Financial Services Commission

Press Release

August 3, 2021

FSC INFORMS FINANCIAL INVESTMENT BUSINESSES ABOUT UPCOMING CHANGES IN PEF RULES

The FSC has informed financial investment businesses and market participants about broad regulatory changes taking place on private equity funds in October this year. The information provided to financial investment businesses concerning changes in PEF rules is based on the revisions to the subordinate law of the Financial Investment Services and Capital Markets Act which was put up for public comment from June 23 to August 2, 2021.

KEY CHANGES

The National Assembly of the Republic of Korea passed a revision to the FSCMA on March 24 with aims to improve rules on PEFs and strengthen investor protection with high-risk investment products. Key changes from the revised FSCMA and its subordinate law are as follows.

(NEW PEF CLASSIFICATION SCHEME) The current PEF classification system that places distinctions between the "professional investment type" and the "management participation type" based on the purpose of fund management will be changed. A new classification system of "general PEFs" and "institution-only PEFs" will be introduced according to the scope of investment entities and the type of investors.

(INVESTOR PROTECTION) Under the new classification scheme, qualified retail investors (those investing KRW300 million or more) are eligible to invest in "general PEFs" only and investor safeguards will be strengthened for qualified retail investors investing in "general PEFs." In addition, the revised FSCMA contains the following investor protection measures.

a) PEF sellers will be required to check whether the PEFs they sold are being managed by management firms according to their prospectus requirements.
b) PEF trust agencies, such as banks and prime brokerage service providers, will be subject to tighter monitoring requirements on PEFs.
c) PEFs with certain sizes will be subject to external audits to help improve fairness in valuation while all PEF management firms will be required to provide quarterly asset management reports to investors.
d) Stronger liquidity management measures will be introduced to prevent maturity mismatches, etc.

(PEF MANAGEMENT RULES) The rules governing the management of both "general PEFs" and "institution-only PEFs" will be integrated into a single regulatory framework that is identical to the current rules on the “professional investment type” PEFs. The existing rules that are intended to prevent large companies from expanding their governance clout using PEFs will remain in place and continue to apply to all PEFs.

(MARKET SOUNDNESS AND GP SUPERVISION) Various measures have been prepared to ensure soundness of the “general PEF” market and enhance supervision over general partners. A new rule on the cancellation of registration will be introduced for a quick removal of fund management firms that fail to meet requirements over a certain period of time.

In order to facilitate the financial authorities’ regular supervisory function, GPs will be required to report any changes to their business registration status within two weeks and submit financial statements once a year. In addition, the financial authorities will have the authority to inspect GPs for the purpose of ensuring market stability and maintaining order.

(NUMBER OF INVESTMENT ENTITIES FOR PEFS) The maximum number of investors allowed for a PEF will be increased from 49 to 100, although the total number of retail investors will continue to be limited to up to 49. The authorities expect that this change will have the effect of facilitating investments by professional investors.

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