Agricultural Bank of Taiwan, with the exception of ones with negative net values, the amount provided should not be lower than 10% of its net value in principle. Those with special difficulties should report to the central authorities for determining the amount of funds that should be provided by using the special case method.  
The amount of funds provided should be calculated according to the balance sheets prepared and inspected by accountants. The central authorities would provide for the cost of inspection.
- Article 14 When agriculture and fishery associations without credit departments that act as founders for the Agricultural Bank of Taiwan are provide funds voluntarily, funds should be provided in cash. In addition, the amount of funds provided cannot exceed 20% of the net value of the association.
- Article 15 In the event that the Agricultural Bank of Taiwan is established by the government, the initial contribution shall be a fixed forty nine percent (49%) of the total capital. The share of contribution made by the government shall be gradually decreased, after the establishment of the Agricultural Bank of Taiwan, until it is twenty percent (20%) or lower.
- Article 16 Shares of the Agricultural Bank of Taiwan owned by agriculture and fishery associations cannot be transferred unless approved by the central authorities.
- Article 17 The Board of the Directors, shall elect, on a basis of number of people, the Directors in accordance with Article 198 of the Company Act, including the Independent Directors that will not be less than two (2) or one third (1/3) of the total number of Directors. The term of office of directors shall be four years and may be re-elected to a second term. However, the government or the government-appointed representatives who are elected as Directors may be permissibly re-elected.  
The Independent Directors must have provable experience and abide by the limitations on share-holding and undertaking of part-time jobs. The Independent Director shall be at all times independent to the extent that it is prohibited to work or

establish or have any direct or indirect interest or relation with the Agricultural Bank of Taiwan. The regulation governing the professional competency, the limits on the shares, the approval of the part-time job, the confirmation of independence, the ways of how the nomination are made and other matters shall be as prescribed by the central authorities.

Any of the following people will not be able to assume the position of an Independent Director, and the position that is assumed by such a person shall be dismissed:

1. If the person commits any actions stipulated in Article 30 of the Company Act.
2. If the position is assumed by a government, the legal person or their representatives, as stipulated by Article 27 of the Company Act.
3. The Independent Director does not meet the required qualification set forth in the regulation prescribed in the preceding paragraph.

The transfer of the shares held by the Independent Director shall not be governed by paragraph 3, Article 197, of the Company Act.

In circumstance that the Independent Director resigns from the position for any reason, and the number of the Directors is therefore less than the standard of paragraph 1 or any part of the Articles of Association, the vacant position shall be elected in the next shareholders meeting. In case that all the Independent Directors resign from the positions, the Agricultural Bank of Taiwan shall, within sixty (60) days from the date of such resignation, hold extraordinary shareholders meeting for re-election.

**Article 18** For the examination of credit cases, the Agricultural Bank of Taiwan should establish a Credit Examination Committee. For credit cases that require examination by the board of directors, resolutions should first be passed by the Credit Examination Committee and send to the board of directors for examination.

The central authorities would regulate on the range of credit cases that require examination by the board of directors mentioned in the previous paragraph.

The number of independent members in the Credit Examination Committee should not be lower than 50%. The central authorities would regulate on the qualifications and conditions for independent members for credit examination.

Directors and members in the Credit Examination Committee who are interested parties of the credit examination cases should not participate in the case examinations.

**Article 19**

The Board of Directors shall be called and presided by the Chairman of the Board and will perform the following obligations:

1. Elect and appoint members of the Credit Review and Evaluation Committee.
2. Appoint and dismiss the General Manager and Vice General Manager.
3. Appoint and dismiss the managers nominated by the General Manager.
4. Make the resolutions for credit cases that exceed the value reported by the Credit Department.
5. Establish principles and policies for business and various regulations.
6. Make the resolutions for the budget plans proposed by the General Manager.
7. Monitor the operation of the General Manager and the implementation of the budgets.
8. Any and all matters regulated by the Articles of the Incorporation.

Any of the following matters, with the exception of being approved by the Central Authorities, shall be submitted to the Board of Directors for its resolution, and any objection or comment raised or reserved by any Independent Director shall be recorded in the Minutes of the Board Meeting:

1. Stipulation or revision of internal control mechanisms.
2. Stipulation or revision of financial business materials, including but not limited to the disposal of assets, derivative product transactions, fund loans, endorsement and guarantees, etc.
3. Matters involving the self-interests of the Directors or Supervisors.
4. Material transactions involving assets or derivative commodities.
5. Major cash loans, endorsements or support of guarantee.
6. Collection, issuance or private placement of value securities of share rights;
7. Appointment, dismissal or rewards of a certified accountant.
8. Appointment and dismissal of finance director, account or internal auditor.
9. Any other important matter regulated by the Central Authorities.

