

# The Prevention System of the Conflict of Interest

*“The Significance of Introducing the System”*

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WORLD ANTI-CORRUPTION CONFERENCE

# What is Conflict of Interest Prevention Act

- A situation in which a public official's private interests are related when performing his/her duties, and the fair performance of the duties is likely to be hindered



- Act to effectively manage and control conflict of interest that may arise while public officials perform their duties ⇒ **Ensuring fair performance of duties & Securing public trust**

# Legislative Purpose of the Conflict of Interest Prevention Act

## ▶ **Need to restore public confidence through controlling new types of corruption**

- Continuing corruption cases linked to the private interests of public officials
- Managing and controlling conflict of interest to resolve public distrust

## ▶ **Lack of mechanism for effectively managing the private interests of public officials**

- In 2018, provisions to prevent conflict of interest situations were first introduced as part of the Code of Conduct
- They had only limited legal force when it comes to elected officials due to its limited scope of application and sanctions
- So, there arose a need for the establishment of these provisions in the upper law

## ▶ **Establishing standards for conduct at the level of international society**

- Need to establish system suitable for level of OECD member countries

# Scope of Application : Public Servants of all public institutions

## Public Institution

Article 2 No. 1

### Constitutional institutions

National Assembly, courts, Constitutional Court of Korea, election commissions, BAI

### Central administrative institutions

Including CIO, National Human Rights Commission

### Central administrative institutions' affiliated agencies

Local governments and local councils, educational administrative institutions

Public org., public service-related org.

National and public schools

## Public Servant

Article 2 No. 2

State public officials/ local public officials,

Executive officers and employees of public service-related org./ public institutions,

Heads/ teachers/ staff of national and public schools of various levels



# Major Contents of the Act : 10 standards of conduct

## 5 obligations to disclose/submit information

- 1 Disclosure of privately interested persons & application for challenge
- 2 Disclosure of ownership/purchase of public duty-related real estate
- 3 Disclosure of records of high-ranking officials' business activities in the private sector
- 4 Disclosure of transactions with duty-related persons
- 5 Disclosure of personal contact with retirees

## 5 restricted/prohibited acts

- 6 Restriction on duty-related outside activities
- 7 Restriction on employment of family members
- 8 Restriction on private contracts
- 9 Prohibition of private use of or profiting from public institutions' goods
- 10 Prohibition of use of job secrets, etc.

