

10-14-3-13

G20 가

- -

김 성 호

G20 가

- -

The Study on the Legal System of Exit
Strategy in G20
- Australia -

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Kim, Sung-Ho

2010. 10. 20.

국문 요약

(Exit Strategy)



(Australian Prudential Regulation Authority; APRA),
(Australian Securities and Investments Commission; ASIC),
(Reserve Bank of Australia; RBA)

(
)

가 가

가

가 IMF

가

(triple peaks)

(twin peaks)

가

가

가

가

가

(MOU)

Abstract

Australian's Financial sector is supervised by triple peaks which include Australian Prudential Regulatory Authority(APRA), Reserve Bank of Australia(RBA), Australian Securities and Investment Commissions(ASIC). First, APRA is a single prudential supervisor which was established to take over responsibility for the supervision of banks, insurance companies, and superannuation funds etc.. So Australian banking system is regulated by APRA but RBA. RBA is the central bank of Australia. But it has no longer the responsibility for the supervision of any individual financial institutes. ASIC is Australia's corporate, markets and financial services regulator and supervises consumer protection in the financial services sector. The Wallis Report concluded that APRA, as a prudential regulator, should be separate from the central bank because the separation enables both the RBA and APRA to focus clearly on their primary objectives and will clarify the lines of accountability for the regulatory tasks. However APRA and RBA has co-operated for a long time in doing thier responsibility through a MOU that provides that both should respect the other and exchange informations as possible. A Similar MOU was made between RBA and ASIC. So when RBA carries a exit strategy by raising the interest rate, it must closely cooperate with ASIC and ASIC as requires in each MOU.

※ Key Words : Financial Regulation, APRA, ASIC, RBA, EXIT STRATEGY, CAMPBELL REPORT, WALLIS REPORT, FSRA

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I	87
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2	96
I	96
II.	99
3	102
I	102
II.	103

4	109
I	109
II	110
III	111
5	115
	117
1 :	121
2 :	127

제 1 장 서 론

1

(GDP)

9

2

1 GDP 4 3

.1)

1

GDP

70%

2%, 3%, 4%, 5%, 8%

.2)

1

11%

.3)

1

가

(WEF) 가

1) , OECD 가 769.2
ha 77

2) (ABSAEI), 2009. 2;

(, KOTIS).

3) DFAT, Monthly Trade Data, 2009. 2. 5

가
 가 .⁴⁾ ,
 가 . 가
 가 .
 가 ,
 가 , 2
 . 가
 2
 가 .⁵⁾ 가 가
 가 .
 .
 1 . 1970
 가
 .
 .
 가

4) 2010 90 (www.weforum.org/gcr).

5) , 2003. 2. 3(http://news.chosun.com/svc/content_view/content_view.html?contid=2003020370277).

가 가 . 1985 16

가 .

8%

.6)

/

1983 12

가 .

가

가

. 1983 12

1985

. 1987 .

가 .7)

6) Elisa A. Bain/Ian R. A. Harper, Integration of Financial Service : Evidence from Australia, Bowles Symposium(Georgia State Univ.), 1999, 3-8 .

7) Gorden De Brouwer, オーストラリアの經濟改革と經濟成長, 日本 オーストラリア學

가

1998

(Australian Prudential Regulation Authority; APRA,

), (Australian Securities and

Investments Commission; ASIC,),

(Reserve Bank of Australia; RBA,)

.8) (

,), ,

가

.9)

(Council of Financial Regulators;

CFR)가

.10)

會發表資料, 2004, 6-7 ;

: , 1994, 23-28

8) P. Hanrahan, Improving the Process of Change in Australian Financial Sector Regulation, 2008(http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1184463

(2010.9.2)), 2-3. Australian Prudential Regulation Authority Act 1998, Australian Securities and Investments Commission Act 2001, Reserve Bank Act 1959

9) (Australian Security Commission; ASC) 1998 7 1

10) 2009 8

1997 -1998

가 .

2009

가 .

가 2-3%

가 .

1998

가 (Charter of Budget Honesty) .

가/ 가 .

1980

1980

.12)

가

가

12) Gordon De Brouwer, **오스트라리아의經濟改革と經濟成長**, 日本 오스트라리아學會發表資料, 2004, 14-15 ; 2006 2007

120 . 10 4 가 가
115 . 6

703

2000 4 900 2006 1
가 (,

(2009), 20).

가

.13)

1990

가

1990

ANZ

Westpack

가

가

가

가

가

가

가가

가

가

가

가

가

가

13)

1992

(compulsory pension saving

system)

가

(ASIC, The Integration of Financial Regulatory Authorities

-The Australian Experience, 2006, 1).

가

가

1

2007

가

.14)

	가	2007 (US \$)	2007 5 가
1		12,021,027	88.1%
2		2,685,065	234.0%
3		1,989,690	135.4%
4		1,192,992	234.8%
5		951,371	280.4%
6		944,536	227.0%
7		818,421	398.1%
8		713,998	135.5%
9		698,397	180.5%

2

(Exit Strategy)

가

가

가

가

.15)

14) 神作裕之 編, ファンド 法制, 資本市場研究會, 2008, 55 .

15) , , 2010. 6. 2 .