**Article 20** The number of supervisors should be set according to the articles of incorporation. Based on Article 227 of Company Act, it is allowed to use the methods of election in Article 198 to elect 50% of the supervisors. A term in the office for four years and supervisors can only be re-elected once. Other independent supervisors would be professional finance specialists recommended by the central authorities and appointed by selection at the shareholder's meeting. The term for office would be 4 years and the supervisors can only be re-elected once. The central authorities would regulate the qualifications and conditions of independent directors. If there are other regulations for supervisors other than this Act, their duties should be carried out independently according to the law.

**Article 21** The following items should be resolved in the supervisors' meeting. Each supervisor should recommend and select one of the independent supervisors as the head supervisor who would act as the chairperson in the supervisors' meeting:

1. Audit business operations of agricultural finance

institutions

2. Check accounts of all types and inspect balance sheets periodically

3. Prosecute any violations of this Act and articles of incorporation

4. Examine annual budgets proposed by the board of directors

5. Other regulations in the articles of incorporation

The supervisors' meeting for making resolutions should be attended by 50% or more supervisors. Resolutions would only be effective if over 50% or more supervisors attend the meeting. The supervisors attending the meeting should vote in every resolution and cannot be waived.

Article 22 The areas of business of the Agricultural Bank of Taiwan are limited to the following :

1. Financing major agricultural infrastructures

2. Financing special agriculture cases by the government

3. Financing agriculture, forestry, fishery and livestock industries that are in-line with policies of agriculture and fishery associations.

4. All operations mentioned in all paragraphs of Article 71 in Banking Law

5. Other operations that are discussed by the central authorities and governing authorities of Banking Law as well as other operations that are approved by related governing authorities.

The Agricultural Bank of Taiwan that obtained approval from the central authorities are able to process foreign currency businesses.

Article 23 The Agricultural Bank of Taiwan should process the following for credit departments :

1. Receive -deposits

2. Provide fund accommodations

3. Guide and inspect operations and finance

4. Conduct financial evaluations and performance reviews

5. Share information

Article 24 The Agricultural Bank of Taiwan shall, after covering its losses incurred in previous years, set aside forty percent (40%) of the surplus as the legal public reserve, and if it is necessary, further set aside special reserve. The balance, if any, shall be then distributed together with the reserved surplus of the previous years as follows:

1. Dividends and bonus: eighty percent (80%).

2. Mutual-supporting fund: five percent (5%).

3. Expenses arising from assistance and promotion implemented by the Farmer's and Fishermen's Association at all levels: ten percent (10%) for the Farmer's Associations and three percent

(3%) for the Fishermen's Association.

4. Reward for the employees: two percent (2%).

The mutual-supporting fund stipulated in subparagraph 2 of the preceding paragraph shall be limited to the financial support that should be delivered to the ill-managed Credit Department; and the revenue and expenditure, custody of the fund and its application rules shall be set up by the Agricultural Bank of Taiwan and approved by the Central Authorities.

In case that the legal public reserve stipulated in the first paragraph is less than the total capital amount, the surplus distributed in cash shall not exceed fifteen percent (15%) of the total capital.

Article 25 The interests and dividends of government shares regulated in the first paragraph of the previous article should be used as promotional fees for agriculture and fishery associations according to budgetary procedures.

Article 26 Articles 5 through 8-1, Article 11 to 16, Article 22, Article 25, Article 25-1, Article 26, Article 28, Article 30 to 43, Paragraph 1, Paragraph 2, previous section of Paragraph 3, paragraph 4 of Article 44, Article 44-1, Article 44-2, Article 45-1, Article 45-2 and the credit card business of Article 47-1, Article 48, Article 49, Article 51, Article 55 to Article 57, Article 61-1 to 62-9, Article 63-1 to Article 69, Article 72-1, Article 72-2, and Article 74 to Article 76 of the Banking Act of Republic of China (hereafter "the Banking Act") shall apply mutatis mutandis to the management of the Agricultural Bank of Taiwan.

### Chapter 3 Credit departments of agriculture and fishery associations

Article 27 Agriculture and fishery associations are allowed to set up credit departments for handling financial businesses if they are approved by the central authorities. The accounting of credit departments should be independent from other departments.

