Financial Services Commission
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Press Release

February 23, 2010

AMENDMENTS TO THE FSCMA PASSED AT THE NATIONAL ASSEMBLY

Amendments to the Financial Investment Services and Capital Markets Act (FSCMA) were passed at a general meeting of the National Assembly on February 18, 2010. The amendments were made based on six proposals submitted by legislators to address various issues raised since FSCMA came into effect in February 2009.

The amendments are expected to take effect possibly in June 2010, three months after a public announcement. (*exception: In regard with CPs, the new rule will be enforced immediately right after the public announcement.)

Key Changes	Purposes
① Introducing PEFs and Mutual Fund for corporate financial restructuring (temporarily enforced for 3years)	Facilitating corporate funding and corporate restructuring through capital markets
② Allowing companies to issue CPs without issuing electronic notes	
③ Strengthening requirements for financial investment companies to add new business activities, while easing requirements for major shareholders	Improving the quality of financial services through the extended scope of financial investment businesses, as well as enhancing public trust in financial investment companies
④ Extending requirements for financial investment companies' executives to non-registered directors	
⑤ Imposing mandatory ceilings on fund sales/service fees	Providing better protections for financial investors and consumers
⑥ Conducting prior reviews for OTC derivatives trades	

Detailed Plans

1. Revitalizing Corporate Funding through the Capital Markets

A. Introducing PEF and Mutual Fund for corporate financial restructuring

With the intent to utilize the capital markets and gather private funds to revitalize corporate restructuring, a special exemption law will be enacted for three years on asset management of funds specially purposed for enhancing corporate financial structure.

	Current Regulation	Future (under exemption law)
Corporate Financial Stability PEF	Must have the intent to participate in management (i) must invest more than 10% of the company's total issued shares (ii) must invest more than 50% of PEF's total assets in equity	Participation in management not required Main investments will be made to non-equity balance sheet items such as impaired assets and fixed assets But with the requirement of more than 50% of the PEF's assets invested into corporate restructuring related assets
Corporate Financial Stability Mutual Funds	10% rule on investment diversification applied The fund cannot invest more than 10% of its assets to companies under certain industrial sector	The diversification rule alleviated to supply sufficient liquidity to the SMEs A maximum of 50% of the fund's assets can be invested to newly issued stocks of SMEs and mid-size corporations

B. Allowing companies to issue CPs without issuing electronic notes

The potential hurdle for a company to issue CPs to raise short-term funds while investment companies trade them through the securities depository system will be removed.

Current Regulation (Electronic Note Law, enforced since November 2009)	Amended under FSCMA
Listed companies with assets over 10 billion won that are subjected to external audits are required to issue electronic notes when issuing promissory notes But, the same requirement applies to CPs and other promissory notes that are meant to be traded	The previous requirement of issuing electronic notes are waved for CPs

2. Enhancing Public Trust in Financial Investment Companies

A. Requirements for financial companies to expand into new business activities are strengthened, while qualifications for major shareholders are eased.

*Details will be specified in the Enforcement Decree of the FSCMA.

B. Required qualifications for executives of financial companies are extended to cover non-registered directors. It is to prevent individuals who violated the FSCMA or other financial regulations from being appointed as non-registered directors of financial companies.

3. Protecting Financial Investors and Consumers

A. Mandatory ceilings on fund sales/service fees are imposed to curb excessive fees taken by fund managing companies and to protect investors.

The law stipulates that sales fees should not exceed 3%, and service fees should not exceed 1.5% of the fund's assets. A specified level of ceilings will be set by a presidential decree.

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B. Prior reviews for OTC derivatives are introduced as an *ex ante* regulation to assess risks involved in OTC derivatives as it has been pointed out that lack of such preventive measures incurred huge losses to investors through KIKOs and sub-prime mortgages.

A review committee will be created within the Korea Financial Investment Association (KOFIA) to conduct a prior review of OTC derivatives newly introduced by each financial company, as mentioned herein below:

(1) Products subject to such a review include ①credit derivatives or OTC derivatives whose underlying assets are natural, environmental, economic phenomena*; and ②OTC derivatives for retail investors.

*There is yet a market for underlying assets of these derivatives; therefore, it is difficult to exactly assess values of these OTC derivatives products.

(2) A review committee for OTC derivatives, established within the KOFIA, will be comprised of five to ten committee members including a chairperson. Results are to be reported to the Governor of the Financial Supervisory Service (FSS).

(3) The committee will assess the composition of underlying assets, validity of risk avoidance structure, product descriptions, and sales plans of OTC derivatives.

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