가

가

가

가

					2008	10
2009	2	6		5.25%	2.0%	

가

.16)

가

가

가

“

”(Macroprudential supervision)

.17)

가

16) (Exit Strategy),

, 2009.11.12, 1-3 .

17) Central Bank, The Economist, 2009.4.25

가

(FRB)

.18)

< 가 >

가	2007	2008	2009	2010
	5.3%	3.2%	1.2%	0.7%
	4.3%	4.7%	1.3%	0.6%
	6.00%	5.5%	1.3%	0.6%
	0.7%	0.7%	0.6%	0.3%

: OECD economic Outlook
March 2009

18)

가

가

(19 4 (2010.1), 15).

가

. 2009 10 12 , 2010 2

0.25%

2009 10

“

”

“

가

”

“

가 ”

가

가 가

가

4

4

70%

1

20%

가 가

가

1

가

가

가

가 1960

20

0.75%가

가

가

0.5%

가

가

.19)

2010 3

2010 3 2

0.25%

4.00%

2008

2008

2009 10

12

3

2010 2

가

가

가

가

가

.20)

19) 大和投資信託(株),マーケットレター(Market Letter), 2009.10.22

20) 野村アセットマネジメント(株), 3月2日発表の豪州の利上げについて, 2010.3.3

“ ;21)
 25bp 4.0% 2010
 3 3 2010 2011
 가 가
 가
 (excess capacity)
 가
 1
 가
 , 1 가 , 2009
 가
 (de-leveraging) 가
 가
 2008 가 2009
 , 2008

21)
<http://www.rba.gov.au/media-releases/2010/mr-10-04.html>

가 (CPI inflation)

2010 (target)

(monetary stimulus)

1%

가 ”

2008

가

가

2 30

1

14

Glenn Stevens

가

(moral hazard)

가

가

Commonwealth , NAB ANZ Westpack ,
 6
 가
 0.80
 0.91

.22)

가

.23)

	0.5 → 1.5	3.0 → 4.5	1.25 → 2.0	2.0 → 2.25	4.75 → 5.25
	2009. 8	2009. 10	2009. 10	2010. 3	2010. 3
	4	6	3	1	2

22) ,

, 2009.11

23) ,

, 2010. 6, 7 .

제 2 장 호주의 금융감독체제

1

I.

1979 (Campbell Committee)²⁴⁾
 1981 (Campbell Report) 가

.25)

(A Committee of Inquiry into the Australian
 Financial System; Campbell Committee)가
 가

1937 (Royal Commission into Monetary and Banking
 System in Australia)가 가

40 .26)

24) J. K. Campbell 가 K. W. Halkerston, CEO
 R. G. McCrossin, J. S. Mallyon
 25) , , 1981, 1 .
 26) , , 1981, 3; 가

1996 (Treasury)
(Financial System Inquiry Committee)²⁷⁾가

1997 (Wallis Report) .²⁸⁾

가

가

가

(anti-competitive behavior) “

; Australian Competition and Consumer Commission,

ACCC)

(market misconduct)

(APRA)

1998 7

.²⁹⁾

(conglomeration)

(Bain/Harper, *supra note* 6, at 8).

27) Stan Wallis

Wallis

가 B. Beerworth,

J. Carmichael, I. Harper

L. Nichollis가

(

C. Bakir, Who

needs a review of the financial system in Australia? Jubilee Conference(Australian National Univ.), 2002, 15-18).

28)

가

(ASIC, The

Integration of Financial Regulatory Authorities-The Australian Experience, 2006, 2).

29) , 2007, 331-332

II.

1.

가

가

.30)

가

.31)

(non-Banking Financial Institutions)³²⁾

가

. 1970

가

.33)

가

1942

30) , , 1981, 6 .

31) (Reserve Bank Act 1959) 가 가

32) (, , , 1981, 12).

33) 10 (moral persuasion) (, , 1981, 13).

34)

가

.

.

가

.35)

2.

①

가

.36)

(Efficiency)

,

,

(Competitive Structure)

(Stability)

34)

Nationale de Paris

(

Bank of New Zealand Banque

, 1981, 17).

35)

1974
(flexibly administered float)

Pound

“ ”

가

(

,

, 1981, 20).

36)

,

(I), 1982, 15-16 .

가

(Graduality)

(, ,) ,

②

가

가

가

1959

(Banking Act of 1959)

가

(Trading Banking),

(Saving Banks)

(Commonwealth Development

Bank),

(Australian Resources Development Bank),

1

(Primary Industry Bank of Australia)

.37)

가가

.38)

37)

(Finance Companies),

(Credit Co-operatives),

(Money Market Corporation),

(Pension Funds),

(Life Insurance Companies)

38)

(II), 1982, 8 .

가

가

가

가

가

.39)

③

(National Companies and Securities Commission, NCSC)

(NCSC)

39)

가

(II), 1982, 14 ;

가

1978 .40)

가 .41)

가 (Self-Regulation)

/

가

가 가

가

(Institute of Chartered Accountants in Australia)

(Australian Society of Accountants)가

(Corporate Affairs Commission)

.42)

40) (Statutory Regulation)

41) , (Ⅱ), 1982, 42-43 .

42) , (Ⅱ), 1982, 45-46 .

가

가

.43)

가

가

가

가

.44)

가

가

가

가

43) ,
44) ,

(Ⅱ), 1982, 47 .
(Ⅱ), 1982, 48 .