Article 28 The following matters shall be prescribed by the Central Authorities: permits of establishment and dissolution, business resumption and reorganization, facilities and personnel assignment of the Credit Department and branches, and the limitations, periods, saving ratios and management of other risk control ratios of the Credit Department for various objects of entrustment.

The Credit Department shall establish mechanisms for internal control and audit, and the implementation methods for such mechanisms shall be determined by the Central Authorities. The business instructions, financing and re-disposition of surplus shall be determined by the Central Authorities after



meeting and consulting with the involved institutions. The Credit Department shall establish internal processing and procedures mechanisms, for the evaluation of asset quality, loss reserve preparation, call on receivables for overdue loans and write-offs of bad loans; and the regulations involved herein shall be prescribed by the Central Authorities. The standards for the Credit Department in sponsoring the member and non-members, as well as the limitations on the amount shall be prescribed by the Central Authorities.

Article 29 There should be a chairperson in each credit department and its branches. The central authorities would prescribe the qualifications and conditions of the chairperson. The general director would have to report the nominee with qualifications and conditions as mentioned in the previous paragraph to the Committee for approval. The chairperson of the credit department would be appointed after obtaining approval from the governing authorities. The process for discharging the chairperson would be the same. The central authorities regulate the process for appointing and discharging mentioned in the previous paragraph.

Article 30 If the general director of agriculture and fishery associations, chairperson of credit departments or its branches fails to comply with the law and articles or incorporation or subject agriculture and fishery associations to harm, the central authorities should terminate and discharge the position of the general director or the chairperson of credit departments or its branches.

Article 31 The operations of the Credit Department are limited to the following:

1. Accept deposits
2. Process loans;
3. Lease the members (or their dependents under the same household) facilities that are necessary for agricultural production or sales;
4. Domestic Remittance;
5. Accept and pay as the agent;
6. Lease safe-deposit boxes;
7. Provide agent services;
8. Perform businesses entrusted by public treasury (both at county and city level);
9. Carry out businesses entrusted by the Agricultural Bank of Taiwan; and
10. Perform any other business approved by the Central Authorities.

With approval by the Central Bank of the Republic of China, credit departments may process simple foreign currency

transactions.

The Central Authorities shall adjust its business projects and scopes in accordance with the capital sufficiency, operation performance, financial professionalism, internal control and audit mechanism of the Credit Department. Regulations with respect thereto shall be stipulated by the Central Authorities. For the surplus funds of the Credit Department, at least three fourths (3/4) shall be re-deposited at the Agricultural Bank of China; however, any other surplus that has been deposited in other financial institutions before the implementation of the revised articles on March 29, 2011, may be deposited in such financial institution.

The Credit Department shall apply to the Agricultural Bank of Taiwan for its financing in advance, with the exception of an emergency and the approval from the Agricultural Bank of Taiwan is required.

**Article 32** Credit departments should set up a Credit Examination Committee. Its members should be employees who possess experiences in investigating credit information proposed by the board of governors, approved and appointed by the board of supervisors. For credit cases that require resolutions by the board of governors or those that are within the governing powers of supervisors of credit departments, approval should first be obtained from the Credit Examination Committee before requesting approval from the board of governors or supervisors of credit departments.

Governors and members of the Credit Examination Committee who are interested parties of the credit examination cases should not participate in the case examinations.

Examination of credit cases that are above certain limits from the credit departments should be reported to the Agricultural Bank of Taiwan for approval or transferred to the Agricultural Bank of Taiwan for processing.

The central authorities regulate the fund limit mentioned in the previous paragraph.

**Article 33** Article 5 to Article 8-1, Article 12 to Article 15, Article 22, Article 32 to Article 43, Article 45-2, Article 48, Article 49, Article 51, Article 55 to Article 57, Article 61-1 to Article 62-4, Article 62-9 and Article 76 of the Banking Act shall apply mutatis mutandis to the management of the Credit Department, unless otherwise provided by this Act.

**Article 34** The credit department should maintain the ratio of net value to risk capital at a certain level. The central authorities would regulate the methods for calculating its range, processing the minimum ratio and processing ratios that have yet reached the minimum.

