


Promulgated on June 18, 2012. Effective on July 1, 2012.

Chapter 16

Crimes Related to Securities and Finance

This guideline applies to adult offenders (nineteen years of age or older) who committed any offense of Use of Material Nonpublic Information, Market Price Manipulation, Unfair Trading (Capital Markets Act, Article 443, paragraph 1, 2), Offering or Selling Securities Without Filing a Registration Statement, Making a False Statement or Omitting Statement of a Material Fact on the Registration Statement and the like (Capital Market Act, Article 444, subparagraph 12 to 14), Making a False Statement or Omitting Statement of a Material Fact (Capital Market Act, Article 444, subparagraph 18), Violation of the Duty to Report on Stocks and the like held by Bulk (Capital Market Act, Article 445, subparagraph 20), Preparing and Disclosing of False Financial Statements (External Audit Act, Article 20, paragraph 1), Forgery or Alteration of Accounting Information (External Audit Act, Article 20, paragraph 2), Acceptance of a Bribe by an Officer or an Employee of Financial Institution (Specific Economic Crimes Act, Article 5, paragraph 1, 2),



Acceptance of a bribe for Commissioning by an Officer or an Employee of a Financial Institution (Specific Economic Crimes Act, Article 5, paragraph 3), Offer of a bribe to an Officer or an Employee of a Financial Institution (Specific Economic Crimes Act, Article 6, paragraph 1, 2), Acceptance of a bribe for Commission on Matters belonging to the Duties of an Officer or an Employee of a Financial Institution (Specific Economic Crimes Act, Article 7).



PART A — TYPES OF OFFENSES AND SENTENCING PERIODS

▶ SECURITIES CRIME

01 | CRIMES DAMAGING THE FAIRNESS OF THE CAPITAL MARKET (USE OF MAJOR NONPUBLIC INFORMATION, MARKET PRICE MANIPULATION AND UNFAIR TRADING)

OFFENSE TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 100 Million Won	- 1 yr.	6 mos. - 1 yr. 6 mos.	1 yr. - 2 yrs. 6 mos.
2	More than 100 Million Won, But Less than 500 Million Won	10 mos. - 2 yrs. 6 mos.	1 yr. - 4 yrs.	2 yrs. 6 mos. - 6 yrs.
3	More than 500 Million Won, But Less than 5 Billion Won	1 yr. 6 mos. - 4 yrs.	3 yrs. - 6 yrs.	4 yrs. - 7 yrs.
4	More than 5 Billion Won, But Less than 30 Billion Won	3 yrs. - 6 yrs.	5 yrs. - 9 yrs.	7 yrs. - 11 yrs.
5	More than 30 Billion Won	5 yrs. - 9 yrs.	7 yrs. - 11 yrs.	9 yrs. - 15 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's passive participation resulting from outside pressure Insignificant participation Slight influence on the actual stock price or minor scale of unfair trading (This is for the case of market price manipulation, unfair trading) 	<ul style="list-style-type: none"> Significant influence on the actual stock price or large-scale unfair trading (This is for cases of market price manipulation, unfair trading) Deliberate concealing of profits gained from the offense Particularly malicious commission of the offense Instigating the subordinate person to commit the offense

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Actor/ etc.	<ul style="list-style-type: none"> • Those with hearing and visual impairments • Voluntary surrender to investigative agencies or whistleblowing of inside corruption 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Failure to consume or retain significant portions of the profits from crime • Offender's passive participation 	<ul style="list-style-type: none"> • Condemnable motives
General Sentencing Determinant	Actor/ etc.	<ul style="list-style-type: none"> • No prior criminal history • Expresses sincere remorse 	<ul style="list-style-type: none"> • Destroying evidence or attempting to conceal evidence • Different types of repeated offenses under the Criminal Act or the criminal history of the same type of offense does not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence), or prior history of disciplinary measures or penalty surcharge imposed by the regulatory organization

02 | CRIMES DAMAGING THE TRANSPARENCY OF THE CAPITAL MARKET

OFFENSE TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Violating the Duty to Report on Stocks, etc. Held in Bulk	- 8 mos.	4 mos. - 1 yr.	8 mos. - 2 yrs.
2	Violating the Duty to Disclose Registration Statement or Similar Documents/Preparing and Disclosing Financial Statements Containing False Information/Forgery, Alteration of Accounting Information	4 mos. - 1 yr.	8 mos. - 1 yr. 6 mos.	1 yr. - 3 yrs.