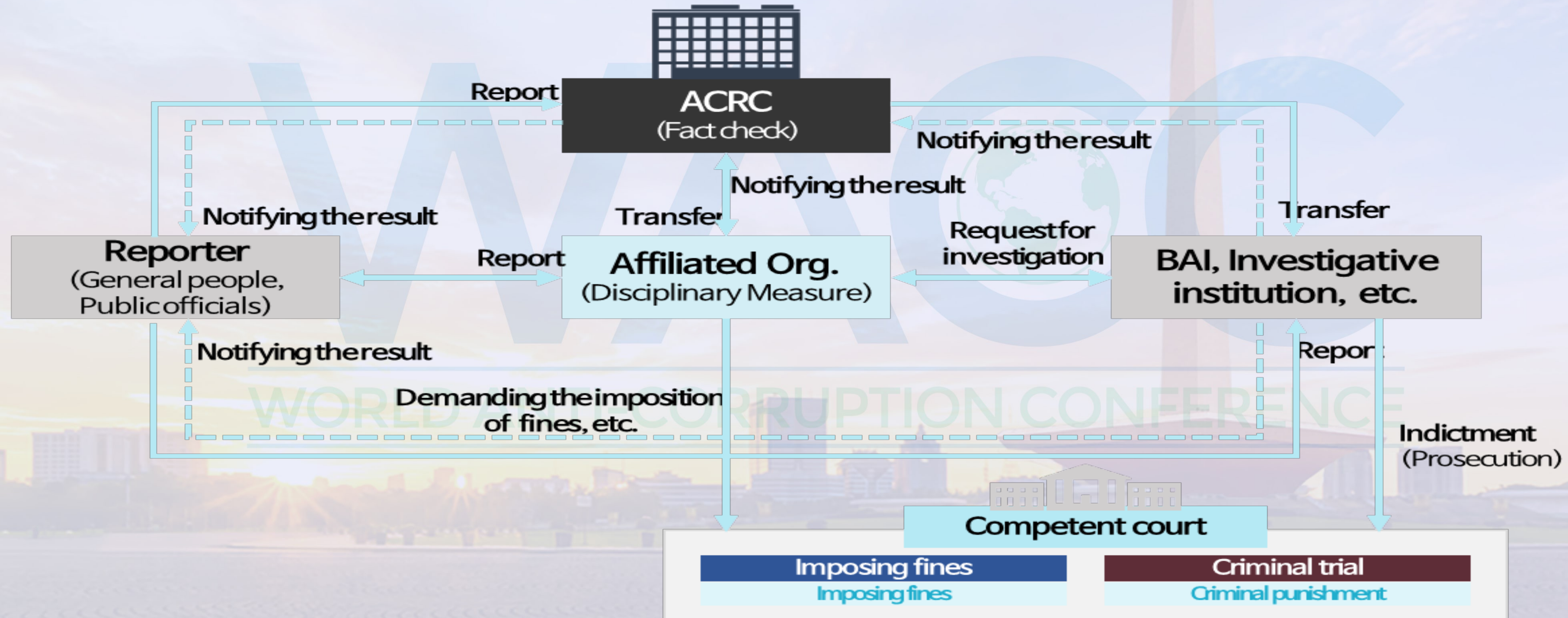
# Sanctions for violation of the Act

Types	Violations	Sanctions
Disciplinary Measures	A public servant who violates this Act or an order under this Act	Disciplinary Action
Criminal Penalty	A public servant acquires, or allows 3 <sup>rd</sup> party to acquire goods or property gains, using the job secrets/ undisclosed information (§14①)	Imprisonment for up to 7 years or fine of up to 70 million won (※ Both are possible)
	Acquiring profits in property by using job secrets/ undisclosed information from a public servant (§14②)	Imprisonment for up to 5 years or fine of up to 50 million won (※ Both are possible)
	Using or allowing 3 <sup>rd</sup> party to use job secrets or undisclosed information for private interests (§14③)	Imprisonment for up to 3 years or fine of up to 30 million won

# Sanctions for violation of the Act

Types	Violations	Sanctions
Admini- strative fines	A public servant who order, induce, or connive family member to be employed by a public institution (affiliated institutions, subsidiaries included)	30 million won
	A public servant who order, induce, connive to violate the prohibition of concluding a private contract	
	A public servant who does not report conflict of interest	20 million won
	A public servant who does not report ownership or purchase of real estate	
	A public servant who does not report transactions with a person related to duties	
	A public servant who does duty-related outside activities	
	A public servant privately uses or profits from public institution's goods or allows 3 <sup>rd</sup> party to use or profit from them	
	A high-ranking public official who does not submit work records before the appointment or commencement of the term	10 million won
A public servant who does not report personal contact with duty-related retiree.		

# Reporting and Handling Violations





# Foundation of the System Operation

## ► Designation of conflicts of interest prevention officer in each public institution

### ★ Duties of conflict of interest prevention officer

- Providing education and counseling services regarding the prevention of conflicts of interest of public servants
- Receiving and managing reports on persons related with private interests, reports on possession or purchase of real estate, or reports on transactions with persons related to duties
- Verifying and inspecting whether public servants perform their duties in a fair manner despite reports on persons related with private interests, reports on possession or purchase of real estate, or reports on transactions with persons related to duties
- Managing and disclosing the details of high-ranking public servants' activities
- Receiving and managing reports on personal contact with retirees
- Receiving and processing reports on violations or applications under this Act, and examining the details thereof
- Notifying courts or investigative agencies of violations under this Act that are committed by the heads of affiliated institutions, where such violations are discovered

## ► Education of the Conflict of Interest Prevention system for Public Officials

- Conducting education on the prevention of conflict of interest to public officials at least once a year in each public institution
- 'Integrity education materials' and 'Integrity education instructors' can be used from the ACTI website

**WACC**

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