- Article 35 After annual resolutions, credit departments should allocate at least 50% of its reserves as legal reserves for credit departments. For those with ratios of net value to risk capital that is lower than the ratio mentioned in the previous article, all of the reserves should be allocated as legal reserves for the credit departments.
- Article 36 For credit departments that are mismanaged and attain cumulative losses that are over one-third of the net value resolved by credit departments from the previous year, or those with overdue loan ratios of 50% or more, the central authorities and Agricultural Bank of Taiwan would set up counseling teams to assist them in reorganization.  
The term for counseling as mentioned in the previous paragraph is 3 years. For credit departments that could not attain the set improvement goals at the end of the term, or those that are identified as non-performers by the counseling unit, the central authorities would order its governing agriculture or fishery association to be merged with other agriculture or fishery associations with credit departments. It cannot be applied to Article 37 of Agriculture Association Act and Article 17 of Fishery Association Act.  
For credit departments with negative net values, the Financial Reconstruction Fund by the Executive Yuan would make up the gap for the credit department during its existence. After that, the central authorities would order its governing agriculture or fishery association to be merged with other agriculture or fishery associations with credit departments. It cannot be applied to Article 37 of Agriculture Association Act and Article 17 of Fishery Association Act.
- Article 37 In case that the Credit Department is not able to repay a debt or the depositors' interests may be endangered, arising from a worsening business or financial condition, the Central Authorities shall terminate all the agents authority of the Representatives, the Directors, Supervisors or General-Director of the Farmer's and Fishermen's Association or the part hereof towards the Credit Department, Article 45, 46 of the Farmers' Association Act and Article 48, 49 of the Fishermen's Association Act shall not be applied; and the terminated power may be fulfilled by the appropriate representatives appointed by the Central Authorities.  
In case the finance reconstruction funds of the Executive Yuan need to be used, the Central Authorities may, fulfill the rights prescribed in the preceding paragraph and order the Farmer's and Fishermen's Association that comprises the Credit Department to merge with other Associations comprising an established credit department, and Article 37 of the Farmer's Association Act and

Article 39 of the Fishermen's Association Act shall not be applied.

Article 37-1 In case that the order, made by the Central Authorities pursuant to paragraphs 2, 3 of Article 36 and the preceding article, of the merger between the Farmer's and Fishermen's Association that comprises the Credit Department and other Associations comprising an established credit department is difficult to achieve, the Central Authorities may take one of the following measures without application of Article 37 of the Farmer's Association Act or Article 39 of the Fishermen's Association Act:

1. Order the Farmers' and Fishermen's Association to transfer their Credit Departments to other Farmers' and Fishermen's Association that already have credit departments.
2. Order the Farmers' and Fishermen's Association to transfer their Credit Departments to the Agricultural Bank of Taiwan. In case that the Agricultural Bank of Taiwan receives the Credit Departments in accordance with Subparagraph 2 of the previous paragraph, the Bank may retrieve the shares without being subject to Paragraph 1 of Article 167 of the Company Act; and the retrieved shares shall be sold within six (6) months. Any unsold shares hereunder shall be considered as unissued shares and shall be registered for alteration.

When the Agricultural Bank of Taiwan, pursuant to Subparagraph 2 of Paragraph 1, receives the Credit Departments, paragraph 1 to paragraph 4 of Article 185, Article 186 to Article 188 of the Company Act shall not be applied.

Article 37-2 When the Central Authorities, in accordance with Paragraph 2, 3 of Article 36, Paragraph 2 of Article 37, or paragraph 1 of the preceding Article, order the Farmers' and Fishermen's Association to merge or convey the Credit Department, the ordered or receiving Associations or the Agricultural Bank of Taiwan shall, upon the registration of alteration, transfer or assignment of movables, intellectual property right and all other security interests of such Associations, apply for alteration, conveyance or assignment, of such Associations shall apply for the subparagraphs authority in accordance with the following regulations without any charge, together with documents issued by the Central Authorities about such merger and conveyance.

1. Stamp taxes and deed taxes arising from such merger or conveyance shall be exempted.
2. The conveyed securities shall not be charged tax arising from security transaction.
3. Any and all conveyed goods or personal services shall not be charged to the extent of sales tax.

4. In case that the Farmers' and Fishermen's Association is ordered to merge or convey its Credit Department and the land shall be transferred therefore together, the Association, after the present value of the land is examined and confirmed according to Land Tax Act, shall process with the registration for transferring the land ownership, and the payable land value increment tax may be deferred and paid upon its re-transferring by the Association or the Agricultural Bank of Taiwan. Upon bankruptcy or dissolution, the deferred land value increment tax shall be paid on a priority basis.

