

# Act Regulating the Receipt of Contributions, the Receipt of Deposits, and Interest Rates

(Act No. 195 of June 23, 1954)

## (Restrictions on the Receipt of Contributions)

Article 1 It is prohibited for any person to receive a contribution while indicating or implying to many and unspecified persons that the entire amount of the contribution, or monies equivalent to an amount exceeding the contribution, will be refunded as a reimbursement at a later date.

## (Prohibition on the Receipt of Deposits)

Article 2 (1) It is prohibited for any person other than those whose receipt of deposits on a regular basis is specially provided for in other laws to receive deposits on a regular basis.

(2) The terms "receive deposits" and "receipt of deposits" as set forth in the preceding paragraph means the receipt of monies from many and unspecified persons, as prescribed in the following items:

- (i) the receipt of deposits, savings, or installment savings;
- (ii) company bonds, borrowings, or other things under any other name with the same economic nature as what is prescribed in the preceding item.

## (Prohibition of Use of a Position for Lending Purposes)

Article 3 An officer, employee, or other workers of a financial institution (meaning a bank, trust company, insurance company, Shinkin Bank, federation of Shinkin Banks, labor bank, federation of labor banks, Norinchukin Bank, Shoko Chukin Bank, Ltd., Development Bank of Japan Inc., and a credit cooperative, agricultural cooperative, fisheries cooperative, or other cooperative that accepts savings) may not lend money, act as an intermediary for the lending or borrowing of money, or guarantee obligations, using their position, in order to promote their own interests or the interests of a third party other than the relevant financial institution.

## (Restrictions on Fees for Acting as an Intermediary for the Lending or Borrowing of Money)

Article 4 (1) A person who acts as an intermediary for the lending or borrowing of money may not conclude a contract to receive a fee exceeding five percent of the amount of money lent in connection with their services (or, if the term of the loan is less than one year, the amount of money calculated by multiplying the amount of the loan by an annual rate of 5 percent, based on the number of

days in the term), or accept such a fee.

- (2) A person who acts as an intermediary for guaranteeing the lending or borrowing of money may not conclude a contract to receive a fee exceeding five percent of the amount of the guarantee charge (meaning the money that the principal debtor pays to the guarantor in exchange for the guarantee; the same applies hereinafter) connected with their services (or, if the term of the guarantee is less than one year, the amount of money calculated by multiplying the amount of the guarantee charge by an annual rate of 5 percent, based on the number of days in the term), or accept such a fee.
- (3) Money that a person acting as an intermediary for the lending or borrowing of money receives in connection with the mediation, regardless of whether it is termed an honorarium or inspection fee or called by any other name, is deemed to be a fee, and the provisions of the preceding two paragraphs apply.

#### (Punishments for High Interest Rates)

- Article 5 (1) If a person lending money has concluded a contract to receive an annual interest (including an amount of liquidated damages for failure to perform an obligation; the same applies hereinafter) exceeding 109.5 percent (or for a year that includes February 29, 109.8 percent, and 0.3 percent per day), the person is subject to imprisonment with work for not more than five years, a fine of not more than 10,000,000 yen, or both. The same applies to a person that has received or demanded interest in excess of this rate.
- (2) Notwithstanding the provisions of the preceding paragraph, if a person lending money on a regular basis has concluded a contract to receive an annual interest exceeding 20 percent, the person is subject to imprisonment with work for not more than five years, a fine of not more than 10,000,000 yen, or both. The same applies to a person that has received or demanded interest in excess of this rate in connection with the loan.
- (3) Notwithstanding the provisions of the preceding two paragraphs, if a person lending money on a regular basis has concluded a contract to receive an annual interest exceeding 109.5 percent (or for a year that includes February 29, 109.8 percent, and 0.3 percent per day), the person is subject to imprisonment with work for not more than 10 years, a fine of not more than 30,000,000 yen, or both. The same applies to a person that has received or demanded interest in excess of this rate in connection with the loan.

#### (Punishments for High Guarantee Rates)

- Article 5-2 (1) If a person who guarantees money loans (limited to guarantees undertaken on a regular basis; hereinafter the same applies in this Article and the following Article) (limited to loans that a person lending the money lends on a regular basis; hereinafter the same applies in this Article and the

following Article) has concluded a contract to receive an annual guarantee charge that, combined with the annual interest on the loan being guaranteed, exceeds 20 percent of the amount of the loan, the person is subject to imprisonment with work for not more than five years, a fine of not more than 10,000,000 yen, or both. The same applies to a person that has received or demanded a guarantee charge in excess of this rate.