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's passive participation resulting from outside pressure Special consideration can be taken into account for engaging in the offense 	<ul style="list-style-type: none"> Prolonged and repeated commission of the crime Particularly malicious commission of the offense Instigating the subordinate person to commit the offense
	Actor/ etc.	<ul style="list-style-type: none"> Those with hearing and visuals impairments Voluntary surrender to investigative agencies or whistleblowing of inside corruption 	<ul style="list-style-type: none"> Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's passive participation 	<ul style="list-style-type: none"> Condemnable motives
General Sentencing Determinant	Actor/ etc.	<ul style="list-style-type: none"> No prior criminal history Expresses sincere remorse 	<ul style="list-style-type: none"> Destroying evidence or attempting to conceal evidence Different types of repeated offenses under the Criminal Act, the criminal history of imprisonment by the same type of offenses that do not constitute a repeated offense under the Criminal Act (This applies when the criminal history is within ten years after completion of sentence) or prior history of disciplinary measures or penalty surcharge imposed by the regulatory organization

03¹ FINANCIAL CRIMES

(1) ACCEPTANCE OF A BRIBE BY AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

OFFENSE TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 10 Million Won	- 6 mos.	4 mos. - 1 yr.	8 mos. - 2 yrs.
2	More than 10 Million, But Less than 30 Million Won	8 mos. - 2 yrs.	1 yr. - 3 yrs.	2 yrs. - 4 yrs.
3	More than 30 Million Won, But Less than 50 Million Won	2 yrs. 6 mos. - 4 yrs.	3 yrs. - 5 yrs.	4 yrs. - 6 yrs.
4	More than 50 Million Won, But Less than 100 Million Won	3 yrs. 6 mos. - 6 yrs.	5 yrs. - 7 yrs.	6 yrs. - 8 yrs.
5	More than 100 Million Won, But Less than 500 Million Won	5 yrs. - 8 yrs.	7 yrs. - 10 yrs.	9 yrs. - 12 yrs.
6	More than 500 Million Won	7 yrs. - 10 yrs.	9 yrs. - 12 yrs.	More than 11 yrs. or life imprisonment



CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Cases where the extent of the offender's participation and the actual gain is exceptionally insignificant • Cases where the offense ended only with a demand or a promise to accept the bribe 	<ul style="list-style-type: none"> • Engaging in improper conduct or act of commissioning related to acceptance of a bribe or causing actual damage to a financial institution • Active demand • Instigating the subordinate person to commit the offense
	Actor/ etc.	<ul style="list-style-type: none"> • Those with hearing and visuals impairments • Bribe returned before the commencement of an investigation • Those with mental incapacity (cases where the offender cannot be held liable) • Voluntary surrender to investigative agencies or whistleblowing of inside corruption 	<ul style="list-style-type: none"> • Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> • Cases where the extent of the offender's participation and the actual gain is insignificant 	<ul style="list-style-type: none"> • Commission of the offense prolonged for more than two years • Closely related to the duties of the offender
General Sentencing Determinant	Actor/ etc.	<ul style="list-style-type: none"> • No prior criminal history • Expresses sincere remorse 	<ul style="list-style-type: none"> • Officer of a financial institution • Prior criminal history of the same offense that does not fall within the repeated offenses under the Criminal Act and records of disciplinary action against violation of the same offense exists

(2) OFFER OF A BRIBE TO AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

OFFENSE TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 30 Million Won	- 6 mos.	4 mos. - 10 mos.	6 mos. - 1 yr. 6 mos.
2	More than 30 Million Won, But Less than 50 Million Won	6 mos. - 1 yr.	10 mos. - 1 yr. 6 mos.	1 yr. - 3 yrs.
3	More than 50 Million Won, But Less than 100 Million Won	1 yr. - 2 yrs.	1 yr. 6 mos. - 2 yrs. 6 mos.	2 yrs. - 4 yrs.
4	More than 100 Million Won	2 yrs. - 3 yrs.	2 yr. 6 mos. - 3 yrs. 6 mos.	3 yrs. - 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Passive yielding to the recipient's active demand of bribe Cases where the offense ended only with a promise or expression of intent to offer the bribe 	<ul style="list-style-type: none"> Active offer of a bribe Engaging in conduct in return for the bribe that constitute as an illegal or wrongful performance of duties Instigating the subordinate person to commit the offense
	Actor/ etc.	<ul style="list-style-type: none"> Those with hearing and visuals impairments Those with mental capacity (cases where the offender cannot be held liable) Voluntary surrender to investigative agencies or whistleblowing of inside corruption 	<ul style="list-style-type: none"> Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Offender's passive participation Delivery of the bribe or other profits 	<ul style="list-style-type: none"> Closely related to the duties of the offender
General Sentencing Determinant	Actor/ etc.	<ul style="list-style-type: none"> No prior criminal history Expresses sincere remorse 	<ul style="list-style-type: none"> Repeated offenses of different criminal history of the same offense which does not fall within the repeated offenses under the Criminal Act



(3) ACCEPTANCE OF A BRIBE FOR COMMISSION ON MATTERS BELONGING TO THE DUTIES OF AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