5. Any land accepted by the Associations as stated above according to Article 76 of the Banking Act referred in Article 33 hereunder, the land shall be exempted from charging land value increment tax upon being transferred or conveyed to the Association or the Agricultural Bank of Taiwan.

6. Any goodwill arising from such merger or conveyance shall, upon the declaration of the income tax will be amortized within fifteen (15) years.

7. Expenses arising from such merger or conveyance shall, upon the declaration of the income tax will be recognized within ten (10) years.

8. Losses arising from merger or sale of nonperforming loans shall, upon the declaration of the income tax will be recognized as losses within fifteen (15) years.

When the Farmers' and Fishermen's association or the Agricultural Bank of Taiwan merges or receives the credit department stipulated in the preceding paragraph, the notification of transferring a credit may be made by way of public notice, and the debts may be accepted without recognition by the creditors. Article 297 and 301 of the Civil Code shall not be applicable.

#### **Chapter 4 Punitive Provisions**

**Article 38** A person who damages the credit of credit departments or the Agricultural Bank of Taiwan by spreading rumors or by fraud shall be punished by imprisonment for less than 5 years and a fine of less than NT\$10million.

**Article 39** The person-in-charge or staff of credit departments or the Agricultural Bank of Taiwan who violates his/her duties with the intent of gaining illegal benefits for himself/herself or other third parties, or damages the assets and other interests of credit departments and the Agricultural Bank of Taiwan shall be punished by imprisonment for not less than 3 years and not more than 10 years and a fine of not less than NT\$10 million and not more than NT\$200 million. For a person who obtains property or property interests worth NT\$100 million or more from the commission of the crime shall be punished by imprisonment for

more than 7 years and a fine of more than NT\$25 million and less than NT\$500 million.

If 2 or more person(s)-in-charge or staff jointly commit the acts described in the previous paragraph, the punishment may be increased by up to one-half of the specified punishment.

Attempts to commit the acts described in the previous paragraph shall be punishable.

**Article 40** A person with the intent of gaining illegal benefits for himself/herself or other third parties by fraud and caused the credit department, Agricultural Bank of Taiwan or other third party's assets to be distributed, or by inputting false information or illegal commands in the computer systems or other facilities owned by credit departments/Agricultural Bank of Taiwan that resulted in intellectual property losses and attainment of assets of others by altering records shall be punished. For a person who obtains property or property interests worth NT\$100 million or more from the commission of the crime shall be punished by imprisonment for more than 3 years and less than 10 years and a fine of more than NT\$10 million and less than NT\$200 million.

Same regulations would apply to those who obtained interest or obtained interest for other third parties by the methods mentioned in the previous paragraph.

Attempts to commit the acts described in the previous 2 paragraphs shall be punishable.

**Article 41** The punishment of those who commit the offenses described in Articles 39, or 40 but voluntarily surrender after the crime, and at free will turn over all income or assets obtained as a result of the crime, shall be mitigated or waived; the punishment of those persons whose voluntary surrender results in the capture of other principal offenders or joint offenders shall be waived.

The punishment of those who commit the offenses described in Articles 39, or 40 but confess during investigation, and at free will turn over all income or assets obtained as a result of the crime, shall be mitigated; the punishment of those persons whose confession results in the capture of other principal offenders or joint offenders shall be mitigated by up to one-half of the prescribed terms.

**Article 42** In the event that a corporation violates its commitment made pursuant to Article 26 of this Act and Article 30 of Banking Law, its directors and those who participated in the decision that led to the violation of the said commitment shall be punished by imprisonment for not more than 3 years, detention, and/or a fine of not more than NT\$1.8million.

