

FSC TO EASE RESTRICTIONS ON INFORMATION SHARING IN FINANCIAL INVESTMENT BUSINESS

The FSC proposed reforms to the Financial Investment Services and Capital Markets Act (FSCMA) to improve business conduct rules on financial investment business. The reformed bill will include easing the current requirement of information barriers, known as ‘Chinese walls,’ to enhance its regulatory effectiveness and flexibility; and making it easier for financial investment companies to entrust their business, or engage in concurrent or incidental businesses to facilitate the emergence of innovative and specialized services. The FSC plans to submit its reform bill on the FSCMA to the National Assembly in the first half of this year.

I. EASE RULES ON CHINESE WALL

The ‘Chinese wall’ rules were introduced to prevent conflicts of interests as financial investment companies increasingly expanded their business scope with concurrent businesses. Currently, information barriers are set up to block the exchange of information across business units – e.g. corporate financing business, proprietary investment business and financial investment business. However, the current regulatory regime stipulates details including the subject and implementation methods by law, leaving little autonomy to financial investment companies.

Against this backdrop, the types of information, not types of business, will serve as a basis to apply the Chinese wall rules. For example, ‘material nonpublic information’ should be separated from other information related to management of customer property. Also, the FSCMA will be amended to provide only basic principles and leave implementation details to financial investment companies to allow more autonomy and flexibility.

The current rules that require physical separation of offices, and prohibit executives and employees from holding concurrent positions across business units or with affiliate companies will be abolished. Instead, companies will be required to strengthen their internal control on ‘material nonpublic information’ and establish business conduct rules to prevent conflicts of interest.

Those who caused investor losses or disturbed market orders with nonpublic information will be subject to punitive fines.

II. FACILITATE BUSINESS ENTRUSTMENT OR PROVISION OF CONCURRENT OR INCIDENTAL BUSINESS

Financial investment companies will be allowed to entrust a broader range of business to a third party or an IT company in response to changing demand in their business environment.

To this end, the FSC will abolish the current rule that separates a financial investment company's core business from non-core business and prohibits the entrustment of core businesses. Also, the scope of essential business, currently allowed to be entrusted only to a third party licensed or registered for investment trading or brokerage services, will be readjusted to exclude receiving, transmitting, executing and confirming trading orders so that financial investment companies could entrust such business to IT companies.

The 'designated representative' scheme, which allows financial companies to designate IT companies to entrust their essential business, will be introduced into financial investment business.

To facilitate the entrustment of business or provision of concurrent or incidental business by financial investment companies, the current requirement of a prior report to the FSS will be replaced with an ex post report. For investor protection, however, the entrustment of essential business will require a prior report to the FSS.