

# Order to Define the Categories Prescribed in Article 26, Paragraph (2) of the Banking Act

(Order of the General Administrative Agency of the Cabinet and the Ministry of Finance No. 39 of June 26, 2000)

In accordance with the partial enforcement of the Act for Enforcement of the Acts Related to the Central Government Reform (Act No. 160 of 1999), and pursuant to the provisions of Article 26, paragraph (2); Article 52-17, paragraph (2); Article 53, paragraph (1), item (viii); and Article 57-3 of the Banking Act (Act No. 59 of 1981); the order to define the categories, etc. as prescribed in Article 26, paragraph (2) of the Banking Act is prescribed as follows.

(Categories of the Adequacy of Equity Capital and Orders Prescribed According to their Respective Categories)

Article 1 (1) The categories of the adequacy of equity capital of a bank provided for by Cabinet Office Order and an Order of the Ministry of Finance referred to in Article 26, paragraph (2) of the Banking Act (hereinafter referred to as the "Act") and orders provided for by Cabinet Office Order and Order of the Ministry of Finance prescribed according to their respective categories are defined in the following table, excluding the cases provided for in the following Article.

Categories of the adequacy of equity capital			Order
	A bank that has an overseas sales base	A bank that does not have an overseas sales base	
Exceptions to Categories	Non-consolidated capital adequacy ratio pertaining to the uniform international standard: 8% or more	Non-consolidated capital adequacy ratio pertaining to the standard in Japan: 4% or more	

Category 1	Non-consolidated capital adequacy ratio pertaining to the uniform international standard: 4% or more and less than 8%	Non-consolidated capital adequacy ratio pertaining to the standard in Japan: 2% or more and less than 4%	Request to submit an improvement plan that is deemed reasonable (which includes measures for the capital enhancement in principle) to secure sound management, and an order to implement the plan
Category 2	Non-consolidated capital adequacy ratio pertaining to the uniform international standard: 2% or more and less than 4%	Non-consolidated capital adequacy ratio pertaining to the standard in Japan: 1% or more and less than 2%	An order pertaining to the measures set forth in the following items which contribute to the adequacy of equity capital:  (i) submission of a capital enhancement plan that is deemed reasonable and its implementation; (ii) prohibition from providing dividends or bonuses to directors or restrain the amount thereof; (iii) reduction of total assets or restraining increases in the total assets; (iv) prohibition or restriction of acceptance of deposit or installment savings, etc. under conditions which are deemed to be unprofitable compared to the general terms and conditions of a transaction; (v) reduction of services at some business offices; (vi) elimination of some business offices, excluding the head office; (vii) reduction of the services set forth in items of Article 10, paragraph (2) of the Act and other services incidental to the banking business, services to be provided pursuant to the provisions of Article 11 of the Act, services to be provided pursuant to the Secured Bond Trust Act (Act No. 52 of 1905) and other Acts, or prohibition to handle a new business;

			(viii) other measures deemed necessary by the Commissioner of the Financial Services Agency.
Category 2-2	Non-consolidated capital adequacy ratio pertaining to the uniform international standard: 0% or more and less than 2%	Non-consolidated capital adequacy ratio pertaining to the standard in Japan: 0% or more and less than 1%	Upon selecting any measure to ensure the adequacy of equity capital, drastic reduction of services, merger, or discontinuation of banking service, etc. an order to implement a measure pertaining to the selection
Category 3	Non-consolidated capital adequacy ratio pertaining to the uniform international standard: less than 0%	Non-consolidated capital adequacy ratio pertaining to the standard in Japan: less than 0%	An order to suspend the services in whole or in part

(2) The categories of the adequacy of equity capital of a bank or its subsidiary company, etc. (meaning a subsidiary company, etc. as prescribed in Article 14-2, item (ii) of the Act; hereinafter the same applies in this paragraph and the following Article) defined by Cabinet Office Order and Order of the Ministry of Finance as prescribed in Article 26, paragraph (2) of the Act and orders provided for by Cabinet Office Order and Order of the Ministry of Finance according to their respective categories are defined in the following table, excluding the cases provided for in the following Article.