- Article 43 In the event of a violation of Article 26 or Article 35 of Banking Law that is applied from Article 33 in the same law, punishment by imprisonment for not more than 3 years, detention, and/or a fine of not more than NT\$5million shall be imposed. However, if other laws stipulate a more severe punishment, such punishment shall be imposed.
- Article 44 In the event of a violation of Article 26 of this Act or Article 33 that can be applied to Article 32, Article 33, or Article 33-2 of Banking Law by the credit department or Agricultural Bank of Taiwan, the responsible person shall be punished by imprisonment for not more than 3 years, detention, and/or a fine of not less than NT\$5million and not more than NT\$25million. In the event that the amount of a loan extended by the credit department or the Agricultural Bank of Taiwan exceeds the amount prescribed by the competent authority under Article 26 or Article 33 that can be applied to Paragraph 1, Article 33 of Banking Law without obtaining approval from not less than three quarters of the directors present in the board meeting at which not less than two-thirds directors are present, or violation of the credit limit or total balance of loans extended prescribed by the competent authority under Article 26 or Article 33 that can be applied to Paragraph 2, Article 33 of Banking Law, the responsible person shall be punished by a fine of not less than NT\$2million and not more than NT\$10million and the previous paragraph shall not apply. The act is also applicable if a responsible person who violates the regulations mentioned in the 2 previous paragraphs outside of Taiwan.
- Article 45 In the event of a violation of resolution measures ordered by the competent authority pursuant to Article 26 or Article 33 that can be applied to Paragraph 1, Article 62 of Banking Law, if the said violation is sufficient to cause damage to others or the public, the person(s) responsible for the violation shall be punished by imprisonment for not less than 1 year and not more than 7 years, and a fine of not more than NT\$20million. Commission of any of the following acts by the credit department or Agricultural Bank of Taiwan's responsible person or staff members in connection with the competent authority sending officials to supervise or take over the business operations or order of suspension of the business and resolution measures shall be punished by imprisonment for not less than 1 year and not more than 7 years and a fine of not more than NT\$20million:  
1. Refusing to deliver the books, documents, stamps and assets related to the banking business or finance to the supervisors, receivers or resolution manager designated by the competent authority, refusing to provide information as to the necessary

matters in connection with assets and liabilities of the bank to such persons, or refusing such persons' requests to carry out necessary acts for supervising or taking over.

2. Concealing or damaging the books or other documents regarding the credit department or Agricultural Bank of Taiwan's business or financial condition

3. Concealing or destroying credit department or Agricultural Bank of Taiwan's properties, or making other decisions to the detriment of creditors

4. Failing to reply, without justification, to inquiries from the officials sent by the competent authority to supervise or take over or take resolution measures for business operations

5. Fabricating claims or accepting false claims

**Article 46** If the responsible person(s) or any of the employees of the Agricultural Bank of Taiwan violates Article 35-1 of the Banking Act, holding positions in other banks, such persons shall be fined no less than two million (2,000,000) and no more than ten million (10,000,000) New Taiwan Dollars. In case that the part-time job is assumed by the person appointed by the Agricultural Bank of Taiwan, the Bank shall therefore be fined accordingly. If the Agricultural Bank of Taiwan violates Paragraph 1 of Article 44-2 according to Article 26 herein, and the Bank fails to propose or fulfill a capital reconstruction plan or other financial improvement plans, the Bank shall be fined no less than two million (2,000,000) and no more than ten million (10,000,000) New Taiwan Dollars. If the Directors or Supervisors of the Agricultural Bank of Taiwan violate Paragraph 1 of Article 64 referred in Article 26 hereunder and therefore fail to declare, such Director or Supervisor shall be fined no less than two million (2,000,000) and no more than ten million (10,000,000) New Taiwan Dollars. If the responsible person(s) or any of the employees of the Credit Department Violates Article 35-1 of the Banking Act, holding positions in other banks, such persons shall be fined no less than one hundred fifty thousand (150,000) and no more than one million eight hundred thousand (1,800,000) New Taiwan Dollars. If the positions held in other banks are appointed by the Farmers' and Fishermen's Association, such Association shall be fined accordingly.

**Article 47** In any of the following cases, the Agricultural Bank of Taiwan shall be fined no less than two million (2,000,000) and no more than ten million (10,000,000) New Taiwan Dollars:

1. Violation of Article 22 or Article 57 of the Banking Act applied in Article 26 hereof;
2. Issuing stocks against Paragraph 1 of Article 25 of the Banking Act applied in Article 26 hereof;



3. Violation of Paragraph 1 to Paragraph 3 of Article 28 of the Banking Act applied in Article 26 hereof;
4. Violation of any restrictions imposed by the Central Authorities in accordance with Article 33-3 or Article 36 of the Banking Act applied in Article 26 hereof;
5. Violation of the notification stipulated by the Central Authorities in accordance with Article 43 of the Banking Act applied in Article 26 hereof, and fails to correct such behavior within a specified period of time.
6. Violation of Article 44-1 of the Banking Act applied in Article 26 hereof, or measures taken by the Central Authorities according to paragraph 1 of Article 44-2 of the Banking Act applied in Article 26 hereof;
7. Failure to set up an internal control or audit mechanism according to Article 45-1 of the Banking Act applied in Article 26 hereof, or fails to put such control or mechanism into practice.