(NCSC)

(Securities Industry Act)

(short selling) (insider trading),
(prospectus)가

가 /
가

가 가

.45)

가

(public offering)

.46)

45)

가

46)

1981

“ (simplified prospectus)”

④

.47)

가

가

가

가

.48)

가

가 가

.49)

(,

(Ⅱ), 1982, 52).

47) ,

(Ⅱ), 1982, 61 .

48) ,

(Ⅱ), 1982, 63 .

49) ,

(Ⅱ), 1982, 65 .

가
.50)

Ⅲ.

1.

1980

1980 12

가

.51)

가

가

가 1982

1984 8

1985 16

. 가

50) Association Stock Exchange)가

(Australian

(Ⅱ), 1982, 66-67).

51) , : , 1994, 24-25 .

가

가 가

가

가

1986

1989

20%

.52)

가

가

가

.53)

10%

가

1980

가

가

가

가

(customer needs)

가

52)

53)

, 1994, 26 .

, 2010 .

가

가

.54)

가

가

가

가

가

(alternative technologies means)

2.

(Forward)

(Overview)

(Letter)

(The Final Report)

가

가

54) The Financial System: Towards 2010; in Financial System Inquiry Final Report, Australia Treasury, 1997, at 3, 4.

<http://fsi.treasury.gov.au/content/FinalReport.asp>

(Recommendation)

.55)

(Part)

(Forces for Change),

(Key Issues in Regulatory Reform),
of Deregulation)

(Stocktake

(financial activity)가 가

(arrangement for

market integrity),

(consumer protection),

(safety),

(stability)

(competition)

가

55)

Part 2

가 , , (1, 2).

2

I.

2008

가

1990

1996 5

Wallis Committee

1997 4

1998 3

(Financial Sector Reform

Bill)

.56)

가

가

(Australian Prudential Regulation Authority;

APRA),

(Australian Securities and Investments

Commission; ASIC),

(Reserve Bank of Australia; RBA)

56)

가

(FSRA)

1998 7 1

1998 7

가 .57)

II.

가

(, ,),

,

.

,

,

/

.

.

.

가

58) 2008

2010 7

.59)

57)

(ISC), (AFIC), (SSAs) (, 2000, 40).

58)

(FDIC), (OTS), (OCC), (FRB), (SEC)

59)

(Financial Stability Oversight Council; FSOC)

가, .

. 1998 “

”()

.60) , , 가

, .61)

가

, 가 .

(Financial Services Authority; FSA)

가, , ,

, ,

가 .

가 FSA

Ombudsman .

.62)

가 (SEC)

(Consumer Financial Protection Agency; CFPA)

60) 가 (/ , , , 2009, 14).

61) , , 2000, i .

62) ASIC, The Integration of Financial Regulatory Authorities-The Australian Experience, 2006, 6.

가

1998 7

.63)
(ISC)

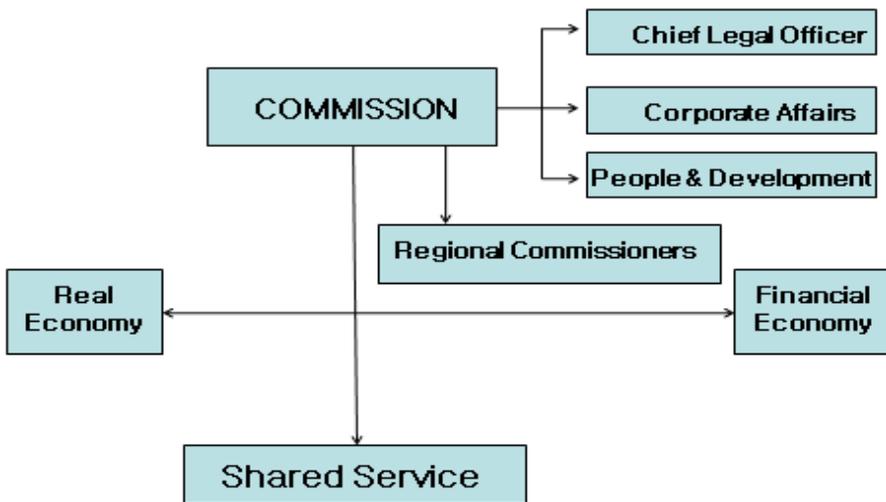
(ACCC)

.64)

2009 8

(ASX)

.65)



63) ASIC, The Integration of Financial Regulatory Authorities-The Australian Experience, 2006, 7.

64) , , 2007, 336 .

65) [http://www.asic.gov.au/asic/ASIC.NSF/byHeadline/Organisational%20chart#\(2010.9.14\)](http://www.asic.gov.au/asic/ASIC.NSF/byHeadline/Organisational%20chart#(2010.9.14)).

Ⅲ.

가

FSA가 (Company Limited by Guarantee)
가

.66)

가

2000 7 金融廳 外廳

(2). 1987

(Office of the Superintendent of Financial Institution;

OSFI)

가

가

9

(, ,)

66) 1999

가

(Board)

9

1

.67)

FSA

15

()

가

가

.68)

가,

가,

가

가

67)

, 2000, 17).

68)

, 2000, 20 .

가

가

.69)

가

/

, ,

가

FSA

가

FSA가

, ,

FSA

가

가

가

69)

가

가,

(,

, / / , / , 2000, 20).

