

PLANS TO IMPROVE RULES ON EXEMPTION FOR MISCONDUCT IN FINANCIAL SERVICES

The FSC and the FSS announced on April 7 the plans to improve the rules on exemption for sanctions on misconduct in financial services. The plans are aimed at removing financial services workers' concerns about the possibility of sanctions and promoting their active role in offering loans and other financial support to the businesses in need in crisis situations as with COVID-19 as well as in providing sufficient capital to innovative start-ups with their business setup and scale-up.

The financial regulators will change the relevant rules and regulations to promptly implement the improvements to the exemption rules. The changed rules will significantly reduce uncertainties about the application of sanctions for financial services workers who are at the forefront of delivering the government's COVID-19 emergency support funds to the businesses in need.

KEY IMPROVEMENTS

- ▶ **APPLICATION OF EXEMPTIONS:** (i) **(DISASTER)** Provision of loans and other financial services to crisis-hit businesses, as with COVID-19, and (ii) **(INNOVATION)** a variety of innovative financial services, such as movable asset-based financing, venture capital investment for innovative start-ups and SME loans based on their technological prowess and future growth potential will be exempted from sanctions for misconduct in financial services.

The FSC may decide to grant sanctions exemptions for additional financial services based on the developments of the government's financial and/or industrial policies, the innovativeness of financial services and the urgency consideration.

A new confirmation process will be set up to remove grey areas through which financial institutions are able to request a confirmation of sanctions exemption from the FSC for particular loan or investment programs offered by their institutions.

- ▶ **NO 'INTENT OR GROSS NEGLIGENCE' RULE:** Due to the highly specialized knowledge of financial workers, a strict rule of intent and gross negligence has been applied thus far. However, given that no conflict of interests exists and that no grave procedural faults have been found on the part of financial services workers, it will be presumed that no wrongdoing have been committed by financial services workers.

Exclusion of exemptions will be limited to cases resulting in damages to consumers and/or market stability.

- ▶ **IMPROVING FAIRNESS IN PROCEDURES:** In order to ensure the fairness in operating the new exemption rules, the financial regulators will establish exemptions and sanctions deliberation committees composed of experts from both the public and private sectors.

Financial institutions and employees will also be able to apply for an exemption from sanctions both before and after the evaluation by the financial regulators.

The deliberation outcomes from the newly established exemptions and sanctions committees will be disclosed as much as possible to ensure transparency.

- ▶ **INTERNAL MEASURES BY FINANCIAL COMPANIES:** Financial institutions will be encouraged to revamp their own internal control and sanctions framework in a way that is consistent and compatible with the government's improved exemption rules. Each financial association or federation will draw up a standardized guideline for exemptions, which will be adopted by individual financial companies.

For financial companies that have incorporated their own system of exemptions compatible with the FSC's exemption rules, the FSS will in principle apply the former when conducting inspections.

- ▶ **ROBUST COOPERATIVE SYSTEM:** Financial regulators will work to develop a virtuous cycle from improving the regulations to regularly examining performances to receiving feedbacks by maintaining a robust cooperative system through a public-private partnership taskforce on financial innovation.
- ▶ **ON-SITE MEASURES, NO-ACTION LETTERS AND LICENSE CONSULTING:** In order to minimize sanctions, more use of on-site measures, no-action letters and consulting services will be encouraged for minor wrongdoing or breach of rules, for providing confirmation of exemptions and for licensing related paperwork, respectively.

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For any inquiry, please contact Foreign Press & Relations Team at fsc_media@korea.kr.