In any of the following situations, the Credit Department shall be fined no less than one hundred and fifty thousand (150,000) and no more than one million eight hundred thousand (1,800,000) New Taiwan Dollars:

1. Violation of Article 22 or Article 57 of the Banking Act applied in Article 33 hereof;
2. Violation of any restrictions imposed by the Central Authorities in accordance with Article 33-3 or Article 36 of the Banking Act applied in Article 33 hereof;
3. Violation of the notification stipulated by the Central Authorities in accordance with Article 43 of the Banking Act, and fails to correct such behavior within specified period of time.
4. If the ratio of the net value over the risky assets after an annual settlement is lower than the minimum set forth in Article 34, fails to allocate all business surplus to the business reserve for the Credit Department according to Article 35 hereunder.

**Article 48** If the Central Authorities, according to Article 7 hereof, dispatch a representative or entrust an expert and technician staff to examine the business, finance or any other aspect of the Agricultural Bank of Taiwan, or require that other related parties of the Bank submit real financial reports, property lists or other documents and reports, the Agricultural Bank of Taiwan, the responsible person of the related parties, or the employees of the Agricultural Bank of Taiwan shall be fined no less than two million (2,000,000) and no more than ten million (10,000,000) New Taiwan Dollars in any of the following situations:

1. Refuse to be inspected or reject to open up the treasury or

others.

2. Conceal or destroy accounting books involving business or financial conditions.
3. Reject to answer the inquiry from the inspectors without any appropriate cause or provide false answers.
4. Delay to submit financial reports, property list or any other related data and report, submit false or incomplete documents or fail to pay fees for examinations and audits within specified period of time.

If the Credit Department, the responsible person of other related parties, or the employees of the Credit Department violates any subparagraph of the preceding paragraph, such Credit Department or persons shall be fined no less than one hundred fifty thousand (150,000) and no more than one million eight hundred thousand (1,800,000) New Taiwan Dollars.

- Article 49 In any of the following cases, the Agricultural Bank of Taiwan shall be fined no less than one million (1,000,000) and no more than five million (5,000,000) New Taiwan Dollars:
1. Violation of Article 40 of the Banking Act applied in Article 26 hereof with respect to loans stipulated by the Central Bank of the Republic of China;
  2. Violation of Article 74 of the Banking Act applied in Article 26 hereof with respect to investment;
  3. Violation of Article 74-1, Article 75 of the Banking Act applied in Article 26 hereof with respect to investment;
  4. Violation of Article 76 of the Banking Act applied in Article 26 hereof.

If Credit Department violates Article 40 of the Banking Act applied in Article 26 hereof with respect to loans stipulated by the Central Bank of the Republic of China, such Credit Department shall be fined no less than ninety thousand (90,000) and no more than one million two hundred thousand (1,200,000) New Taiwan Dollars.

- Article 50 In any of the following situations, the Agricultural Bank of Taiwan shall be fined no less than five hundred thousand (500,000) and no more than two million five hundred thousand (2,500,000) New Taiwan Dollars:
1. Violation of regulations stipulated in Paragraph 1 of Article 6 regarding qualification, maturity, or interest rate.
  2. Absorbing savings in violation of Article 34 of the Banking Act applied in Article 26 hereof.
  3. Violation of Article 49 of Banking Law referred in Article 26 hereof.
  4. Violation of regulations stipulated by the Central Authorities in accordance with Article 51 of the Banking Act referred in Article 26 hereof.

In any of the following situations, the Credit Department shall be fined no less than thirty thousand (30,000) and no more than six hundred thousand (600,000) New Taiwan Dollars.

1. Violation of regulations stipulated in Paragraph 1 of Article 6 regarding qualification, maturity, or interest rate.
2. Failure to set up mechanisms for internal control or audit mechanism, or failure to put such control or audit into practice in accordance with Paragraph 2 of Article 28 hereof.
3. Absorbing savings in violation of Article 34 of the Banking Act applied in Article 33 hereof.
4. Violation of Article 49 of Banking Law referred in Article 33 hereof.
5. Violation of regulations stipulated by the Central Authorities in accordance with Article 51 of the Banking Act referred in Article 33 hereof.
6. Violation of Article 76 of the Banking Act applied in Article 33 hereof.
7. Violation of the measures stipulated by the Central Authorities in accordance with Article 34, or in violation of Article 35, failure to allocate or allocate inadequately, when the ratio of the net value over the risky assets after an annual settlement is not lower than the minimum set forth in Article 34.