(2) With regard to the application of the provisions set forth in the preceding paragraph to a case in which the interest on a loan being guaranteed is determined by an interest rate that could change after the time that the contract on the interest rate is concluded (referred to as a "floating interest rate" in paragraph (2) of the following Article), the rate provided in each of the following items is deemed to be the interest rate of the loan for the case set forth in the relevant item:

(i) if an agreed maximum interest rate pursuant to the provisions of Article 8, paragraph (2), item (i) of the Interest Rate Restriction Act (Act No. 100 of 1954) (referred to as "agreed maximum interest rate" in this Article and the following Article) has been stipulated by the agreement between the obligee and the guarantor of the loan at the time of the guarantee, and the obligee or the guarantor has notified the principal debtor of this stipulation: the agreed maximum interest rate; and

(ii) in cases other than those set forth in the preceding item: 10 percent per annum.

(3) With regard to the application of the provisions of paragraph (1) to a case in which the guarantee under the same paragraph is a revolving guarantee (meaning a guarantee with a primary obligation comprising one or more unidentified obligations of a certain specified scope; hereinafter the same applies in this paragraph and paragraph (3) of the following Article) for which the maximum amount of principal (meaning the maximum amount of principal comprising the primary obligation whose performance the guarantor is liable for; hereinafter the same applies in this paragraph and paragraph (3) of the following Article) and the principal determination date (meaning the date on which the principal that constitutes the primary obligation is to be determined (limited to the fixed date); hereinafter the same applies in this paragraph and paragraph (3) of the following Article) are stipulated, and in which the primary debtor is an individual (limited to the case where the guarantor is a person specified by Cabinet Order as being supervised by an administrative organ with regard to business activities for guarantees) or a corporation (excluding when the obligee is a person that is unable to provide loans on a regular basis pursuant to the provisions of laws and regulations and excluding the cases prescribed in Article 8, paragraph (5) of the Interest Rate Restriction Act), the rate provided in each of the following items is deemed to be the interest rate of

the loan for the case set forth in the relevant item. In this case, the interest is calculated by deeming the maximum amount of principal to be the amount of the loan and the principal determination date to be the date of repayment:

- (i) if an agreed maximum interest rate has been stipulated by the agreement between the obligee and the guarantor of the loan at the time of the revolving guarantee, and the obligee or the guarantor has notified the principal debtor of this stipulation: the agreed maximum interest rate; and
- (ii) in cases other than those set forth in the preceding item: 10 percent per annum.

- (4) With regard to the application of the provisions set forth in the preceding three paragraphs to the case where another guarantor is also guaranteeing the money loan, the term "the interest on the loan being guaranteed" in paragraph (1) is deemed to be replaced by "the interest on the loan being guaranteed and the guarantee charge that the other guarantor has concluded a contract for or has received."

(Punishments for High Interest Rates When There Are Guarantee Charges)

Article 5-3 (1) If a person lending money has increased the interest on a loan after concluding a contract for the guarantee charge for the loan, and has concluded a contract to receive annual interest (excluding annual interest exceeding 20 percent) that, combined with the guarantee charge, exceeds 20 percent, the person is subject to imprisonment with work for not more than five years, a fine of not more than 10,000,000 yen, or both. The same applies to a person that has received or demanded interest in excess of this rate in connection with the loan.

- (2) If a person lending money has provided a guaranteed loan whose interest is determined by a floating interest rate, and has concluded a contract for interest (excluding annual interest exceeding 20 percent) that exceeds the rate provided in either of the following items for the case set forth in the relevant items, the person is subject to imprisonment with work for not more than five years, a fine of not more than 10,000,000 yen, or both. The same applies to a person that has received or demanded interest in excess of this rate in connection with the loan:

- (i) if an agreed maximum interest rate has been stipulated by the agreement between the obligee and the guarantor of the loan at the time of the guarantee, and the obligee or the guarantor has notified the principal debtor of this stipulation: the agreed maximum interest rate; and
- (ii) in cases other than those set forth in the preceding item: 10 percent per annum.

- (3) If a person lending money has provided a loan with a revolving guarantee (limited to a revolving guarantee for which the maximum amount of principal

and the principal determination date have been stipulated) and has concluded a contract for interest (excluding annual interest exceeding 20 percent) that exceeds the rate provided in either of the following items for the case set forth in the relevant items, the person is subject to imprisonment with work for not more than five years, a fine of not more than 10,000,000 yen, or both. The same applies to a person that has received or demanded interest in excess of this rate in connection with the loan:

- (i) if an agreed maximum interest rate has been stipulated by the agreement between the obligee and the guarantor of the loan at the time of giving the revolving guarantee, and the obligee or the guarantor has notified the principal debtor of this stipulation: the agreed maximum interest rate; and
- (ii) in cases other than those set forth in the preceding item: 10 percent per annum.