OFFENSE TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 30 Million Won	- 6 mos.	4 mos. - 10 mos.	6 mos. - 1 yr. 6 mos.
2	More than 30 Million Won, But Less than 50 Million Won	6 mos. - 1 yr.	10 mos. - 1 yr. 6 mos.	1 yr. - 3 yrs.
3	More than 50 Million Won, But Less than 100 Million Won	1 yr. - 2 yrs.	1 yr. 6 mos. - 2 yrs. 6 mos.	2 yrs. - 4 yrs.
4	More than 100 Million Won	2 yrs. - 3 yrs.	2 yrs. 6 mos. - 3 yrs. 6 mos.	3 yrs. - 5 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Cases where the extent of the offender's participation and the actual gain is exceptionally insignificant Cases where the offense ended only with a demand or a promise to accept the bribe 	<ul style="list-style-type: none"> Active demand Instigating the subordinate person to commit the offense Particularly malicious commission of the offense
	Actor/ etc.	<ul style="list-style-type: none"> Those with hearing and visual impairments Bribe returned before the commencement of an investigation Those with mental incapacity (cases where the offender cannot be held liable) Voluntary surrender to investigative agencies or whistleblowing of inside corruption 	<ul style="list-style-type: none"> Repeated offenses of the same type under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> Cases where the extent of the offender's participation and the actual gain is insignificant 	<ul style="list-style-type: none"> Commission of the offense prolonged for more than two years Act of commissioning

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Determinant	Actor/ etc.	<ul style="list-style-type: none"> • No prior criminal history • Expresses sincere remorse 	<ul style="list-style-type: none"> • Prior criminal history of the same offense that does not fall within the repeated offenses under the Criminal Act and records of disciplinary action against violation of the same offense



DEFINITION OF OFFENSES

► SECURITIES CRIME

01 | CRIMES DAMAGING THE FAIRNESS OF THE CAPITAL MARKET

- This means offenses with the following statutory elements of the offense under the applicable laws.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Use of Material Nonpublic Information	Capital Markets Act, Article 443, paragraph 1, subparagraph 1 to 3 and paragraph 2
Market Price Manipulation	Capital Market Act, Article 443, paragraph 1, subparagraph 4 to 7 and paragraph 2
Unfair Trading	Capital Market Act, Article 443, paragraph 1, subparagraph 8, subparagraph 9 and paragraph 2

(1) TYPE 1

- This indicates cases in which the amount of bribe involved, or the loss avoided by the offense does not exceed 100 million won.

(2) TYPE 2

- This indicates cases in which the amount of bribe involved, or the loss avoided by the offense exceeds 100 million won but is less than 500 million won.

(3) TYPE 3

- This indicates cases in which the amount of bribe involved, or the loss avoided by the offense exceeds 500 million won but is less than 5 billion won.

(4) TYPE 4

- This indicates cases in which the amount of bribe involved, or the loss avoided by the offense exceeds 5 billion won but is less than 30 billion won.

(5) TYPE 5

- This indicates cases in which the amount of bribe involved, or the loss avoided by the offense exceeds 30 billion won.

02 | CRIMES DAMAGING THE TRANSPARENCY OF THE CAPITAL MARKET

(1) TYPE 1

ELEMENTS OF OFFENSE	APPLICABLE LAW
Violating the Duty to Report on Stocks and the Like Held by Bulk	Capital Markets Act, Article 445, subparagraph 20

(2) TYPE 2

ELEMENTS OF OFFENSE	APPLICABLE LAW
<ul style="list-style-type: none"> • Use of Material Nonpublic Information, Offering or Selling Securities Without Filing a Registration Statement, Making a False Statement or Omitting Statement of a Material Fact in Registration Statement, etc., Making a False Statement or Omitting Statement of a Material Fact in Corrective Registration Statement and the Others 	Capital Markets Act, Article 444, subparagraph 12 to 14 and subparagraph 18
<ul style="list-style-type: none"> • Preparing and Disclosing of False Statements 	External Audit Act, Article 20, paragraph 1
<ul style="list-style-type: none"> • Forgery or Alteration of Accounting Information 	External Audit Act, Article 20, paragraph 2



▶ FINANCIAL CRIME

01 | ACCEPTANCE OF A BRIBE BY AN OFFICER OR AN EMPLOYEE OF FINANCIAL INSTITUTION AND ACCEPTANCE OF A BRIBE FOR MEDIATION BY AN OFFICER OR AN EMPLOYEE OF FINANCIAL INSTITUTION

- This means offenses with the following statutory elements of the offense under the applicable laws.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Acceptance of a bribe by an Officer or an Employee of Financial Institution	Specific Economic Crimes Act, Article 5, paragraph 1 and paragraph 2
Acceptance of a bribe for Mediation by an Officer or an Employee of Financial Institution	Specific Economic Crimes Act, Article 5, paragraph 3

(1) TYPE 1

- This indicates cases in which the amount of bribe involved does not exceed 10 million won. The amount of bribe indicates the monetary value of the bribe offered, promised to offer or expressed to offer (This definition applies throughout this guideline).

(2) TYPE 2

- This indicates cases in which the amount of bribe involved exceeds 10 million won but is less than 30 million won.