Article 51 Unless otherwise prescribed by this Act with respect to punishment, violation of this Act or the related mandatory or prohibiting regulations authorized by this Act or failure to perform obligations to be performed shall be punished by a fine of not less than NT\$500,000 and not more than NT\$2.5million.

Article 52 The party punishable under the previous 5 articles shall be the agriculture and fishery associations governing the credit departments or the Agricultural Bank of Taiwan.  
After having been punished pursuant to the previous paragraph, the agriculture and fishery associations or the Agricultural Bank of Taiwan shall claim compensation from the responsible person(s).

Article 53 The amount of the fines prescribed by this Act shall be determined and punished by the competent authority.  
With respect to fines prescribed by Article 26 or Article 33 that can be applied to Article 40 of Banking Law, and the fines prescribed by Article 26 or Article 33 that can be applied to Paragraph 2, Article 37 of Banking Law and Article 42 of Banking Law which authorize the Central Bank of China to prescribe mandatory or prohibiting regulations shall be punished by the Central Bank of China with notice to the competent authority.  
In the event that the penalized party designated in the previous 2 paragraphs disagrees with the decision, such party may appeal

such decision in accordance with the procedures for administrative appeals and administrative proceedings. During the period of administrative appeal and administrative proceedings, the execution of the penalty may be suspended by the provision of guarantees in the appropriate amounts.

- Article 54 Any of the following cases shall be fined no less than thirty thousand (30,000) and no more than six hundred thousand (600,000) New Taiwan Dollars:
1. Farmer's and Fishermen's Association that comprises the Credit Department violates Paragraph 1 of Article 13, failing to fund the Agricultural Bank of Taiwan
  2. The Credit Department fails to re-deposit surplus cash to the Agricultural Bank of Taiwan according to Paragraph 4 of Article 31; or fails to apply to the Agricultural Bank of Taiwan for its financing according to Paragraph 5 of Article 31.
- Article 55 In the event of failure to pay a fine within the prescribed period of time, a surcharge for late payment shall be levied, and calculated at the rate of one percent (1%) of the amount of the fine in arrears for each day of delay, starting from the day following the expiry of the prescribed period of time. If the payment of the fine is still not made within 30 days after expiry of the prescribed period of time, the case shall be referred to the court for compulsory execution and the central competent authority may, in addition, suspend the business of the bank.
- Article 56 The credit department or the Agricultural Bank of Taiwan that has been penalized in accordance with this Act and which fails to take corrective measures within the specified period of time may be punished by consecutive penalties imposed daily until the corrective measures are taken. If it repeatedly violates the provisions of this Act, or where the violations are of a serious nature, it may be ordered to replace the responsible person within a specified period of time.
- Article 57 (Deleted)
- Article 58 Where a fine assessed for an offense under this Act is NT\$50million or more and the offender lacks the ability to pay it in full, it shall be commuted to labor for a period of not more than two years, to be calculated by the ratio of the total amount of the fine to the number of days in two years; where the fine assessed is NT\$100million or more and the offender lacks the ability to pay it in full, it shall be commuted to labor for a period of not more than three years, to be calculated by the ratio of the total amount of the fine to the number of days in three years.

## Chapter 5 Supplementary Provisions

- Article 59 Before the implementation of this Act, credit departments of agriculture and fishery associations should be taken over by banks as prescribed by Article 13 of Financial Merger Act. After the implementation of this Act, agriculture and fishery associations that establish credit departments for handling agricultural finance services are not restricted to Paragraph 2, Article 14 of Financial Merger Act.  
According to Article 13 of Financial Merger Act, the standards and processing procedures for identifying assets regarding the dispute of credit departments of agriculture and fishery associations that are taken over by banks would be regulated and handled 6 months after the implementation of this Act by the central authorities and related departments.
- Article 60 During the existence of Financial Reconstruction Fund by the Executive Yuan, it should be used for transferring special funds to handle affairs of mismanaged credit departments.  
According to Article 10 of Regulations For The Establishment and Management of Financial Reconstruction Fund by the Executive Yuan, the credit departments that are authorized under the management of Central Deposit Insurance Corporation would be handled by the central authorities or its authorized organizations 9 months after the implementation of this Act.
- Article 61 The implementation date of this Act shall be determined by the Executive Yuan.  
The amended articles in this Act, except for those amended on May 30, 2006 that have taken effect since July 1, 2006, shall be implemented from the date of promulgation.