(Method of Calculating Interest and Guarantee Charges)

- Article 5-4 (1) With regard to the application of the provisions of the preceding three Articles, if the term of a loan or guarantee is less than 15 days, the interest or guarantee charge is calculated by deeming this term to be 15 days.
- (2) With regard to the application of the provisions of the preceding three Articles, if interest is deducted in advance from the money being lent, the interest is calculated by deeming the amount the borrower has actually received to be the principal.
- (3) With regard to the application of the provisions of the preceding three Articles, if the contract incorporates less than one year's worth of interest into the principal, the interest is deemed to be the amount of money out of the incorporated principal and interest that exceeds the original principal.
- (4) With regard to the application of the provisions of the preceding three Articles, except for the following types of money, money that the person lending money receives in connection with the loan, whether it is termed an honorarium, fee, or inspection fee or called by any other name, is deemed to be the interest. The same applies to money other than the principal that the person accepting or demanding payment with regard to monies lent receives in connection with that acceptance or demand.
- (i) the following expenses for concluding a contract or for performing obligations:
    - (a) money that must be allocated for payment of taxes and other public charges;
    - (b) costs for compulsory execution, costs for auction procedures as an exercise of the security right, or other costs payable to a public agency for procedures carried out by the public agency;
    - (c) charges for using a cash dispenser or any other machine whereby the

counterparty to the loan receives money or makes performance in connection with the loan (limited to charges that are within the scope of the amount specified by Cabinet Order);

(ii) reissuance fees for a card issued for use in lending money and performance, and other costs specified by Cabinet Order as being related to affairs carried out by the person lending money at the request of the counterparty to the loan.

(5) The provisions of the preceding paragraph apply mutatis mutandis to the money a person guaranteeing a money loan receives in connection with the guarantee and to the money a person accepting or demanding payment with regard to a loan receives in connection with the acceptance or demand. In this case, the terms "preceding three Articles" and "interest" in that paragraph are deemed to be replaced with "preceding two Articles" and "guarantee charge," respectively.

(Relationship to the Price Control Order)

Article 6 With regard to the interest of money loans and guarantee charges, as well as fees for the mediation of money loans and guarantees, the provisions of Article 9-2 (Prohibition of Contracts at Unreasonably High Prices) of the Price Control Order (Imperial Order No. 118 of 1946) do not apply.

(Cases Deemed to Be Loans of Money)

Article 7 With regard to the application of the provisions of Article 3 through the preceding Article, the delivery or receipt of money by the discount of negotiable instruments, provision of collateral by sale, or any similar means is deemed to be a loan of money.

(Other Penal Provisions)

Article 8 (1) A person who has performed an act to evade the prohibition prescribed in the provisions of Article 5, paragraph (1) or paragraph (2), Article 5-2, paragraph (1), or Article 5-3, regardless of the name in which or the means by which the person has done so, is subject to imprisonment with work for not more than five years, a fine of not more than 10,000,000 yen, or both.

(2) A person who has performed an act to evade the prohibition prescribed in the provisions of Article 5, paragraph (3), regardless of the name in which or the means by which the person has done so, is subject to imprisonment with work for not more than 10 years, a fine of not more than 30,000,000 yen, or both.

(3) A person who falls under either of the following items is subject to imprisonment with work for not more than three years, a fine of not more than 3,000,000 yen, or both:

(i) a person who has violated the provisions of Article 1, Article 2, paragraph

- (1), Article 3, or Article 4, paragraph (1) or paragraph (2); or
  - (ii) a person who has performed an act to evade the prohibition set forth in the preceding item, regardless of the name in which or the means by which the person has done so.
- (4) The part of the provisions set forth in the preceding paragraph pertaining to Article 1 and Article 3 do not apply when there are applicable provisions in the Penal Code (Act No.45 of 1907).

Article 9 (1) If the representative of a corporation (including an unincorporated association or foundation that has rules concerning the representative or administrator; hereinafter the same applies in this paragraph and the following paragraph) or the agent, employee, or any other worker of a corporation or individual has committed a violation set forth in any of the following items with regard to the business or assets of the corporation or individual, in addition to the punishment to which the offender is subject, the corporation is subject to the fine set forth in the relevant item and the individual is subject to the fine prescribed in the relevant Article:

- (i) Article 5, paragraph (1) or paragraph (2), Article 5-2, paragraph (1), Article 5-3, or paragraph (1) of the preceding Article: a fine of not more than 30,000,000 yen;
  - (ii) Article 5, paragraph (3) or paragraph (2) of the preceding Article: a fine of not more than 100,000,000 yen;
  - (iii) paragraph (3) of the preceding Article (excluding the part pertaining to Article 3): the fine prescribed in that paragraph.
- (2) The period of statute of limitations for a case in which a fine is imposed on a corporation or an individual for a violation under Article 5, paragraphs (1) through (3), Article 5-2, paragraph (1), Article 5-3, or paragraph (1) or paragraph (2) pursuant to the provisions of the preceding paragraph is the period of statute of limitations for the crimes in those provisions.
- (3) If an unincorporated association or foundation is punished pursuant to the provisions of paragraph (1), the representative or administrator thereof represents the organization for the procedural act, and the provisions of laws on criminal procedure for a case in which a corporation is the accused apply *mutatis mutandis*.