(3) TYPE 3

- This indicates cases in which the amount of bribe involved exceeds 30 million won but is less than 50 million won.

(4) TYPE 4

- This indicates cases in which the amount of bribe involved exceeds 50 million won but is less than 100 million won.

(5) TYPE 5

- This indicates cases in which the amount of bribe involved exceeds 100 million won but is less than 500 million won.

(6) TYPE 6

- This indicates cases in which the amount of bribe involved exceeds 500 million won.

02 | AN OFFERING OF BRIBE TO AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

- This means offenses with the following statutory elements of the offense under the applicable laws.

ELEMENTS OF OFFENSE	APPLICABLE LAW
An offering of Bribe to an Officer or an Employee of a Financial Institution	Specific Economic Crimes Act, Article 6, paragraph 1 and paragraph 2

(1) TYPE 1

- This indicates cases in which the amount of bribe involved does not exceed 30 million won. The amount of bribe indicates the monetary value of the bribe offered, promised to offer or expressed to offer (This definition applies throughout this guideline).

(2) TYPE 2

- This indicates cases in which the amount of bribe involved exceeds 30 million won but is less than 50 million won.

(3) TYPE 3

- This indicates cases in which the amount of bribe involved exceeds 50 million won but is less than 100 million won.

(4) TYPE 4

- This indicates cases in which the amount of bribe involved exceeds 100 million won.



03 | ACCEPTANCE OF A BRIBE FOR MEDIATION ON MATTERS BELONGING TO THE DUTIES OF AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

- This means offenses with the following statutory elements of the offense under the applicable laws.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Acceptance of a bribe for Commission on Matters Belonging to the Duties of an Officer or an Employee of a Financial Institution	Specific Economic Crimes Act, Article 7

(1) TYPE 1

- This indicates cases in which the amount of bribe involved does not exceed 30 million won. The amount of bribe indicates the monetary value of the bribe offered, promised to offer, or expressed to offer (This definition applies throughout this guideline).

(2) TYPE 2

- This indicates cases in which the amount of bribe involved exceeds 30 million won but is less than 50 million won.

(3) TYPE 3

- This indicates cases in which the amount of bribe involved exceeds 50 million won but is less than 100 million won.

(4) TYPE 4

- This indicates cases in which the amount of bribe involved exceeds 100 million won.

DEFINITION OF SENTENCING FACTORS

01 | CRIMES DAMAGING THE FAIRNESS OF THE CAPITAL MARKET (SECURITIES CRIMES)

(1) OFFENDER'S PASSIVE PARTICIPATION RESULTING FROM EXTERNAL PRESSURE

- This means one or more of the following factors apply:
 - Cases where the offender followed a superior's instructions. However, this excludes cases where the offender himself tried to gain profits in a capital transaction by taking advantage of crime opportunities
 - Other cases with comparable factors

(2) INSIGNIFICANT PARTICIPATION

- This indicates cases in which the offender did not direct, plan or command the organized crime, but participated in mere conduct during the execution phase of the offense.

(3) SLIGHT INFLUENCE ON THE ACTUAL STOCK PRICE OR SMALL SCALE OF UNFAIR TRADING (IN CASE OF MARKET PRICE MANIPULATION AND UNFAIR TRADING)

- This means one or more of the following factors apply:
 - Cases where the crime affected the change in the stock prices only marginally.
 - Cases where the extent of the offense can be considered insignificant in terms of the volume of transactions, the total value of transactions, and proportion of order with intent to manipulate the market price
 - Cases where the main cause of the change in stock price is determined to be a factor that is independent of the crime
 - Other cases with comparable factors

(4) SIGNIFICANT INFLUENCE TO THE ACTUAL STOCK PRICE OR LARGE-SCALE UNFAIR TRADING (IN CASE OF MARKET PRICE MANIPULATION AND UNFAIR TRADING)

- This means one or more of the following factors apply:



- Cases where the crime affected the change in the stock prices considerably
- Cases where the extent of the offense can be considered insignificant in terms of the volume of transactions, the total value of transactions and proportion of order with intent to manipulate the market price
- Cases where the offense is committed in connection with the securities/derivatives market
- Other cases with comparable factors

(5) DELIBERATE CONCEALING OF PROFITS GAINED FROM THE OFFENSE

- This means one or more of the following factors apply:
 - Deliberate concealing of profits gained from the offense to avoid a claim for damages or execution of the monetary penalty
 - Other cases with comparable factors

(6) PARTICULARLY MALICIOUS COMMISSION OF THE OFFENSE

- This means one or more of the following factors apply:
 - The means and methods for the commission of the offense were meticulously planned in advance
 - There were multiple persons involved in an organized manner for the purpose of committing the offense
 - Offense committed after Merger and Acquisition (M&A) through the use of borrowed capital, with the purpose to collect the capital or pay back the debt
 - Offense committed by or conspiracy with a person responsible for forming and managing relevant information, such as a major shareholder, executive, and consulting agency
 - The use of the scope of employment as professionals involved in businesses such as finance, stock markets, or accounting
 - Other cases with comparable factors