가

가

가

가

가

.70)

가

가

1990

(SIB)

1997 FSA

가

가

.71)

70) , 2000, vi .

71) 가 2000 7 (, , 2000, 3).

가

가

가

가

가

가

가

72)

가

가

가

72)

, 2000, 6 .

가

.73)

가			
	(FSS)	1998	
	(APRA)	1998	(body corporate)
	(Financial Service Authorities; FSA)	1997	(company limited by Guarantee)
	金融廳(FSA)	2000	
	(Office of the Superintendent of Financial Institutions(OSFI)	1987	
가	가 (Monetary Authorities of Singapore(MAS)	1971	

3

I .

1997 Wallis Committee가

1998

(FSRA) 74)

73) , , 2007, 74 .

74) (Financial Sector Reform Act 1998)

.75) (ISC), (AFIC), (SSAs) .76)

II.

(a body corporate) 가 (APRAA) (a considerable degree of autonomy from government)

(13).77)

75) ASIC, The Integration of Financial Regulatory Authorities-The Australian Experience, 2006, 5.

76) , , 2007, 332 ; Bain/Harper, supra note 6, at 29.

77) 가 가 (, , 2000, 42).

(levy)

(fee)

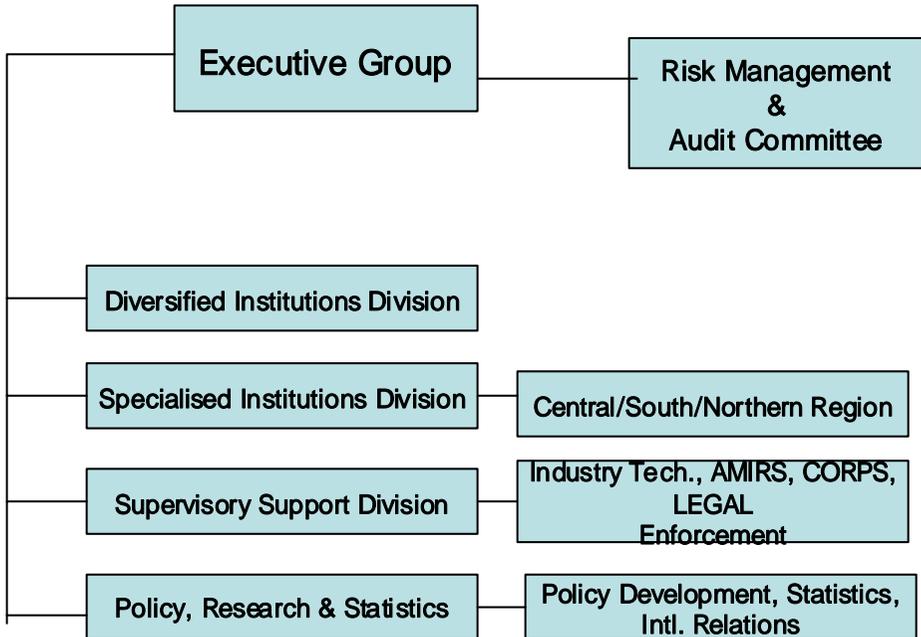
가

(Australian National Audit Office)

가

.78)

.79)



78) , , 2000, 48

79) http://www.apra.gov.au/AboutAPRA/upload/APRA_OC_072010_ex.pdf

가 가
(APRA's Board) .

. (Chair)
(CEO) 4 3
9 .

.80) J. Carmichal
G. Thompson .
(Sydney)

.81) .
(Diversified
Institution Division) (Specialised Institution Division)

(Policy/Research/Consulting Division)
(Supervisory/Support Division) .82)

III.

80) , , 2000, 44

81) , , 1998, 132 .

82)

<http://www.apra.gov.au/AboutAPRA/OrganisationCharts.cfm> .

Institution) ((ADI, Authorized Deposit-taking
)
 .83)
 (friendly societies),
 (Non-bank Deposit taking Income Account)

.84)

가

가

83) , , 2007, 332 .

84) , , 1998, 131 .

. 가

(ACCC)

.85)

(

), , , 가 .

.86)

				(\$ billion)		
	07	08		07	08	
ADI's	220	221	-4.1	1,945	2,409	23.8
	55	58	5.5	1,876	2,334	24.4
	14	12	-14.3	20.4	22.1	8.3
	143	133	-7.0	38.7	42.5	9.8
	8	8	0	9.3	9.9	6.5
	19	18	-5.3			
	131	130	-0.8	90.5	91	0.6
	34	32	-5.9	251	232	-7.4
	25	24	-4.0	6.9	6.6	-4.3

85) , , 1998, 133 .

86) APRA ANNUAL REPORT (2010.9.14).
http://www.apra.gov.au/AboutAPRA/upload/APRA_AR_2008_supervision_framework.pdf.

				(\$ billion)		
	07	08		07	08	
	306	292	-4.6			
	6,823	6,252	-8.4	707	673.6	-4.8
	14	18	28.6			
Total	7,572	6,977	-7.9	3,002	3,413	13.7

가

APRA (accountability) (

10).

(financial difficulty)

가

(12).

15

15 (sitting days)

.87)

87) , , 2007, 335 .