Categories of the adequacy of equity capital		Order
A bank or its subsidiary company, etc. that has an overseas sales base	A bank or its subsidiary company, etc. that does not have an overseas sales base	

Exce ption s to cater gories	Consolidated capital adequacy ratio pertaining to the uniform international standard: 8% or more	Consolidated capital adequacy ratio pertaining to the standard in Japan: 4% or more	
Cate gory 1	Consolidated capital adequacy ratio pertaining to the uniform international standard: 4% or more and less than 8%	Consolidated capital adequacy ratio pertaining to the standard in Japan: 2% or more and less than 4%	Request to submit a improvement plan that is deemed reasonable (which includes a measure for the capital enhancement in principle) to secure sound management, and an order to implement the plan
Cate gory 2	Consolidated capital adequacy ratio pertaining to the uniform international standard: 2% or more and less than 4%	Consolidated capital adequacy ratio pertaining to the standard in Japan: 1% or more and less than 2%	An order pertaining to a measure to contribute to the adequacy of equity capital set forth in the following items:  (i) submission of a capital enhancement plan that is deemed reasonable and its implementation; (ii) prohibition to provide dividends or bonuses to directors or restraining the amount thereof; (iii) reduction of total assets or restraining increases in the total assets; (iv) prohibition or restriction of acceptance of deposit or installment savings, etc. under conditions which are deemed unprofitable compared to the general terms and conditions of a transaction; (v) reduction of services at some business offices; (vi) discontinuation of some business offices, excluding the head office; (vii) reduction in the services of a subsidiary company, etc.; (viii) disposition of shares or equity of a subsidiary company, etc.;

			(ix) reduction of the services set forth in items of Article 10, paragraph (2) of the Act and other services incidental to the banking business, services to be provided pursuant to the provisions of Article 11 of the Act, services to be provided pursuant to the Secured Bond Trust Act and other Acts, or prohibition to handle a new business; (x) other measures deemed necessary by the Commissioner of the Financial Services Agency.
Category 2-2	Consolidated capital adequacy ratio pertaining to the uniform international standard: 0% or more and less than 2%	Consolidated capital adequacy ratio pertaining to the standard in Japan:  0% or more and less than 1%	Upon selecting a measure to ensure the adequacy of equity capital, drastic reduction of services, merger, or discontinuation of banking service, etc., an order to implement a measure pertaining to the selection
Category 3	Consolidated capital adequacy ratio pertaining to the uniform international standard: less than 0%	capital adequacy ratio pertaining to the standard in Japan:  less than 0%	An order to suspend the services in whole or in part

- (3) The term "overseas sales base" as used in the tables in the preceding two paragraphs means a branch office located in a foreign state or a company (limited to a subsidiary company of a bank) set forth in Article 16-2, paragraph (1), item (v) of the Act, which has full-time officer(s) or employee(s) at the location.
- (4) The term "uniform international standard" as used in the tables in paragraphs (1) and (2) means the standard (hereinafter referred to as the "capital adequacy ratio standard" in this Article) of a bank which has an overseas sales base (meaning an overseas sales base as prescribed in the preceding paragraph; the same applies in the following paragraph) which is included in the standard set forth in any of the items of Article 14-2 of the Act.
- (5) The term "standard in Japan" as used in the tables in paragraphs (1) and (2) means capital adequacy ratio standard of a bank which does not have an overseas sales base.

- (6) The term "installment savings, etc." as used in the tables in paragraphs (1) and (2) means installment savings, etc. as prescribed in Article 2, paragraph (4) of the Act.
- (7) The term "non-consolidated capital adequacy ratio" as used in the tables in paragraph (1) means a ratio obtained by the formula for the standard set forth in Article 14-2, item (i) of the Act, in terms of the capital adequacy ratio standard.
- (8) The term "consolidated capital adequacy ratio" as used in the table in paragraph (2) means a ratio obtained by the formula for the standard set forth in Article 14-2, item (ii) of the Act, in terms of the capital adequacy ratio standard.

