

## FSC APPROVES REGISTRATION OF THREE P2P FINANCING FIRMS AND INFORMS USERS TO PRACTICE CAUTION

The FSC approved on May 11 the registration of The Asset Fintech Co., TGS Finance Co. and Ontwain Co. for the operation of online investment-linked financial businesses (peer-to-peer or P2P financing business) as they satisfied the registration requirements specified under the Act on Online Investment-linked Financial Business and Protection of Users (“the Act” hereinafter).

With the addition of three more entities, there are currently 47 registered P2P financing firms in total. For businesses that have already submitted their applications for registration, the FSC will promptly make decisions on their application review, and for those that have shown a potential of business closure, the authorities will seek measures to prevent damage to users.

The FSC also said that users need to practice caution when using P2P financing and should beware of the following factors. First, users should note that there is no guarantee on principal investments and should refrain from investing in businesses that promise excessive rewards or have a record of lending excessive amounts to the same borrower. Second, borrowers need to check whether the interest rate and fee levels are in line with the maximum legal lending rate of 20 percent per annum which had been lowered since July last year.<sup>1</sup>

### **REGISTRATION OF P2P FINANCING BUSINESS**

On May 11, three more business entities—The Asset Fintech Co., TGS Finance Co., and Ontwain Co.—have registered as P2P lending businesses with the FSC as they met the registration requirements specified under the Act.

#### <Registration Requirements for P2P Lending Business>

a) Capital requirement	Have minimum KRW500 million depending on the size of P2P loans
b) Personnel & physical facilities requirement	Have data processing experts and facilities equipped for data processing, IT facilities, data security facilities, etc.
c) Business plan, internal control mechanism	Have an internal control mechanism, protocols for user protection, etc.
d) Board of directors	Check on board members' criminal penalty records, sanctions records, etc.
e) Largest shareholder	Have investment capability, sound financial conditions and social credibility
f) Applicant	Have sound financial conditions and social credibility

<sup>1</sup> Please click [here](#) to see the press release dated July 6, 2021.

The registration of P2P lending firms under the Act is expected to help provide an enhanced level of protections<sup>2</sup> for P2P financing users and contribute to the improvement of credibility and sound development<sup>3</sup> of the P2P financing industry in the future.

## **NOTE FOR USER CAUTION**

### **A. FOR INVESTORS**

**(NO GUARANTEE ON PRINCIPAL INVESTMENTS)** P2P loans are highly risky products and do not guarantee collection of investments. When a borrower defaults on a loan, losses are accrued by investors.

**(SPECIAL ATTENTION FOR THOSE PROMISING LOSS RECOVERY OR EXCESSIVE REWARDS)** Investors are advised to pay special attention for P2P financing businesses that promise loss recovery and rewards or returns at excessive levels<sup>4</sup> as these entities may have a high propensity for mis-selling or dealing with non-performing loans.<sup>5</sup>

**(ATTENTION FOR THOSE WITH EXCESSIVE LENDING TO SAME BORROWER)** Investors are advised to pay special attention for P2P financing businesses that have a record of issuing loans to particular borrowers at an excessive level as the lending may have taken place to persons that have a stake in the business entity, thus there is a possibility of default, fraud or embezzlement at a large scale.<sup>6</sup>

### **B. FOR BORROWERS**

**(NEED TO CHECK THE INTEREST RATE AND FEE LEVELS)** As the maximum legal lending rate has been lowered to 20 percent per annum from July 7, 2021 under the Act on Registration of Credit Business and Protection of Finance Users, borrowers need to closely check the loan interest rate and fees as interest rates are calculated with fees charged to borrowers included in them.<sup>7</sup>

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<sup>2</sup> Stronger investor safeguards put in place through entry (registration) requirements, regulation on sales activities, duty to keep investor deposits with a depository, etc.

<sup>3</sup> P2P financing provides mid-range interest rate financing options for borrowers with mid-to-low credit backgrounds while offering new investment opportunities to individual investors.

<sup>4</sup> Offering rewards or returns at excessive levels transfers costs to borrowers through interest rates, thus there is a possibility that this is done by an illegitimate business entity in violation of the maximum legal lending rate of 20% per annum.

<sup>5</sup> Article 12, Section 9 of the Act and Article 12 of the Enforcement Decree of the Act state that online investment-linked financial business entities are prohibited from (a) making a promise for recovering losses before investment takes place or actually engaging in the act of recovering losses when investment losses take place and (b) offering monetary, material and other benefits to investors that are outside the confines of an ordinarily accepted level.

<sup>6</sup> Article 32, Section 1 of the Act states that P2P financing firms can lend to the same borrower the lesser amount of either within 7% of their P2P loan balance or KRW7 billion, whichever amount is smaller (however, up to KRW2.1 billion when P2P loan balance is less than KRW30 billion).

<sup>7</sup> Excludes incidental costs related to the signing and tendering of contracts such as setting a security right, performing a credit background check, etc.

## **FURTHER PLAN**

Aside from the 47 registered entities, the FSC is currently reviewing registration applications submitted by some of the existing P2P financing businesses as well as the newly established ones wishing to enter the market. The authorities are expected to make decisions on their qualifications for registration shortly. Although they are barred from engaging in new business operations, the existing P2P financing businesses that have yet to gain business registrations continue to carry out functions that are necessary for user protection such as collection and redemption of funds for existing investors, and they will be able to resume new operations when the requirements are met and they become registered as P2P financing firms. The authorities will also prepare for the possibility of business closures for P2P financing firms that have not applied for registration.

At the same time, the authorities have been working on a series of measures for user protections as follows—(a) requiring P2P financing firms to maintain a contractual relationship with a law firm and a debt collection agency in case of a business closure wherein the remaining work and debt collection functions can be still carried out; (b) maintaining control<sup>8</sup> over P2P financing firms' data processing condition to prevent misuse of user investments or repayment funds;<sup>9</sup> (c) carrying out inspections<sup>10</sup> regularly on the repayment status of investment for P2P financing firms that have large balance of loans and investor pools; and (d) implementing a measure that allows existing loans to be transferred from an unregistered P2P financing firm to a registered P2P financing firm.<sup>11</sup>

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<sup>8</sup> For preventing P2P financing firms from making arbitrary withdrawal of funds to be directed at accounts other than investors' accounts.

<sup>9</sup> In cooperation with the banks or payment gateways (PGs) that take investors' deposits and handle repayment duties on behalf of P2P financing firms.

<sup>10</sup> Inspection performed by the Financial Supervisory Service

<sup>11</sup> A consulting service is currently made available on P2P loan transfers by the Association of Korean Marketplace Lending ([www.mla.or.kr](http://www.mla.or.kr)).