

ENHANCED INVESTOR PROTECTION MEASURES TO BE APPLIED ON HIGHLY COMPLEX INVESTMENT PRODUCTS

The FSC announced that financial institutions will be required to record the sales process when selling ‘highly complex investment products’ and making sales to elderly investors starting from May 10. In addition, a cooling-off period of two business days or more will be guaranteed for investors on ‘highly complex investment products’ to allow them to make more prudent investment decisions. These investor protection measures were first introduced when the government announced the measures to strengthen investor protection with high-risk investment products in December 2019¹ and have been included in the revised Enforcement Decree of the Financial Investment Services and Capital Markets Act which was passed in February this year.

KEY DETAILS

(HIGHLY COMPLEX INVESTMENT PRODUCTS) The concept of ‘highly complex investment products’ has been introduced on derivatives-linked securities, financial derivatives and ‘highly complex investment contracts’ for fund, discretionary investment or trust fund management that are highly complex in structure for ordinary investors to understand with a potential of incurring loss in excess of twenty percent of the principal. In the case that financial companies are unable to determine whether an investment product is an ‘highly complex investment product,’ they may request a decision from the relevant committees in the Korea Financial Investment Association and the FSC.

(INVESTOR PROTECTION MEASURES) First, financial institutions are required to record and keep the recording of the process of selling ‘highly complex investment products’ and signing contracts for ‘highly complex’ discretionary investment or trust fund management. Investors in turn are able to obtain the recorded file from financial institutions.

Second, investors will be guaranteed a cooling-off period of two business days or more on ‘highly complex investment products’ and other ‘highly complex’ investment contracts. During the cooling-off period, investors are provided with information on the investment risk, possibility of principal loss and the maximum possible loss amount on the principal. After the cooling-off period, investors will be given a notification to express their investment decision via writing, email, postal mail or phone to reaffirm their initial investment decision. The investment agreement will

¹ Please click [here](#) to see the press release dated December 12, 2019.

become valid only when the investor reaffirms his or her initial decision. If there is no reaffirmation from the investor after a cooling-off period, investment is withdrawn with the deposit returned. Upon reaffirmation, investors are provided with summary prospectus on the purchased 'highly complex investment product,' detailing its investment risks, etc.

(FOR ELDERLY INVESTORS) The recording requirement of the sales process for financial institutions and the guarantee of the cooling-off period for investors will be applied to elderly investors aged sixty-five or older² pursuant to the suitability rule within the Financial Consumer Protection Act. The authorities plan to gradually expand the types of investment products subject to the mandatory recording requirement and cooling-off period for elderly investors, starting with the private equity funds in this year.

EXPECTATION

The recording of the sales process and the cooling-off period have been introduced as additional investor protection measures to the currently existing safeguards, such as the six major sales regulations applied to financial institutions. The measures are aimed at promoting sound and responsible investment practices based on individual investors' risk capacity, appetite and experience. With the mandatory recording in place, financial institutions are encouraged to offer investment suggestions and recommendations in a more responsible way and provide explanations in a more easy-to-understand manner. The cooling-off period is expected to allow investors to make more prudent investment decisions.

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² Previously aged 70 or older