

FSC ANNOUNCES MEASURES TO IMPROVE FOREIGN INVESTORS' ACCESS TO KOREAN CAPITAL MARKETS

The FSC announced on January 25 a set of measures intended to improve foreign investors' access to Korean capital markets by seeking bold improvements of the regulations that have been impediments to global investors' investments in Korean markets. The measures include (a) abolishing the foreign investor registration requirement, (b) facilitating the use of omnibus account for foreign investors, (c) enabling more convenient OTC transactions by foreign investors and (d) expanding English disclosures in phases. Authorities expect that these measures will enhance the investment environment for foreigners on a par with international standards, which will provide important grounds to boost foreign investment in Korean markets.

BACKGROUND

The foreign investor registration system and the constraints on foreign investors' OTC (over-the-counter) transactions were introduced in 1992 when authorities began to allow foreign investors to invest in locally-listed stocks. While permitting foreigners to invest in locally-listed stocks, authorities established the total foreign investment cap and individual foreign investor cap of 10 percent and 3 percent, respectively, for each investment item, and began to require prior registration for foreign investors as well as to restrict their OTC transactions to monitor their observance. With the abolishment of foreign investors' stock holding limit for ordinary companies in 1998, there currently exist foreign investors' stock holding limits placed on only 33 items in key industries among 2,500 listed companies. However, the foreign investor registration system has continued to exist for the past three decades without a significant change. In addition, authorities introduced omnibus account for foreign investors in 2017 to provide a convenient way to invest in Korean markets, but it has not been utilized ever since its inception.

The availability of English disclosures, which serve as essential information for foreign investors' decisions on investment in Korean companies, still remains insufficient. English disclosures submitted by KOSPI-listed firms to the Korea Exchange (KRX) were found to be only about 13.8 percent of disclosures filed in Korean in 2022, and the statutory disclosures submitted to the Financial Supervisory Service (FSS), such as business reports, tend to merely provide automated translation of financial statements included in their business reports.

These systems remain largely divergent from international standards. Major advanced economies such as the United States and Japan do not have a registration requirement for foreign investors, and Hong Kong and Singapore have already chosen English as the official language of corporate disclosures to strengthen their market competitiveness, while Taiwan is the only market in Asia with a partial requirement. Global investors have

been complaining that their accessibility to Korean capital markets remains comparatively poor due to these regulations and have made continuous claims for regulatory improvement.¹

Against this backdrop, on January 19, the financial regulatory innovation committee deliberated and finalized the measures to improve foreign investors' access to Korean capital markets.

IMPROVEMENT MEASURES

I. ABOLISH FOREIGN INVESTOR REGISTRATION SYSTEM

Authorities will abolish the foreign investor registration requirement and instead, foreign corporate entities and individual investors will be allowed to invest in Korean capital markets using their legal entity identifiers (LEIs) or passport numbers, respectively.

(CURRENT SITUATION) Foreign investors are currently required to register with the FSS before making investment in locally-listed securities (stocks, bonds, etc.). Once registered as a foreign investor, a foreign individual or corporate entity is given a unique investor's registration number (foreign investor's ID), and the foreign investment management system (FIMS) records real-time transactions for each identification number. The application for foreign investor registration requires submission of many documents such as investment registration application form, personal identification document, standing agent appointment contract, etc., and involves the inconvenience of getting documents translated and notarized. Major advanced economies such as the U.S., Japan and Germany do not have this type of regulation and thus this has been recognized as an excessive regulation for foreign investors.

(TO BE IMPROVED) With abolishment of the foreign investor registration system, foreign investors will be able to invest in locally-listed securities without a prior registration process. Foreign investors will be able to open up investment accounts immediately after a real-name ID verification at securities firms. Their account information will be managed using LEIs² for corporate investors and passport numbers for individuals as identifiers. For those that are already registered as foreign investors, they will continue to be able to use their registration numbers, thereby minimizing potential inconvenience that may result from the change in the system. For financial authorities, the method of monitoring foreign investors' transactions will also be improved to collect only the transaction records in need when it becomes necessary, instead of collecting the entire transaction records of every foreign investor on a real-time basis.

II. FACILITATE FOREIGN INVESTORS' USE OF OMNIBUS ACCOUNT

Authorities will abolish the investment reporting requirement under which the end-investor of omnibus account needs to instantly report completed investment transactions at the moment of settlement (T+2).

(CURRENT SITUATION) When foreign investments in locally-listed stocks are made

¹ MSCI Global Market Accessibility Review (Jun 2022), ASIFMA Korea Capital Markets White Paper (Nov 2022)

² Legal Entity Identifiers (LEIs): Standardized ID assigned to corporate entities introduced in 2011 by G-20 member states, which include information about corporate name, jurisdiction, address, date of foundation, corporate type (fund, etc.), parent company information, etc.

through omnibus account (a.k.a. foreigners' consolidated account) managed by a foreign financial investment business entity, the details of stock trading by each end-investor should be reported immediately (T+2, at the moment of settlement). Even though the omnibus account system for foreign investors was introduced for their transaction convenience, with the burden of instantly reporting the details right after settlement, it has not been utilized since its launch in 2017.