4

I . (CFR)

(institution-based regulation)가 (function-based regulation) 가 .88)

.89)

(Treasury)

가 (Council of Financial Regulators; CFR) .90) 가 (informal body)

.91) (high-level

forum)

88) Bakir, supra note 27, at 26.

89) (regulatory arbitrage) 가 (/ , , 2009, 16 .

90) ASIC, The Integration of Financial Regulatory Authorities-The Australian Experience, 2006, 11.

91) 가 , 2003, 25 ; CFR

(<http://www.rba.gov.au/fin-stability/reg-framework/cfr.html>)

가

CFR (Council Charter)

;

1.

(stability)

(stress)

:

-

-

가

(contestability),

(competitive neutrality)

가

(Financial Claims Scheme(FCS))

-

가

2.

가 :

- 가

가 ,

-

-

가

-

, ,

-

3.

;

- ()

MOU

2

- 가

- / , , 가 .

-

4. :

가

;

(1)

-

가

-

-

(vulnerability)

가

(2) 가

가 가
(coordination forum)

;

- 가

- 가

- 가

, , FCS가

- FCS

- 가

가

(3)

가

(4)

(public communication)

가

;

-

-
FCS

-

II.

MOU

1.

MOU⁹²⁾

(1)

가

(in difficulty)

가

가

(2)

가

(pivotal)

92) Memorandum of Understanding; The Reserve Bank of Australia and The Australian Prudential Regulation Authority(1998).

가 가
(endeavours basis)

(on a best

가
(confidentiality and secrecy requirement)

가

(3)

(disturbance)

(balance sheet)

(4)

(on-site),

(Co-ordination

Committee)

2.

MOU⁹³⁾

(1)

(building societies),

(credit union)

(friendly societies)

93) Memorandum of Understanding Between The Australian Prudential Regulation Authority (APRA) and The Australian Securities and Investments Commission(1998).

(2)

가
(media release)

(policy statement)

(3)

가

(informed participation)

(compliance),

Committee)

(Charter)

(co-ordination

가

가

(liaison)

(unsolicited)

가

(4)

가

.94)

(entities)

가

가

(legal

professional privilege)

가

가

3

94)

MOU

3.

MOU⁹⁵⁾

(1)

2001 (financial stability standards) 가
 (clearing and settlement facilities)가

2001 가

2001 가

(2)

2001 가

95) Memorandum of Understanding; The Australian Securities and Investments Commission and The Reserve Bank of Australia(2002).

823E

가 가

가

(3)

(

)

. 가

가

MOU

3

III.

(FSRA)

1.

가 가

(Sec. 760A).

(efficiency), (flexibility), (innovation)

(informed decision) .
 (fairness), (honesty),
 (professionalism) . (fair),
 (orderly), (transparent) .
 (systemic risk) / (clearing and settlement
 facilities) .

2.

(1)

(financial investment), (financial risk),
 (non-cash payment) (facility)
 . (a) 96) (interest in the
 scheme), (b)

(legal or equitable right or interest) ,
 가

(option) (registered scheme)⁹⁷⁾, (c)
 (derivative), (d) 1995 (Life Insurance Act 1995)
 (life policy) (shinking fund policy)가
 , (e) 1995

, (f) 1995
 98) (g) 1993

96) (security) , , ,
 가

(Sec. 761A).
 97) 가 (managed investment scheme)

98) (d) (e) (f) (benefit) .

(Superannuation Industry Act 1993) , (h) 1997
 (Retirement Savings Account Act 1997)
 (RSA) (i) 1959 ADI
 (deposit-taking facility), (j)
 (debenture), (stock), (bond) (k)
 , (foreign
 exchange contract) (m)

(2)

(Sec. 763B).
 가 (contribution)
 ,
 (
),
 가 (day-to-day
 control) .99)
 가 ,
 (bullion)

99) 가 (Sec.761E (3)).

(3)

(Sec.761D). (a)
 가
 가(consideration) (b)
 가
 (c) 가 가
 가 ,
 (asset), (rate,), (index),
 (commodity) .100) (a)
 가 가 가
 (tangible property)

(4)

(Sec. 766A). (financial product
 advice), (deal), (make a market),
 (registered scheme) , (custodial
 or depository service) ,
 가
 (circumstances)

100)

가 (clerks or cashiers)
 (ordinary)
 . (agent)
 (wind up)
 .
 (recommendation), (statement of opinion), (reports)
 . (personal advice)
 (general advice) .
 , ,
 (underwriting), (varying), (disposing)
 .
 (arranging)
 .
 (beneficial interest)

3. 가

(license) (Sec.911A). 가
 가 . 가
 (Sec.913A) , 가가

가 가 ,
 가
 가 , 가
 가 가 ,
 .
 가
 (Sec.914A).
 가 가
 가 가
 .

가 .101)

4.

가 . 가
 (Financial Service Guide) (Product Disclosure
 Statement)
 (Sec.941A)
 , (provide instruction) ,
 가 , 가
 ,
 (remuneration) , ,

101) , , 22 1 , 2003,
 562-563 .

, (Sec.942B).¹⁰²⁾

(Sec.1013D).