Article 2 (1) In cases where a bank learns that its capital adequacy ratio (meaning the non-consolidated capital adequacy ratio as prescribed in paragraph (7) of the preceding Article or the consolidated capital adequacy ratio as prescribed in paragraph (8) of that Article; hereinafter the same applies in this Article) falls below the capital adequacy ratio pertaining to the categories defined in the tables in paragraphs (1) or (2) of the preceding Article under which the bank or the bank and its subsidiary company, etc. were categorized so far and submits a plan that is deemed to be reasonable to definitely improve the capital adequacy ratio, which exceeds the capital adequacy ratio pertaining to the categories defined in these tables under which the bank or the bank and its subsidiary, etc. are categorized, to the Commissioner of the Financial Services Agency without delay, then, an order prescribed in accordance with the category with regard to the bank, is an order pertaining to the category (except for the exceptions to the categories) defined in these tables, which exceeds the capital adequacy ratio of the bank or the bank and its subsidiary company, etc. and which is below the capital adequacy ratio to be expected after the implementation of the plan; provided, however, that in cases where it is obvious that the plan is not reasonable, an order pertaining to the categories defined in these tables under which the bank or the bank and its subsidiary company, etc. are categorized, is as prescribed in paragraphs (1) and (2) of that Article.

- (2) In cases where the total amount to be reported in the assets section (the value prescribed in the following items with regard to the assets set forth in the following items; the same applies in the following paragraph) of a balance sheet of a bank which falls under Category 3 of the tables in paragraph (1) or (2) of the preceding Article or a consolidated balance sheet of a bank and its subsidiary companies, etc. exceeds or is expected to exceed the total amount to be reported in the liabilities section of these balance sheets, with regard to the bank, an order prescribed in accordance with the category is to include an

order pertaining to Category 2-2 in the tables in paragraph (1) or (2) of that Article:

- (i) securities: a value calculated based on the closing price which is announced on the date when the capital adequacy ratio is calculated (hereinafter referred to as the "calculation day" in this paragraph) or a value equivalent to this value calculated by a reasonable method;
  - (ii) tangible fixed assets: a value calculated based on the fairly and accurately appraised value on the calculation day;
  - (iii) assets other than the assets set forth in the preceding two items of which book value is significantly different from the appraised value thereof on the calculation day: the appraised value thereof.
- (3) In cases where the total amount to be reported in the assets section of a balance sheet of a bank or of a consolidated balance sheet of a bank and its subsidiary company, etc., which falls under the category other than Category 3 defined in the tables in paragraph (1) or (2) of the preceding Article is or is expected to be below the total amount to be reported in the liabilities section of these balance sheets, an order prescribed according to the category is to include an order pertaining to Category 3 defined in the tables in paragraph (1) or (2) of that Article.
- (4) In cases where a bank falls under an assuming financial institution as prescribed in Article 59, paragraph (1) of the Deposit Insurance Act (Act No. 34 of 1971) which merges with another bank, etc. as prescribed in paragraph (2) of that Article pertaining to certification of eligibility, etc. as prescribed in Article 65 of that Act, an order applicable to the bank in accordance with category defined in the tables in paragraph (1) or (2) of the preceding Article under which the bank or the bank and its subsidiary company, etc. are categorized, is an order pertaining to the categories of these tables pertaining to the capital adequacy ratio that exceeds the capital adequacy ratio of the bank or the bank and its subsidiary company, etc.
- (5) In cases where a bank is a partner bank as prescribed in Article 7, paragraph (1), item (i) of the Supplementary Provisions to the Deposit Insurance Act, an order applicable to the bank in accordance with a category defined in the tables in paragraph (1) or (2) of the preceding Article under which the bank or the bank and its subsidiary company, etc. are categorized, is an order pertaining to the exceptions to the categories defined in these tables.

(Categories of the Adequacy of Equity Capital of a Bank Holding Company and its Subsidiary Company and Orders Prescribed According to their Respective Categories)

Article 3 (1) The categories of the adequacy of equity capital defined by Cabinet Office Order and Order of the Ministry of Finance referred to in Article 52-33,

paragraph (2) of the Act and orders prescribed by Cabinet Office Order and Order of the Ministry of Finance in accordance with the categories are shown in the following table excluding the cases provided for in the following Article.

