Financial Services Commission

Press Release

February 6, 2024

FSC HOLDS MEETING AND ANNOUNCES PLANS TO UPGRADE RULES ON CORPORATE MERGER AND ACQUISITION

- Disclosure of background information to be required to demonstrate reasons for undertaking M&As to guarantee protection of shareholder rights.
- Disclosure of a written statement from board of directors showing its decision-making process to be required to bolster responsibility and prevent controlling shareholders from influencing decisions.
- Quality management standards need to be set up for third-party evaluating agencies.
- Rules on calculating the merger price to be revamped in M&As between non-affiliated companies.

Vice Chairman Kim Soyoung of the Financial Services Commission presided over a meeting with officials from related organizations and industry groups on February 6 and announced plans to improve rules on corporate mergers and acquisitions (M&As). The measures are aimed at strengthening protection for investors, which will also help to boost regulatory consistency with global standards.

At the meeting, Vice Chairman Kim delivered opening remarks, outlining some of the problems observed in the market and policy proposals to address them. The following is a summary of Vice Chairman Kim’s remarks.

Corporate M&As are important mechanisms to promote growth and innovation in a company and boost dynamism in an economy. Securing a competitive edge through M&As has become ever more important when considering recent economic conditions, such as interest rate hikes and global economic slowdown. Meanwhile, M&As are important corporate decisions which can significantly influence the governance structure and share value of a company, and thus are also very important from the perspective of guaranteeing the protection of rights for general shareholders. For this, authorities have worked to ensure that companies get consent from their shareholders when pursuing M&As and to provide sufficient protections for dissenting shareholders.

However, in corporate M&As, there continues to be the problem of general shareholders being sidelined, with their voices not being heard enough. In this regard, there have been concerns about the lack of sufficient information available on the reasons for undertaking M&As and their processes as well as important decision-making by boards of directors. At the same time, there have been also complaints about the rigidity in rules concerning the method of calculating merger prices, which have not been able to take into account the corporate restructuring demands of companies in a more autonomous way. To address these issues, in May last year, the FSC announced a set of measures aimed at facilitating corporate M&A activities, and based on them, the measures being announced today have been prepared after having an additional comment seeking process from businesses, investors and experts from the private sector.

In this regard, authorities will first strengthen disclosure duties on M&As and require companies to disclose information about details of important decision-making and deliberation by boards of directors. Second, authorities will upgrade the external evaluation process by prohibiting third-party agencies that took part in the process of calculating merger price from carrying out an external evaluation. Authorities also intend to require third-party evaluation agencies to establish quality management standards for compliance. In addition, for M&As between affiliated businesses, authorities will require a deliberation by an audit committee or a consent from the auditor for the appointment of a third-party evaluation agency. Third, authorities will upgrade the method for calculating merger prices in M&As between non-affiliated companies. To guarantee fairness in merger prices, a third-party review will be mandatory. Authorities will continue to make efforts to protect the rights of general shareholders and boost dynamism in our economy and capital markets.

The FSC plans to revise relevant rules and regulations in the third quarter of this year to ensure that these measures are implemented promptly.

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