가 가

(sale statement)

가

(significant risk)

, 가 ,

102) 가

제 3 장 호주 준비은행의 조직과 권한

1

1911

(Banking

Act of 1959)

가

(trading bank)

가
Act)

(saving bank)

1945

(Banking

가

.¹⁰³⁾

(Commonwealth

Bank of Australia)

1959

(Reserve Bank Act 1959)

가

(Commonwealth Development

Bank),

(Australian Resources Development Bank)

(Building Societies),

(Credit Union)

.¹⁰⁴⁾

103)

, , 1988, 2 ;

104)

1998

(System Stability

2

I .

8 (Part), 89 (Section)
 105) 1 (Preliminary, 1 6B)
 2 (Constitution), (Policy), (Management)
 (7 13) 3 (Reserve Bank
 Board), (Governor), (Deputy Governor)
 (14 25). 3A 가 가
 (Payment System Board)
 (25A 25M). 4 (Central Banking)
 (26 30), 5 (Note Issue)
 (32 44), 6 7
 (Reserve Bank Service) (66
 68) 8 (Miscellaneous)
 (74 89).¹⁰⁶⁾ “ 1959”
 (1), (2).¹⁰⁷⁾

Department) . 가
 (,
 , 1998, 130).
 105) (6) (Criminal
 Code) (6B).
 106) 69 73 .
 107) Commonwealth Bank Act
 (4).

II.

Commonwealth Bank Act

Commonwealth Bank of Australian

(body)

(identity)

(Commonwealth Authorities and Companies Act 1997)

(7A).

(seal)

가

가 (7).

(8)

(Specie),

(underwrite),

III.

1.

(12 , 24).

가

7

3

가 (subject to good behaviour) .

(24A). 가

(24B). 가 (permanently)

(25).

(13).

(8A

).

()

(10).

(10B).

2.

(Secretary to the
 Department of the Treasury), 6
 (14).¹⁰⁸⁾ 6
 5 (staff)
 (Public Service Act 1999) 가
 5 .¹⁰⁹⁾

(17A).
 (Remuneration Tribunal) (remuneration)
 (allowances) (15).¹¹⁰⁾
 가 12 2
 3

(18).¹¹¹⁾ 가 가
 (20). 가
 (21).
 . 5

108) , , (17).
 109) (during the
 pleasure of the Treasury) 가 (14 3).
 110) (allegiance) (secrecy)
 (16).
 111) (leave of absence) 가
 (18A).

. 가 가
(casting vote) 가 .

가 (21A).

(22).

, 가 가
가 , 가

(22A).

(10C).
(prevail).

가 .

가 .

가

가 .

가

가 .112)

112)

가

3.

(central bank)

(26).

(Commonwealth)

(financial agent) (27

).

(Commonwealth Bank of

Australian)

(Reserve Fund) (

28).

(29).

(contingencies)

(30).

가

(statement)

(Governor-General)

가

제 4 장 우리나라에 대한 법정책적 시사점

1

I.

가 “

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(1

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(2).

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가 .

II.

1.

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(3

1).

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가,

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(17). 가

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(18).

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(19

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9

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가,

(4).

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가

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(24).

가

가

.113)

2.

113) , , , 2007, 341 .

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(19).

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(23).

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(20

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가

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(22).

3.

.114)

1997

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1999 1 2

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2008

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114)

(40),

(41),

(42),

가

,115)

1 (29).

가

(34).

FSA

(Company Limited

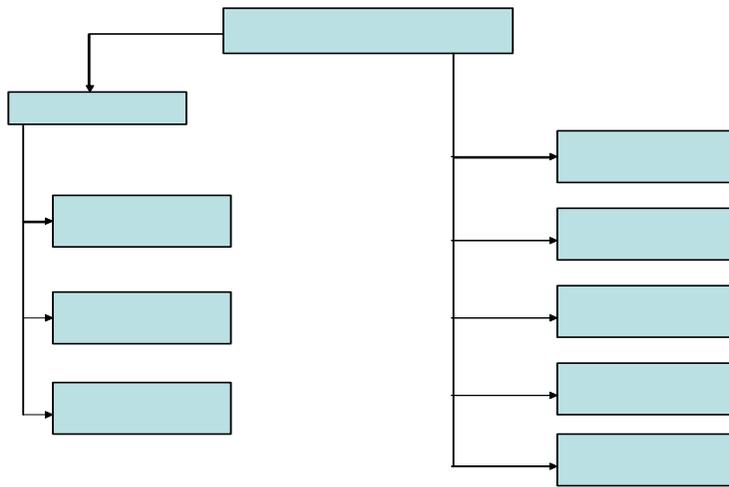
by Guarantee)

(body corporate)

,116)

115) , , , 2007, 353 .

116) <http://www.fss.or.kr> .



Ⅲ.

가

“ ”

(1).

1 5

(32). 4 1

(33)

(13 2). 가

3 1

(36). 가 3 1

(36 2).

(3). 가

(4).¹¹⁷⁾

117)

(5).

1998 “ ”

.118)

가

가

(6).

(12

). 7

, , , 1

(13).

, , , (28).

118)

(/ , , , 2003, 39-40).

IV.

가 .

(18 3)

가

(58)

(59)

(61 2 3).

가

가

,119)

가 .

가

,120)

119)

VOL. 2, 2004, 32 .

120) , , , 2007, 353 .

가 . “

”

가

(62).¹²¹⁾

가

(65).¹²²⁾

(66).

“

”

가

가

(87),

가

(89).

