



Financial Services Commission
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Press Release

July 28, 2010

PROPOSAL FOR AMENDMENTS TO THE ENFORCEMENT DECREE OF THE BANKING ACT

1. Background

Prior to the enforcement of the amended Banking Act* (November 18), the FSC has made amendments to the Enforcement Decree of the Banking Act to prescribe enforcement details.

*Amendments were made to the Banking Act to (1) improve corporate governance in banks; (2) redefine the scope of banks' business activities; and (3) strengthen consumer protection.

2. Key Contents

(1) Disqualifications for outside directors

Any individual who works as a full-time executive or employee of a corporation which has a special business relationship with a bank is unqualified for an outside director of the bank. A "corporation which has a special business relationship with a bank" refers to any corporation which concluded a single contract with the bank, amounting to more than 10% of the total sales revenue.

Any individual whose work might involve conflict of interest with a bank shall not serve as an outside director of the bank. A "conflict of interest" may arise when the person serves as an outside director of more than two listed companies, or the person holds more than 1% of stocks issued by the bank.

(2) Banks' subsidiary business

Under the amended Enforcement Decree, banks are to be allowed to provide investment advisory service given that they already provide similar service such as private banking (PB) service.

However, the FSC has decided not to allow banks to offer "wrap account" or customized portfolio management service and short-term financing service. For this matter, further deliberation will be given until a global consensus is reached on relevant issues such as financial consumer protection, and supervisory and regulatory reforms. Moreover, since most banks are under bank holding companies who already provide brokerage and asset



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management services, there seems to be little need for banks to join in selling “wrap account” products. The FSC sees that not allowing banks to deal with “wrap account” products would not hurt their private banking business either, considering they already offer similar services such as trusted money management.

(3) Prevention of conflict of interest

As banks increasingly engage in a variety of business activities, conflict of interest is likely to arise between their traditional banking service and other subsidiary business activities. Banks are required to have an internal mechanism in place to manage the likelihood of conflict of interest. The Enforcement Decree, pursuant to related laws, is to specify the scope of business activities where conflict of interest may arise, mostly already covered by banks’ internal controls.

In particular, there is need to create a firewall or information barrier to avoid conflict of interest among highly interlinked business activities that a bank engages in. Banks have to comply with relevant laws and regulations to properly address conflict of interest problems. For example, Article 250 of the Financial Investment Services and Capital Markets Act (FSCMA) bans any bank that engages in a collective investment business, a trust business, or the business of a general administration company from sharing information, offices, and computer systems among different business activities. Under the FSCMA, banks’ executives and employees are prohibited from taking concurrent charge of any business. The FSC will require the same barriers to be set between banks’ investment advisory business and prop trading business.

(4) Banks’ overseas expansion

In principle, banks who want to go abroad can simply report to the authorities afterwards. The Enforcement Decree prescribes a few exceptions requiring a prior reporting. Banks have to report their overseas expansion plan to the authorities in advance when their plan involves high risks. Specifically, when (1) a bank fails to meet required criteria in their BIS ratio or management evaluation; (2) a bank plans to make investment in or pursue M&As with a below-investment-grade local corporation; (3) a bank plans to expand their business scope into non-banking activities; (4) a bank plans to expand into a below-investment-grade country, or a country that has no diplomatic tie with Korea; and other exceptions decided by the FSC.



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3. Upcoming schedules

August 2~ August 22, 2010: legislation notice and consultation within the government

August ~ September, 2010: Reviews by the Regulatory Reform Committee
and the Ministry of Government Legislation

October, 2010: Vice Ministerial Meeting and Cabinet Meeting

November 18, 2010: Enforcement of the amended Banking Act

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