(7) FAILURE TO CONSUME OR RETAIN SIGNIFICANT PORTIONS OF THE PROFITS FROM CRIME

- This indicates cases in which one or more following factors apply:
 - Cases where the actual amount of profit involved, or the loss avoided by the crime is relatively small due to the loss created during the process of crime

- When the offender used the money, he gained from the disposition of the stocks by depositing it in the company account or repaying the existing company debt so that the increase in the amount of positive property is slight
- Other cases with comparable factors
 - * However, the profit retrieved from the offender by the sentencing of the monetary penalty shall not be taken into account.

(8) CONDEMNABLE MOTIVES

- This indicates cases in which one or more following factors apply:
 - Cases where the offender raised the stock price to protect control of the company or engaged in trading of stocks by using material nonpublic information to secure cost to protect control of the company
 - Cases where the offender dropped the stock price to decrease the cost of hostile M&A
 - Other cases with comparable factors

(9) PRIOR HISTORY OF DISCIPLINARY MEASURES OR PENALTY SURCHARGE IMPOSED BY A REGULATORY ORGANIZATION

- This means the history of penalty surcharge imposed by the Financial Service Commission/the Financial Supervisory Service, or disciplinary measure as a membership sanction imposed by Korea Exchange.

02¹ CRIMES DAMAGING THE TRANSPARENCY OF THE CAPITAL MARKET (SECURITIES CRIME)

(1) OFFENDER'S PASSIVE PARTICIPATION RESULTING FROM OUTSIDE PRESSURE

- This means one or more of the following factors apply:
 - This means cases when the offender followed the superior's instructions in fulfilling the task. However, this excludes cases when the offender himself tried to gain profits by the chance of crime
 - Other cases with comparable factors



(2) SPECIAL CONSIDERATION CAN BE TAKEN INTO ACCOUNT FOR ENGAGING IN OFFENSE

- This means one or more of the following factors apply:
 - Where the omission resulted from a mistake in the process of handling business tasks
 - Misjudgment caused by modification of accounting standards
 - Crime by willful negligence
 - Other cases with comparable factors

(3) PARTICULARLY MALICIOUS COMMISSION OF THE OFFENSE

- This means one or more of the following factors apply:
 - The means and methods for the commission of the offense were meticulously planned in advance
 - There were multiple persons involved in an organized manner to commit the offense
 - Use of highly intelligent schemes to commit the offense
 - Other cases with comparable factors

(4) CONDEMNABLE MOTIVES

- This means one or more of the following factors apply:
 - Offense committed to conceal other crimes (such as embezzlement)
 - Offense committed to enable the capital to increase by issuing new stocks or bank advances
 - Cases where the money was received in return for the crime
 - Other cases with comparable factors

(5) PRIOR HISTORY OF DISCIPLINARY MEASURES OR PENALTY SURCHARGE IMPOSED BY THE REGULATORY ORGANIZATION

- This means the history of penalty surcharge imposed by the Financial Service Commission/Financial Supervisory Service, or disciplinary measure as a membership sanction imposed by the Korea Exchange

03¹ FINANCIAL CRIMES

(1) ENGAGING IN IMPROPER CONDUCT OR ACT OF COMMISSIONING RELATED TO ACCEPTANCE OF A BRIBE OR CAUSING ACTUAL DAMAGE TO A FINANCIAL INSTITUTION

- This means one or more of the following factors apply:
 - Improper conduct or act of commissioning after accepting a bribe or accepting a bribe after engaging in improper conductor or act of commissioning
 - Due to an unfair capital, it becomes impossible to recover it, causing actual damage to a financial institution
 - Other cases with comparable factors

(2) ACTIVE DEMAND OF BRIBE

- This means one or more of the following factors apply:
 - When the offender conspicuously demanded money or the valuables
 - When the offender demanded money or valuables by implying that with the exercise of the offender's authority, the briber or the family member of the briber will be maltreated if the profit is not offered
 - Other cases with comparable factors

(3) THE OBJECT USED FOR BRIBE RETURNED BEFORE THE COMMENCEMENT OF AN INVESTIGATION

- This means the offender voluntarily returned the object used for the bribe to the giver before the investigative agency began its investigation. However, this excludes cases where the offender made attempted to conceal the offense after returning the bribe.

(4) CLOSELY RELATED TO THE DUTIES OF THE OFFENDER (IN CASES OF ACCEPTANCE OF A BRIBE, ACCEPTANCE OF A BRIBE FOR MEDIATION BY AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION)

- This means the offender, regardless of their position, had the decision-making authority regarding the demanded conduct in return for the bribe.



(5) PASSIVE YIELDING TO THE RECIPIENT'S ACTIVE DEMAND OF A BRIBE

- This means the offender offers the bribe to the recipient's active demand.