<Omnibus Account for Foreign Investors>

- ※ Investment account opened under the name of a global asset management company or securities firm intended to collectively process multiple orders and settlements for multiple foreign investors' stock trading with a single account.
- After receiving orders from end-investors, when consolidated orders are placed through an omnibus account, settlements are also carried out through omnibus account according to their sales agreements.
- e.g. A global asset management company can process orders from funds under its management through omnibus account

(TO BE IMPROVED) With abolishment of reporting requirement for transaction details by each end-investor, authorities will increase the convenience of making transactions using omnibus account and establish an ex post oversight system. The global securities company or asset management firm, under whose name the omnibus account is opened, will be required to verify end-investors, and the securities firm that offered the omnibus account should manage investment records in detail. When it becomes necessary, financial authorities will ask for submission of end-investor's investment records for supervisory purpose. Authorities will also establish a legal ground to impose sanctions on securities firms if they refuse to provide relevant information or provide inaccurate data. After the introduction of this system change, during the first six months of pilot operation, authorities will closely review how this ex post oversight system operates and make improvements to the system immediately when shortcomings are found.

III. IMPROVE FOREIGN INVESTORS' CONVENIENCE IN OTC TRANSACTIONS

Authorities will significantly broaden the scope of OTC transactions eligible for ex post reporting to reduce burden of preliminary examination and increase convenience in executing transactions.

(CURRENT SITUATION) Ordinarily, foreign investors' trading of locally-listed securities should be carried out through a stock exchange. Over-the-counter (OTC) transactions by foreign investors are subject to a preliminary examination by the FSS. There are OTC transactions allowed on an ex post reporting basis but the scope is limited,³ and even with the ex post reporting, there still exists the burden of getting the OTC transaction report officially accepted by the authority.

< OTC Transaction Process >

- (In principle) Preliminary examination → Approval → OTC transaction → Transaction data recorded in FIMS
- (Exception) OTC transaction → submission of report (ex post reporting) → acceptance of report → Transaction data recorded in FIMS

³ Conditional sales, direct investment, stock option, inheritance and gift, exercising right for convertible bonds and bonds with warrants, etc.

(TO BE IMPROVED) Authorities will significantly expand the scope of OTC transaction types eligible for ex post reporting and actively seek to mitigate reporting burden. Among the types of OTC transactions currently subject to preliminary examination, authorities will extract those deemed to have low need for being examined but to be in high demand from market participants and make them eligible for ex post reporting, so that the burden of preliminary examination gets minimized for foreign investors.

Type	Examples
No change in beneficial owner	Fund merger, transfer between master and feeder funds, transfer between asset management company and fund under its management, transfer of fund within same asset management company, etc.
M&A and corporate restructuring	In-kind investment following M&A or corporate restructuring, in-kind issuance following liquidation of fund, etc.
In-kind dividend	In-kind dividends of foreign company stocks to foreign shareholders, etc.

Also, among the types of OTC transactions currently subject to ex post reporting, authorities will select those types that have low necessity to get through document review⁴ and allow them to be instantly entered into the FIMS to alleviate reporting burdens.

IV. EXPAND THE AVAILABILITY OF ENGLISH DISCLOSURES IN PHASES

Authorities will require companies in phases to make English disclosures, while pursuing multidimensional measures to support the proliferation of English disclosures.

(CURRENT SITUATION) English disclosures currently depend on automated machine translation⁵ and voluntary filing of some companies,⁶ which remain insufficient for foreign investors to access domestic corporate information.

(TO BE IMPROVED) From 2024, authorities will expand the English disclosure requirement in phases, beginning with large listed firms and focusing on material information the market needs, while pursuing other measures to support the spread of English disclosures.

a) **(1ST STAGE: 2024-2025)** Mandatory for KOSPI-listed firms with KRW10 trillion or more in assets, etc.

<1st Stage Expansion of Mandatory English Disclosure: 2024-2025>

(TARGET ENTITIES) (a) KOSPI-listed firms with KRW10 trillion or more in assets, or (b) KOSPI-listed firms whose shares are owned by foreigners by 30 percent or more (in this case, KRW2 trillion or more in assets)

- However, when foreign investors' shareholding ratio is less than five percent, the company will be exempted from mandatory English disclosures.

(DISCLOSURE ITEMS) Among those disclosures required by KRX (material management matters), (a) matters related to closing financial statement, (b) common statutory disclosure items, and (c) matters pertaining to suspension of trading

(DISCLOSURE DEADLINE) Within three business days from filing disclosures in Korean

⁴ Conditional sales, direct investment, etc. which make up about 80 percent of paperwork examination, but are examined customarily even though there is low probability of misreporting.

⁵ The title of disclosure and labels are automatically changed into English in real-time and posted on the KRX's corporate disclosure channel, KIND.

⁶ In 2022, 140 KOSPI-listed firms, or 17.6% of all KOSPI-listed firms, submitted a total of 2,453 English disclosures, which amounted to 13.8% of disclosures submitted in Korean. In 2021, 113 KOSPI-listed firms (14.2%) submitted a total of 1,597 English disclosures (9.2% of disclosures in Korean).

