

NEW REGULATIONS ON STOCK SHORT SELLING TO TAKE EFFECT FROM APRIL 6

The government approved the revisions to the Enforcement Decree of the Financial Investment Services and Capital Markets Act (FSCMA) during a cabinet meeting held on March 30. The amendments and the revised FSCMA¹ will take effect on April 6.

(PENALTY STANDARDS) The revised FSCMA created the imposition of penalty surcharges on illegal short sale activities. Specific amounts for monetary sanctions will be determined through comprehensive consideration of the total amount of short orders and profits gained from the illegal short sale activity.

(RECORD KEEPING REQUIREMENT ON SECURITIES LENDING AGREEMENTS) The revised FSCMA requires short sellers to keep their securities lending agreements for five years to be presented promptly to the relevant authorities upon request. As such, the Enforcement Decree will be revised to prescribe specific criteria to be maintained, including information on stock items, number of shares, transaction dates, counterparties, lending periods, fee rates, etc. It also requires the maintenance of transactions data stored in an electronic transaction processing platform or other format that is not susceptible for alteration.

(RESTRICTION ON SHORT SELLERS' PARTICIPATION IN CAPITAL INCREASE) The revised FSCMA restricts short sellers from participating in a company's capital increase via issuing new shares once the company has made such a plan public, except in certain cases. As such, the Enforcement Decree will be revised to determine a specific time period wherein the short seller's participation in capital increase is restricted as well as specific cases for exception as specified below. If an investor has shorted a company's stocks during the restriction period, the investor cannot participate in the company's capital increase, except for the cases where the short selling is deemed to have no unjust effects on the issuing price as stated below.

- **RESTRICTION PERIOD:** From one day after the disclosure of the company's capital increase plan until the determination of the issuing price
- **EXCEPTIONAL CASES:** (i) Purchase of new shares exceeding the amount of short positions between the time of the last short sale and the determination of the issuing price, (ii) participation in capital increase by trading units within a firm that operates separate trading units pursuant to the standards specified by the FSC that have no records of short selling the company's stocks and (iii) short selling for market making or liquidity provision purposes

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

¹ Please click [here](#) to see the press release dated December 9, 2020.