Categories of the adequacy of equity capital			Order
	A bank holding company or its subsidiary company, etc. that holds a bank, etc. having an overseas sales base as its subsidiary company	A bank holding company or its subsidiary company, etc. that does not hold a bank having an overseas sales site as its subsidiary company	
Exceptions to categories	Consolidated capital adequacy ratio pertaining to Standard 1: 8% or more	Consolidated capital adequacy ratio pertaining to standard 2: 4% or more	
Category 1	Consolidated capital adequacy ratio pertaining to Standard 1:  4% or more and less than 8%	Consolidated capital adequacy ratio pertaining to standard 2:  2% or more and less than 4%	Request to submit an improvement plan that is deemed reasonable (which includes measures pertaining to capital enhancement in principle) to secure sound management of a bank holding company and its subsidiary company, etc. and an order to implement the plan
Category 2	Consolidated capital adequacy ratio pertaining to Standard 1: 2% or more and less than 4%	Consolidated capital adequacy ratio pertaining to standard 2: 1% or more and less than 2%	An order pertaining to a measure to contribute to the adequacy of equity capital of a bank holding company and its subsidiary, etc. set forth in the following items: (i) submission of a plan for capital enhancement of a bank holding company that is deemed reasonable and its subsidiary, etc. and its implementation;



			(ii) prohibition to provide dividends or bonuses to directors at a bank holding company or restraining the amount thereof; (iii) reduction of total assets or restraining increases in the total assets of a bank holding company; (iv) disposition of shares or equity of a subsidiary company, etc. (except for a bank, etc.); (v) other measures deemed necessary by the Commissioner of the Financial Services Agency.
Category 2-2	Consolidated capital adequacy ratio pertaining to Standard 1:  0% or more and less than 2%	Consolidated capital adequacy ratio pertaining to standard 2:  0% or more and less than 1%	Upon selecting a measure to ensure the adequacy of equity capital, merger, or disposal of shares of a subsidiary company, etc. (limited to a bank, etc.) for a bank holding company or its subsidiary company, etc., an order to implement the measure pertaining to the selection
Category 3	Consolidated capital adequacy ratio pertaining to Standard 1: less than 0%	Consolidated capital adequacy ratio pertaining to standard 2: less than 0%	Disposition of shares of a subsidiary company, etc. (limited to a bank, etc.)

- (2) The term "overseas sales base" as used in the table in the preceding paragraph means a branch office located in a foreign state or a company (limited to a subsidiary company of a bank) set forth in Article 16-2, paragraph (1), item (v) of the Act, which has full-time officer(s) or employee(s) at the location.
- (3) The term "Standard 1" as used in the table of paragraph (1) means a consolidated capital adequacy ratio standard (meaning the standard as prescribed in Article 52-25 of the Act; hereinafter the same applies in the following paragraph) of a bank holding company and its subsidiary company, etc. that holds a bank, etc., having an overseas sales base (meaning an overseas sales base as prescribed in the preceding paragraph; the same applies in the following paragraph), as its subsidiary company.
- (4) The term "Standard 2" as used in the table of paragraph (1) means the consolidated capital adequacy ratio standard of a bank holding company and its subsidiary company, etc. that do not hold a bank having an overseas sales

bases, etc., as its subsidiary company.

- (5) The term "bank, etc." as used in this Article means a bank or a long term credit bank.
- (6) The term "subsidiary company, etc." as used in this Article and the following Article means a subsidiary company, etc. as prescribed in Article 52-25 of the Act.