가

3

2

(90).

121)

88

가 .

122)

가

(94).

(91).

5

(92).¹²³⁾

.¹²⁴⁾

		87
		88 1 , 62 1
	()	88 2 , 62 2
	가 가	89

123)

(93).

124) / , , , 2003, 345 .

		65 3 , 80 3
	가	4 1

2

I.

(triple peaks)

.125)

가 . 1959
가 1998

가

(System Stability Department)

.126)

125)

(twin peaks) (ASIC, The Integration of Financial Regulatory Authorities-The Australian Experience, 2006, 3).
(single agency, mega-regulator)

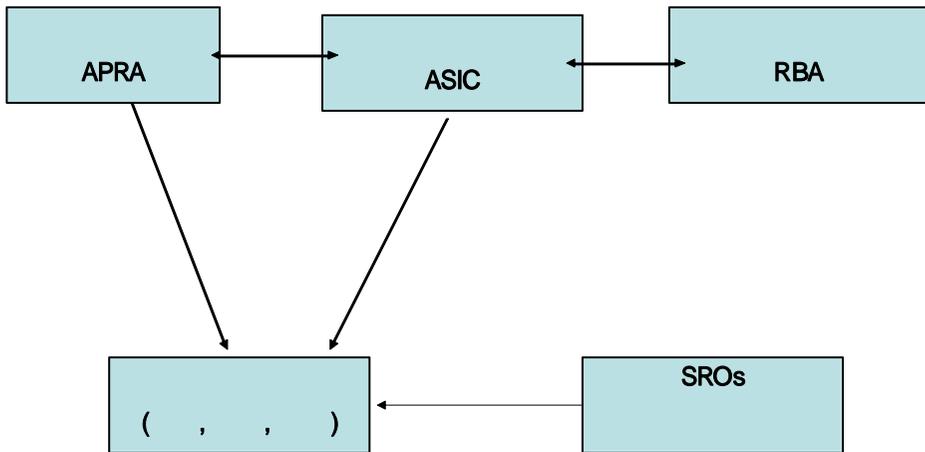
126) , , 1998, 130 .

(MOU)

90

(ASC)가

(ASIC)



(twin peaks)

,127)

127)

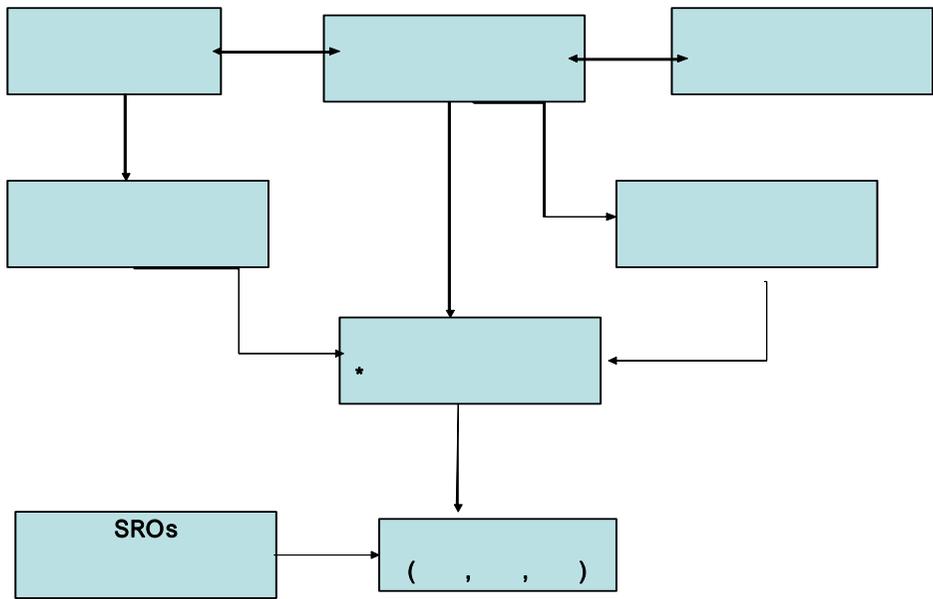
가 (ASIC, The Integration of Financial Regulatory Authorities-The Australian Experience, 2006, 14).

가

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가 가

가

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II.

가

가 .

가 .

(Section 10(B)).

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(81 1).

가

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.128)

가

가

가

.129)

(

128)

129)

currency of Australia)”

“ 가 ”

(Section 10(2)(a))

(stability of the

)

가

가

.130)

가

가

. , , , ,
.131) 가

(FRB) 가 가 (Federal Reserve Act)

, ,
(). 가
(考查權)

44

.132)

(87).

130) , , 2005, 45 .
131) , , 2005, 29 .
132) , , 2005, 31-32 .

4

3

I.

가

SOC

가

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2010 7

0.25bp

16

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II.

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2009 10

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(CFR)

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(MOU)

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2.

(base rate)

가

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4

I.

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133)

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가

Ⅲ.

1.