(6) ACTIVE OFFER OF A BRIBE

- This means the offender made an active demand in connection with one's own duties.

(7) DELIVERY OF BRIBE

- This means the offender delivers money or the valuables to a third person with the purpose of offering a bribe to the employer of the officer of the financial institution or when the third person knowingly receives the delivered money or the valuables.

(8) CLOSELY RELATED TO THE DUTIES OF THE OFFENDER (IN CASE OF OFFER OF A BRIBE TO AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION)

- This means the offender offers a bribe to a person who has the decision-making authority regarding the demanded conduct.

(9) ACT OF COMMISSION

- This indicates cases in which the offender receives bribes and engages in the act of commissioning or receives bribe after the act of commission.

(10) PARTICULARLY MALICIOUS COMMISSION OF THE OFFENSE

- This means one or more of the following factors apply:
 - The means and methods for the commission of the offense were meticulously planned in advance
 - There were multiple persons involved in an organized manner for the purpose of committing the offense
 - The use of the scope of employment as professionals involved in businesses such as finance, stock markets, and accounting
 - Other cases with comparable factors

ASSESSING PRINCIPLES APPLICABLE TO SENTENCING FACTORS

01 | DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, the court must consider only the special sentencing determinants.
- However, in cases involving more than two special sentencing determinants, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factors shall be considered with greater significance than the actor or other factors.
 - ② The same number of conduct factors reciprocally, or the actor, or other factors reciprocally shall be treated as the same.
 - ③ If the sentencing range applicable cannot be determined by the aforementioned principles in ① and ②, the court is to decide the sentencing range by a comprehensive comparison and assessment based on the principles set forth in ① and ②.
- After an assessment, if a greater number of aggravating factors than the mitigating factors exist, then the aggravating zone is recommended when determining the sentencing range. If a greater number of mitigating factors exist, then a mitigating sentencing range is recommended. For other cases, the standard sentencing range is recommended.

02 | DETERMINING THE SENTENCE APPLICABLE

- In determining the sentence, the court should consider comprehensively both the general and special sentencing determinants that are within the sentencing range as assessed under above 1.
- In cases in which the maximum of the sentencing range exceeds twenty-five years, the court may impose life imprisonment.



GENERAL APPLICATION PRINCIPLES

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① When only two or more special aggravating factors apply, or the special sentencing determinant outnumber the special mitigating determinants by two or more, then increase the maximum level of the recommended sentencing range up to $\frac{1}{2}$.
- ② When only two or more special mitigating factors apply, or the special sentencing determinant outnumber the special aggravating determinants by two or more, then reduce the minimum level of the recommended sentencing range down to $\frac{1}{2}$.

02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- When the sentencing range under this guideline conflicts with the range determined according to the aggravation and mitigation of the applicable law, the sentencing range prescribed by the applicable law shall govern.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

- When the court declines to apply a permissive mitigating factor under applicable law as listed in this guideline's sentencing table, the factor shall be treated as a discretionary mitigating factor.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

01 | APPLICABLE SCOPE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act involve an offense set forth in the sentencing guidelines, as well as an offense the sentencing guidelines do not cover, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

02 | DETERMINING THE BASE OFFENSE

- The “base offense” indicates the most severe offense that results after selecting the penalty and determining the statutory aggravation and mitigation. However, in cases in which the maximum sentencing range is lower than that of the maximum sentencing range of the other offense as set forth in this guideline, the offense resulting in the concurrent crime becomes the base offense.

03 | DETERMINING THE SENTENCE OF AN OFFENDER CONVICTED OF MULTIPLE OFFENSES OF THE SAME TYPE

(1) OFFENSES OF THE SAME TYPE DAMAGING THE FAIRNESS OF THE CAPITAL MARKET

- For purposes of calculating sentencing range for multiple offense cases that consist of *Crimes Damaging the Fairness of the Capital Market*, the court shall apply the following unless the offenses are deemed as a single offense under the sentencing guideline:
 - ① In setting sentencing range take into account the total amount of profit or the loss avoided by the crime and select the appropriate sentencing range by considering all relevant factors.



- ② However, after the total summation, when the applicable offense type is one level higher than the most severe single offense, then a reduction of $\frac{1}{3}$ is made to the minimum sentencing range. When the applicable offense type is two or more levels higher than the most severe single offense, a reduction of $\frac{1}{2}$ is made to the minimum sentencing range by applying the minimum sentencing range of the most severe single offense.
- For multiple offense cases that consist of *Crimes Damaging the Fairness of the Capital Market*, apply the following principles of calculating a sentencing range of the multiple offenses of the different type.