Article 4 (1) In cases where a bank holding company learns that the consolidated capital adequacy ratio of the bank holding company and its subsidiary, etc. is below the consolidated capital adequacy ratio pertaining to the category defined in the table in paragraph (1) of the preceding Article under which the bank holding company and its subsidiary company, etc. were categorized so far and submits a plan that is deemed to be reasonable to definitely improve the consolidated capital adequacy ratio, which exceeds the consolidated capital adequacy ratio pertaining to the category defined in that table under which the bank holding company and its subsidiary company, etc. are categorized, to the Commissioner of the Financial Services Agency without delay, then an order with regard to the bank holding company prescribed in accordance with the category is an order pertaining to the category (except for the exceptions to the categories) in that table pertaining to the consolidated capital adequacy ratio which is below the consolidated capital adequacy ratio of the bank holding company and its subsidiary company, etc. to be expected after the implementation of the plan; provided, however, that in cases where it is obvious that the plan is not reasonable, an order with regard to the bank holding company pertaining to the category of that table under which the bank holding company and its subsidiary company, etc. are categorized, is as prescribed in that paragraph.

- (2) In cases where the total amount to be reported in the assets section (the value prescribed in the following items with regard to the assets set forth in the following items; the same applies in the following paragraph) of the consolidated balance sheet of a bank holding company and its subsidiary company, etc. which falls under Category 3 in the table in paragraph (1) of the preceding Article exceeds or is expected to exceed the total amount to be reported in the liabilities section of the balance sheet, an order prescribed according to the category with regard to the bank holding company is to include an order pertaining to Category 2-2 in that table:
  - (i) securities: a value calculated based on the closing price which is announced on the date when the consolidated capital adequacy ratio is calculated (hereinafter referred to as "calculation date" in this paragraph) or a value equivalent to this value calculated by a reasonable method;
  - (ii) tangible fixed assets: a value calculated based on the fairly and accurately

- appraised value on the calculation date;
- (iii) assets other than the assets set forth in the preceding two items of which book value is significantly different from the appraised value thereof on the calculation date: the appraised value thereof.
- (3) In cases where the total amount to be reported in the assets section of a consolidated balance sheet of a bank holding company and its subsidiary company, etc., which falls under the category other than Category 3 in the table in paragraph (1) of the preceding Article is or is expected to be below the total amount to be reported in the liabilities section of the balance sheet, an order with regard to the bank holding company in accordance with the category is to include an order pertaining to Category 3 in that table.
- (4) When falling under any of the following cases, an order with regard to a bank holding company in accordance with the category defined in the table in paragraph (1) of the preceding Article, under which the bank holding company and its subsidiary company, etc. are categorized, is an order pertaining to the category defined in that table pertaining to the consolidated capital adequacy ratio, which exceeds the consolidated capital adequacy ratio of the bank holding company and its subsidiary company, etc.
- (i) in cases where the bank holding company falls under an assuming bank holding company, etc. prescribed in Article 59, paragraph (1) of the Deposit Insurance Act, which merges with another company, etc. prescribed in paragraph (2) of that Article pertaining to certification of eligibility, etc. prescribed in Article 65 of that Act;
  - (ii) in cases where a subsidiary company of the bank holding company falls under an assuming financial institution prescribed in Article 59, paragraph (1) of the Deposit Insurance Act, which merges with another company, etc. prescribed in paragraph (2) of that Article pertaining to certification of eligibility, etc. prescribed in Article 65 of that Act.

(Particulars to be Notified)

Article 5 The cases provided for by Cabinet Office Order and Order of the Ministry of Finance which are prescribed in Article 53, paragraph (1), item (viii) of the Act are as follows:

- (i) in cases where the order to commence bankruptcy proceedings has been given and an appeal is filed against the order to commence bankruptcy proceedings, or a ruling against the appeal is rendered by a court;
- (ii) in cases where a petition for commencement of rehabilitation proceedings has been filed, and a decision on the confirmation of the rehabilitation plan becomes final and binding, or the rehabilitation plan becomes invalid;
- (iii) in cases where a petition for the commencement of reorganization proceedings has been filed, and a decision on the confirmation of the

reorganization plan becomes final and binding, or the reorganization plan becomes invalid.

(Notification to the Minister of Finance)

Article 6 The notification prescribed in Cabinet Office Order or Order of the Ministry of Finance as prescribed in Article 57-6 of the Act is the notification to be submitted in any case set forth in the items of the preceding Article.