

## 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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