(2) OFFENSES OF THE SAME TYPE THAT VIOLATES THE TRANSPARENCY OF THE CAPITAL MARKET

- For purposes of calculating the sentencing range for multiple offenses that consist of *Crimes Damaging the Transparency of the Capital Market*, the court shall apply the following unless the offenses are deemed as a single offense under the sentencing guideline:
 - ① In setting the sentencing range for an offender convicted of two offenses, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the $\frac{1}{2}$ of the maximum sentencing range of the second offense.
 - ② In setting the sentencing range for an offender convicted of three or more offenses, the sentencing range should be the total sum of the following: (1) of the maximum sentencing range of the base offense, sum of $\frac{1}{2}$ of the maximum sentencing range of the offense with the highest sentencing range, and (2) $\frac{1}{3}$ of the maximum sentencing range of the remaining offense with the second-highest sentencing range.
 - ③ For cases where the minimum sentencing range of the other offense is higher than that of the base offense, the minimum sentencing range resulting from the multiple offense should be the minimum sentencing range of the other offense.

(3) OFFENSES OF THE SAME TYPE AMONG FINANCIAL CRIMES

- For purposes of calculating sentencing range for multiple offenses that consist of *Financial Crimes*, the court shall apply the following unless the offenses are deemed as a single offense under the sentencing guideline:

- ① In setting sentencing range, take into account the total amount of bribe accepted, demanded, promised to accept by an officer or an employee of a financial institution, or the amount of profit offered, promised to offer, expressed the intent to offer to an officer or an employee of a financial institution and select the appropriate sentencing range by considering all relevant factors.
- ② However, after the total summation, when the applicable offense type is one level higher than the most severe single offense, then a reduction of $\frac{1}{3}$ is made to the minimum sentencing range. When the applicable offense type is two or more levels higher than the most severe single offense, a reduction of $\frac{1}{2}$ is made to the minimum sentencing range by applying the minimum sentencing range of the most severe single offense.

04 | DETERMINING THE SENTENCE OF AN OFFENDER CONVICTED OF MULTIPLE OFFENSES OF THE DIFFERENT TYPE

- To calculate the sentencing range for multiple offenses with a different offense, the court shall apply the following principles unless the offenses are deemed as a single offense under the sentencing guideline:
 - ① In setting sentencing range for an offender convicted of two offenses, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the $\frac{1}{2}$ of the maximum sentencing range of the second offense.
 - ② In setting the sentencing range for an offender convicted of three or more offenses, the sentencing range should be the total sum of the following: (1) of the maximum sentencing range of the base offense, sum of $\frac{1}{2}$ of the maximum sentencing range of the offense with the highest sentencing range, and (2) sum of $\frac{1}{3}$ of the maximum sentencing range of the remaining count with the second-highest sentencing range.
 - ③ For cases in which the minimum sentencing range of the other offense is higher than that of the base offense, the minimum sentencing range resulting from the multiple offense should be the minimum sentencing range of the other offense.



- However, when the multiple offenses consist of multiple 'crimes damaging the fairness of the capital market' or 'financial crimes,' and other offenses, first set the sentencing range for the multiple offenses of the same type of offense and then use the resulted point range to calculate the sentencing range for multiple offenses with a different type of offense.

PART B – GUIDELINE ON SUSPENDING A SENTENCE

► SECURITIES CRIME

01 | CRIMES DAMAGING THE FAIRNESS OF THE CAPITAL MARKET

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Deliberate concealment of profits gained from the offense • Particularly malicious commission of the offense • Significant influence on the actual stock price or large scale of unfair trading • A criminal history of the same offense (imposing suspension of a sentence or a more severe punishment within five years; or more than three incidents of fines imposed) exists 	<ul style="list-style-type: none"> • Offender's passive participation resulting from outside pressure • Participation is not substantial • Slight influence on the actual price or small scale of unfair trading • Voluntary surrender to investigative agencies or internal whistleblowing
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense or prior history of disciplinary measures or penalty surcharge imposed by regulatory organizations • Lack of social ties • Absence of remorse • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense • Condemnable motives 	<ul style="list-style-type: none"> • Strongly established social ties • Expresses sincere remorse • No criminal history of the suspension of sentence or imposing of other sentences more severe • Cases of elderly offenders • Offender's passive participation as an accomplice • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member • Cases where the offender failed to consume or retain most of the profit from the crime

02 | CRIMES DAMAGING THE TRANSPARENCY OF THE CAPITAL MARKET

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Prolonged and repeated commission of the offense • Particularly malicious commission of the offense • A criminal history of the same offense (imposing suspension of a sentence or a more severe punishment within five years; or more than three incidents of fines imposed) exists 	<ul style="list-style-type: none"> • Offender's passive participation resulting from outside pressure • Motive for committing offense can be taken into consideration • Voluntary surrender to investigative agencies or internal whistleblowing
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or for a greater offense or prior history of disciplinary measures or penalty surcharge imposed by regulatory organizations • Lack of social ties • Absence of remorse • Active participation as an accomplice • Destroying evidence or attempting to conceal evidence after the commission of the offense • Condemnable motives 	<ul style="list-style-type: none"> • Strongly established social ties • Expresses sincere remorse • No criminal history of a suspension of sentence or imposing of other sentences more severe • Cases of elderly offenders • Offender's passive participation as an accomplice • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member

