

GOVERNMENT SEEKS TO LOWER RISKS IN OTC DERIVATIVES MARKET

The revisions to the Financial Investment Services and Capital Markets Act (FSCMA) were approved at a cabinet meeting on June 30, which aim to lower risks in the over-the-counter (OTC) derivatives market and improve regulations on asset management and crowdfunding. The revisions will be submitted to the National Assembly in July.

KEY REVISIONS

I. LOWERING RISKS IN OTC DERIVATIVES MARKET

(REPORTING REQUIREMENTS) Financial Investment businesses, central clearing counterparties (CCPs) and corporations with more than a certain level of OTC derivatives transaction should report their transaction information to trade repository, or face a penalty of up to KRW100 million for violating reporting requirements.

(LICENSING FOR TRADE REPOSITORY) Introduce a licensing system for trade repository, prohibit the use of the term ‘trade repository’ by unlicensed entities and establish guidelines for the qualification of executives and internal control standards.

(SUPERVISION OF TRADE REPOSITORY) Trade repositories should get approval from the FSC when introducing new rules or making changes to their operational rules.

(TRANSACTION INFORMATION) Trade repositories should provide transaction information to the financial authorities and disclose relevant statistical data.

(MARGIN REQUIREMENTS FOR NON-CENTRALLY CLEARED OTC DERIVATIVES) Financial institutions with transaction balance of more than KRW3 trillion should exchange margins or face a penalty equivalent to the amount of profit generated by bypassing rules.

II. IMPROVING REGULATIONS FOR ASSET MANAGEMENT & CROWDFUNDING

(PUBLICLY OFFERED FUNDS)

- (a) Establish a legal basis for the disclosure of information about fund managers, such as management experience, rate of return on funds under management, compensation scheme, etc.
- (b) Lower regulations on borrowing and lending for special asset funds, including investment on SOC to help improve the efficiency in the management of real asset funds
- (c) Allow variation in the distribution of profits and losses at different rates to different investors
- (d) Allow publicly offered listed funds to be offered as non-redeemable

- (e) Improve the disclosure rule on real asset funds by changing the price disclosure requirement from once every day to once every six months or more

(PRIVATE EQUITY FUNDS)

- (a) Determine specific scope of private equity funds and include convertible preferred stocks
- (b) Reduce reporting burdens when changes are made to the private equity firm (general partner, GP)

III. INVESTMENT CONSULTING

- (a) Discretionary investment businesses will be allowed to operate as investment advisory businesses without going through a separate registration process.
- (b) The requirement to issue quarterly investment report to investors will be lifted for discretionary investment businesses to help reduce inconvenience to investors.

IV. CROWDFUNDING

(SCOPE OF ISSUERS) The scope of businesses eligible to issue securities and raise funds through crowdfunding will be expanded from start-ups within seven years of establishment to all SMEs.

(ROLE OF INTERMEDIARIES) Intermediaries will be allowed to provide advises on business management after the completion of their function as intermediaries.

(LIFTING EXCESSIVE REGULATION) Excessive regulations regarding the application of the Act on Corporate Governance of Financial Companies will be lifted for crowdfunding intermediaries.

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