- b) **(2ND STAGE: FROM 2026)**⁷ The scope of corporate entities subject to the English disclosure requirement will be expanded to KOSPI-listed firms with KRW2 trillion or more in assets.

<Tentative Plan for 2nd Stage Expansion of Mandatory English Disclosure: From 2026>

(TARGET ENTITIES) Expanded to KOSPI-listed firms with KRW2 trillion or more in assets

※ However, for companies that are newly subject to the English disclosure requirement at the 2nd stage, the 1st stage disclosure items will be applied (application of 2nd stage disclosure items from 2028).

(DISCLOSURE ITEMS) KRX disclosure items (1st stage + α) and certain statutory disclosure items (in summary)

(DISCLOSURE DEADLINE) In principle, authorities consider requiring English disclosures at the same time when disclosures in Korean are filed.

- c) **(SUPPORT MEASURES)** Authorities will continue to implement various support measures to facilitate businesses to more easily adjust to the mandatory English disclosure requirement.
- **(ENGLISH TRANSLATION SUPPORT)** Grant special benefits (exemption of listing fee, etc.) to those that submit outstanding English disclosures, expand the availability of translation support service offered by professional translation service providers, strengthen training courses on English disclosures, etc.
 - **(ENGLISH DISCLOSURE PLATFORM⁸ IMPROVEMENT)** Expand the automated machine translation service, provide English search function for Korean statutory disclosures, prepare measures to improve the translation quality using AI-based machine translation, etc.

ANTICIPATED EFFECT

(INCREASED CONVENIENCE FOR FOREIGN INVESTORS) Authorities expect that the investment environment in domestic capital markets will be improved on a par with international standards and the convenience of foreign investors will be enhanced, which will provide an important ground to boost foreign investment in Korean markets. First, foreign investors will be able to instantly open up investment account at a securities firm without having to go through a prior registration procedure. Second, with a growth in the use of omnibus account by foreign investors, global asset management companies can reduce their account management burdens and transaction costs as they will be able to process multiple orders and settlements from a single account in an integrated manner. In this regard, not only individual foreign investors but also Korean nationals residing abroad as well as foreign small- and medium-sized institutional investors can easily invest in Korean stock markets through an omnibus account a global securities firm operates. Third, as more English disclosures are made available in phases, global investors' access to information about domestic companies will be expanded, and the problem of information asymmetry between domestic investors and foreign investors will also be gradually resolved.

(MAINTENANCE OF SAME LEVEL OF SUPERVISION) Even with the abolishment of the foreign investor registration system, authorities will continuously provide the equivalent level of supervisory functions as under the existing system, such as managing the

⁷ Details of the 2nd stage expansion of mandatory English disclosures will be determined later after reviewing the result of the 1st stage expansion of mandatory English disclosures.

⁸ KIND English website (KRX), DART English website (FSS)

maximum investment limit for foreign investors, monitoring markets, etc. Using the KRX's transaction records (order item, amount, nationality, institution type, etc.), which exclude identification data, and OTC transaction reports, authorities can monitor key statistics (investment trends) by item, nationality and institution type (fund, pension fund, etc.) from the FIMS on a real-time basis. As such, for the 33 items under the restriction on foreigners' securities acquisition, authorities can still monitor on a real-time basis and prevent orders surpassing those limits before they take place.

FURTHER PLAN

Regarding the measures for improving investment conditions for foreign investors, authorities will revise the Enforcement Decree of the FSCMA and the regulation on financial investment businesses in the first half of this year, and begin implementation before the end of this year after developing an IT system. For the English disclosure requirement, authorities will amend the KRX's disclosure regulations in the first quarter to begin the 1st stage expansion from 2024 and pursue 2nd stage expansion while monitoring outcomes.

Improvement measures	Specific tasks required	Schedule	Jurisdiction
Abolish foreign investor registration requirement	Revision of the Enforcement Decree of the FSCMA, regulations on financial investment businesses and its detailed regulations	Until Q2 2023	FSC, FSS
	Development of computer system	Until Q3 2023	KSD, Koscom, securities firms
Facilitate the use of omnibus account	Revision of regulations on financial investment businesses and its detailed regulations	Until Q2 2023	FSC, FSS
	Development of computer system	Until Q3 2023	KSD, Koscom, securities firms
Enhance convenience in OTC transactions	Revision of regulations on financial investment businesses and its detailed regulations	Until Q2 2023	FSC, FSS
	Development of computer system	Until Q3 2023	KSD, Koscom, securities firms
Expand English disclosures in phases	Revision of KRX disclosure regulations for 1 st stage expansion	Q1 2023	KRX
	Implementation of support measures such as English translation service, promotion of training courses, etc.	Ongoing	KRX
	English disclosure platform improvement	Ongoing	KRX, FSS
	Finalizing measures for 2 nd stage expansion and pursuing revision of relevant regulations	In 2025	FSC, FSS, KRX

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