(1)

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(CFSC)

133)

4

가 가

가 가 가 가 가 가 가 가

(MOU)

가

가

가 가

가

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가

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가

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가

참 고 문 헌

- , , , 2010
- / , , , 2003
- / , , , 2009
- , , , 2007
- , , , 2007
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- 1 , 2003
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Memorandum of Understanding; The Australian Securities and Investments Commission and The Reserve Bank of Australia(2002)

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3.6

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4.3 가 (Globalisation)

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12.3 (Funding)

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12.5

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13.3

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14.3 1970

14.4

14.5

14.6 ;

14.7

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15.6

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16.5 (Anti-Competitive Structure)

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17.3 (External Adjustment)

17.4

17.5

17.6

17.7 가

17.8

2 :

4

Due Diligence (positive disclosure requirement)

_____ .

: Due Diligence

가 .

5

CFSC ACCC .

:

CFSC

.

6

(State and Territories) (consumer credit laws)

가 _____ .

7

CFSC (combination of regulatory approaches)

_____ 가 _____ .

: CFSC

가

가 .

CFSC

가 _____ .

CFSC

가 .

8

(consistent) (comparable) .

2 :

: (, , , ,)
가 가 CFSC
가

,
, 가
.

9

(Profile statement)

: IPO

,
,
,
가
가

10

(shorter Prospectuses)가

: CFSC

가
CFSC

2 :

11

(financial reports)

가
: (APRC)

12

13

가 (single licensing regime) (sales), (advice),
(dealing)

: CFSC

14

CFSC 가 (industry bodies) 가

: CFSC

가 가 가

가 . 가 가

. CFSC

15

: , , , .

16

17

가

: 가 , (only incidentally)
 , 가 가 .

18

가 가

: 가 가 , .

CFSC가

19

(financial products)

2 :

:

“ ”

. CFSC

(flexibility) 가

20

(over-the-counter; OTC)

:

가 가

21

CFSC 가 가

: CFSC

가 가
가 가

가 가

22

(OTC)

:

가

CFSC

가
 가
 가

23

(OTC) 가 (intermediaries)

24

(Exchange clearing houses) 가

25

(central gateway)가

: CFSC

(central complaints referral service)

가

26

가

:

27

CFSC (enforcement powers) 가

:

2 :

, 가 ,

28

CFSC (new technology) .

29

CFSC .

II.

30

(deposit), (insurance), (superannuation) .

: ,
가 .

31

: (Australian Prudential Regulation Committee;
APRC)가

가

32

APRC (RBA) .

: APRC .

. APRC 가

. APRC

가 . ,

가 .

가 .

- , CFSC, APRC-

33

APRC 가 .

: 가 가 가

, ,

34

_____ .

: APRC ,

2 :

35

(DTIs)

36

가 가

37

가

CFSC

38

APRC

(life company)

39

(friendly societies)

(Commonwealth)

40

APRC

(general insurer)

41

APRC

42

(Compliance)

(Australian

Taxation Office)

43

APRC

(retirement savings

account)

가

44

APRC _____ .

: 가

CFSC . APRC

45

_____ .

:

15%

가 (Acquisition Act)

APRC

15% 가

가

가

46

_____ .

:

47

(Mutual entities) 가

_____ .

48

_____ .

:

2 :

APRC

DTI

49

(Non-operating holding companies)

:

,

APRC

50

가(Multiple licences)

51

APRC

가

52

(money market companies)

CFSC

53

(finance companies)

CFSC

54

(DTIs)

55

.

Ⅲ.

56

가 .

:

57

CFSC 가 .

58

(wholesale market) .

59

(settlement risk) .

.

60

(Liquidity management responses) .

.

: ()

가 .

2 :

()

61

(Payment System Board; PSB)

62

PSB

63

PSB (benchmarks)

64

_____ :

:

가

65

(Australian Payment System Council)

_____ :

66

_____ :

67

(Interchange arrangement) PSB ACCC

_____ :

68

ACCC

69

(clearing system)

70

APCA

(clearing arrangement)

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Trade Practice Act

72

(payment instrument)

가

(stores of value)

73

ESAs

74

가

(High-value payments settlement providers)

75

(Non-deposit takers)

76

RTGS

(benchmarks)

2 :

77

PSB .

78

PSB APRC .

IV.

79

Trade Practice Act Section 50 .

: 가

, 가 .

80

ACCC .

81

_____ .

: 가

82

Trade Practice Act _____

_____ .

83

six pillars _____ .134)

134) 1990

84

가

85

V. 가

86

: 가
가
가 .

87

(collective investment)

: (public unit trust)

88

가

89

(public offer superannuation)

six pillars

(Bain/Harper, supra note 6, at 31).

2 :

90

가

91

92

93

가

94

95

96

97

(SMEs)

98

SMEs 가 (rating agency)

_____.

99

_____ (working party on positive credit reporting)

100

_____.

101

_____ 가

102

_____ (Housing Loans Insurance)

103

_____ (operational autonomy) 가

: 가
 . APRC CFSC 가
 가

가 .

2 :

104

(charge)

105

(non-callable deposit)

106

107

(off-budget)

: APRC CFSC

108

(boards)

: ,
가 .
가
(cross-representation)
. APRC

6

(ex officio) 3 APRC .
CFSC
, APRC .

109

_____ .
: - ,

가 가

110

_____ (Financial Sector Advisory Council) .

: 가 , , , , 가

가

111

_____ 가 .

112

_____ (Council of Financial Regulator)

: (APRC, RBA, CFSC)

가

CFSC

, ,

2 :

가

113

114

(uniform commercial laws)

(panel)가

115