▶▶ FINANCIAL CRIMES

01 | ACCEPTANCE OF A BRIBE OR COMMISSION OF A BRIBE BY AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Active offer of a bribe • Engaging in improper conduct or act of commissioning related to acceptance of a bribe or causing actual damage to a financial institution 	<ul style="list-style-type: none"> • Cases where the amount of bribe is less than 20 million won • Expresses sincere remorse (voluntary surrender to investigative agencies or internal whistleblowing)
General Consideration Factor	<ul style="list-style-type: none"> • Criminal history of the same type of offense • Commission of the offense prolonged for more than two years • Active participation as an accomplice • An officer of a financial institution • Destroying evidence or attempting to conceal evidence after the commission of the offense 	<ul style="list-style-type: none"> • The object used for the bribe was returned before the commencement of an investigation • Faithful long-term serving of duties • Cases of elderly offenders • Offender's passive participation as an accomplice • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member • No prior criminal history



02¹ OFFER OF A BRIBE TO AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Cases where the amount of bribe is 50 million won or more • Criminal history of the same type of offense (suspension of sentence or sentence more severe within ten years) • Active offer of a bribe • Engaging in conduct in return for the profit which constitutes illegal or wrongful performance of duties 	<ul style="list-style-type: none"> • Cases where the amount of bribe is less than 20 million won • Offender's passive participation • Passive yielding to the recipient's active demands of bribe • Expresses sincere remorse (voluntary surrender to investigative agencies or internal whistleblowing)
General Consideration Factor	<ul style="list-style-type: none"> • Two or more criminal history on the suspension of sentence or other sentences more severe • Offering of bribe to the officer of a financial institution • Offering of bribe concerning significant benefits • Destroying evidence or attempting to conceal evidence after the commission of the offense • Lack of social ties • Prolonged duration of offering of bribe 	<ul style="list-style-type: none"> • No criminal history of the suspension of sentence or imposing of other sentences more severe • Cases of elderly offenders • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member

03 | ACCEPTANCE OF A BRIBE FOR COMMISSION ON MATTERS BELONGING TO THE DUTIES OF AN OFFICER OR AN EMPLOYEE OF A FINANCIAL INSTITUTION

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Consideration Factor	<ul style="list-style-type: none"> • Active offer of a bribe • Engaging in conduct in return for the profit which constitutes illegal or wrongful performance of duties • Particularly condemnable commission of the offense 	<ul style="list-style-type: none"> • Cases where the amount of bribe is less than 20 million won • Expresses sincere remorse (voluntary surrender to investigative agencies or internal whistleblowing)
General Consideration Factor	<ul style="list-style-type: none"> • Criminal history of the same type of offense • Commission of the offense prolonged for more than two years • Act of commission • Destroying evidence or attempting to conceal evidence after the commission of the offense 	<ul style="list-style-type: none"> • Object of bribe returned before the commencement of an investigation • No criminal history of the suspension of sentence or imposing of other sentences more severe • Cases of elderly offenders • Offender's passive participation as an accomplice • Physically ill offenders • Cases where the arrest of the offender would cause severe hardship to the offender's dependent family member



DEFINITIONS OF FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In cases in which the factors to consider in suspending a sentence and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.
- Determining Criminal History
 - Prior criminal history is calculated as follows: In cases that involve a suspension of the sentence, the prior criminal history is calculated from the date the defendant's suspension of the sentence was affirmed until the date of the commission of the offense. In cases that impose imprisonment, the prior criminal history is calculated from the final date the sentence was completed until the date the offense was committed.

ASSESSING PRINCIPLES APPLICABLE TO THE FACTORS TO CONSIDER IN SUSPENDING A SENTENCE

- In deciding whether the suspension of a sentence is appropriate in cases in which imprisonment is imposed, the court should give the primary consideration factor greater importance than the general consideration factors. The following principles should be considered:
 - ① In cases in which only two or more primary affirmative factors exist or when the primary affirmative factors outnumber the major adverse factors by two or more, it is recommended to suspend the sentence.
 - ② In cases in which two or more primary adverse factors exist or when the primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases in which ① or ② apply, but the difference between the number of general adverse (affirmative) factors and general affirmative (adverse) factors is greater than the difference between the number of primary affirmative (adverse) factors and primary adverse (affirmative) factors, or in cases other than ① or ②, the court shall decide whether to suspend the sentence after comparing and assessing the factors listed under the suspension of sentence section comprehensively.
 - ④ In the following cases, imprisonment is recommended in crimes violating the fairness of the capital market, even if the case falls within ③.
 - In cases when the amount of profits gained or when the loss avoided by the offense through market price manipulation is more than 500 million won, and the commission of the offense is particularly malicious.