![Financial Services Commission logo] **Financial Services Commission**

Press Release
October 19, 2021

REVISED RULES ON PEFS AND IMPROVEMENTS TO INVESTOR PROTECTION TAKE EFFECT FROM OCTOBER 21

The government approved the revision bill on the Enforcement Decree of the Financial Investment Services and Capital Markets Act and its subordinate rules at a cabinet meeting held on October 19. With the revised FSCMA[1] scheduled to go into effect on October 21, the changes in its subordinate statute and regulations will help improve investor trust in the private equity fund market and provide better protections for retail investors. The changed rules will go into effect from October 21, 2021.

KEY DETAILS

I. INVESTOR PROTECTIONS

Under the new PEF classification scheme, qualified retail investors (those investing KRW300 million or more) can invest in "general PEFs" only, with stronger investor protections provided.

(IMPROVING SALES PROCEDURE)   Fund sellers are required to issue a summary prospectus to investors when selling a PEF. As such, the revised rules specify the methods for verifying summary prospectus from an investor's standpoint and indicate a list of required information which needs to be contained in a summary prospectus.

(MONITORING FUND SELLERS AND TRUSTEES)   Fund sellers are required to monitor whether the PEF they sold to qualified retail investors are being managed by fund management firms according to their prospectus requirements. Fund trust agencies are required to monitor the consistency of the funds' asset statements with those of management firms.

II. RULES ON PEF MANAGEMENT

(RESTRICTION ON LENDING)   The revised rules prohibit PEFs from issuing personal loans to private lenders, P2P lending firms, etc. Only PEFs with institutional investors that have risk management capabilities can offer loans, with fund management firms required to have internal control measures.

III. INSTITUTION-ONLY PEFS

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[1] Please click here to see the press release dated March 24, 2021.

(PEF Asset Management)   The rules governing the management of institution-only PEFs will be identical to the general PEF management rules, simplifying and unifying the rules on PEFs. Unlike the "management participation type" PEFs under the previous PEF classification scheme, there will be more autonomy in the fund management of institution-only PEFs.

(Scope of institutional investors)   The scope of investors for institution-only PEFs is limited to professional institutional investors with risk management capabilities.

(Rules on GPs)   The revised rules create a new requirement for registering as general partners (GPs) the professional investment management experience of at least three years.

IV. Supervision of PEF Market

(On General PEFs)   The authorities plan to set up an integrated PEF monitoring and analysis system at the FSS with a wide-ranging electronic data available. When an abnormal activity is detected, the authorities will be able to promptly respond by carrying out an inspection on PEF management firms. With an introduction of the third-party regulatory mechanism, the authorities will supervise the reported cases in which fund management firms fail to comply to requests for rectification.[2]

(On Institution-only PEFs and GPs)   The authorities plan to strengthen monitoring of institution-only PEFs as the fund management mechanisms have become more diversified. With the introduction of new rules on GPs, such as the duty to report change in business registration status within two weeks and submit financial statements, the authorities will strengthen the level of supervision on GPs equivalent to other financial sectors.

Further Plans

As the revised FSCMA goes into effect from October 21, 2021, the authorities will maintain close communication with the financial investment association and other relevant industry groups to ensure seamless implementation of the changed rules.

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For press inquiry, please contact Foreign Media Relations at fsc_media@korea.kr.

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[2] Upon finding illegitimate fund management activities, fund sellers and trustees can request management firms for rectification and report to the FSS if management firms do not comply.