

REVISION TO FSCMA AND LOWER REGULATIONS TO IMPROVE INVESTOR PROTECTION AND PEF MANAGEMENT

The FSC announced revisions to lower regulations of the Financial Investment Services and Capital Markets Act in order to prepare for the implementation of the revised FSCMA¹ that is scheduled to go into effect from October 21, 2021. The revision proposal will be put up for public notice for forty days from June 23 until August 2.

The revised FSCMA and lower regulations will improve the overall framework on private equity funds while strengthening investor protections for qualified retail investors² and increasing efficiency in PEF management. First, the current PEF classification system placing distinctions between the “professional investment type” and the “management participation type” based on the purpose of fund management will be changed to a new classification system of “general PEFs” and “institution-only PEFs” according to the type of investors as shown in the table below.

	General PEFs	Institution-only PEFs
Management by	Professional PEF management firms (financial investment business)	General partners (non-financial investment business)
Investment from	Qualified retail investors & professional investors	Certain professional investors

Second, investor protections will be strengthened for qualified retail investors while different regulations for “professional investment type” and “management participation type” PEFs will be integrated into a single regulatory framework to help improve efficiency in fund management.

KEY DETAILS

(INVESTOR PROTECTIONS) Under the new classification scheme, qualified retail investors are eligible to invest in “general PEFs” only and investor safeguards will be strengthened for qualified retail investors investing in “general PEFs.”

(PEF MANAGEMENT RULES) The rules governing the management of both “general PEFs” and “institution-only PEFs” will be integrated into a single regulatory framework that is identical to the current rules on the “professional investment type”

¹ Please click [here](#) to see the press release on the revised FSCMA dated March 24, 2021.

² With minimum investment of KRW300 million

PEFs.³

The existing rules that are intended to prevent large companies from expanding their governance clout using PEFs will continue to apply to all PEFs.

(MARKET SOUNDNESS AND GP SUPERVISION) Various measures will be put in place to ensure soundness of the “general PEF” market and enhance supervision over general partners. In this regard, a new rule on the cancellation of registration will be introduced for a quick removal of fund management firms that fail to meet requirements over a certain period of time.

In order to facilitate regular supervision over general partners (GPs) by the financial authorities, GPs will be required to report any changes to their business registration status within two weeks and submit financial statements once a year. In addition, the financial authorities will have authority to inspect GPs for the purpose of ensuring market stability and maintaining order.

(RULE ON THE NUMBER OF INVESTMENT ENTITIES FOR PEF) The maximum number of investors allowed for a PEF will be increased from 49 to 100, although the total number of retail investors will continue to be limited to up to 49. This change will have the effect of facilitating investments by professional investors.

SCHEDULE & FURTHER PLAN

The revision to the Enforcement Decree and supervisory regulations will take place on schedule for the implementation of the revised FSCMA on October 21, 2021. During the 40-day preannouncement period, the authorities will make sure that support is available for the industry through information session, etc.

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For press inquiry, please contact Foreign Media Relations at fsc_media@korea.kr.

³ No regulation on diversified investment; no requirement for management participation; leverage allowed within 400% of net assets; and loans (non-personal lending) allowed.