

FAST-TRACK SYSTEM TO BE UTILIZED EFFECTIVELY IN INVESTIGATION OF UNFAIR TRADING ACTIVITIES

The FSC, the FSS, the Korea Exchange and Seoul Southern District Prosecutors' Office held a joint council meeting¹ on February 27. At the meeting, authorities discussed and reviewed the outcome of operating the fast-track system in handling unfair trading activities in 2022.

The fast-track system, introduced in 2013, is an emergency measure by Chair of the Securities and Futures Commission (SFC) in which a case deemed urgent and significant can be referred to the prosecutors' office without going through the SFC's deliberation. If a case under investigation by the FSC or the FSS is deemed to have urgent need of the prosecutors' investigation due to concerns about a suspect fleeing or a potential destruction of evidence, SFC Chair can decide to quickly refer the case to the prosecutors' office after consulting with relevant authorities.

In 2022, the FSC and the FSS referred a total of 20 cases² to Seoul Southern District Prosecutors' Office through the fast-track system, leading to prosecution of numerous offenders within short periods of time.

In order to more effectively respond to unfair trading activities, which are becoming more sophisticated and organized, authorities will strengthen cooperation among related agencies and concentrate more investigative capacity on major cases that have a potential to inflict significant losses to investors.

By utilizing the fast-track system, authorities will take swift and stern responses against major cases involving unfair trading activities, and make continuous efforts to improve the operation of the fast-track system

MAJOR FAST-TRACKED CASES IN 2022

[Case #1] Case involving circulation of false information about COVID-19 test kit and sale of company stocks at high price for profiteering

(CASE SUMMARY) The offenders (a) acquired a KOSDAQ-listed company ("company A") through a leveraged buyout (LBO: M&A without own capital), (b) then spread a

¹ A consultative body consisting of the authorities that have jurisdiction over inquiring or investigating unfair trading activities in capital markets (the Korea Exchange, the FSC, the FSS and the prosecutors' office), which meets regularly (on a quarterly basis, but more often if needed) to review relevant issues and seek areas of cooperation.

² Number of fast-tracked cases per year: 8 (2017), 11 (2018), 7 (2019), 18 (2020), 9 (2021), 20 (2022)

rumor³ about company A's COVID-19 test kit to drastically push up its stock price,⁴ and (c) sold their own company shares to gain about KRW21.4 billion in unfair profits, and embezzled KRW13.2 billion from another KOSDAQ-listed company ("company D")'s to keep company A's listing status.

(UNUSUAL FACTS) To manipulate stock prices, the offenders fabricated the clinical trial result of company A's COVID-19 sample transport medium and submitted it to the Korean Ministry of Food and Drug Safety and the U.S. Food and Drug Administration (FDA). This fact was discovered by the FSC during its investigation process, and the evidence, such as emails, was destroyed in the course of investigation by the prosecutors' office.

(CASE FAST-TRACKED) SFC Chair decided to refer the case to the prosecutors' office through the fast-track system. Seoul Southern District Prosecutors' Office arrested and indicted the six accused persons (including company A's CEO) not only for violating the Financial Investment Services and Capital Markets Act (FSCMA), but also on charges of obstruction of performance of official duties by fraudulent means, interference with business, and embezzlement and breach of trust (investigation ongoing).

[Case #2] Case involving Edison EV's failed acquisition of SsangYong Motor

(CASE SUMMARY) An offender with a record of previously engaging in unfair trading activities in capital markets acquired a number of listed companies by conspiring with executive officers of the acquired companies, employees of asset management firms, etc., and artificially inflated the stock price of the acquired companies for profiteering by manipulating market prices and circulating false information.

- a) **(COMPANY A)** The accused entities acquired company A through multiple investment consortia, then inflated its stock price through price manipulation and circulation of false information to gain unfair profits.
- b) **(COMPANY B)** The accused entities acquired company B through investment consortium, then inflated its stock price by employing fraudulent means in the process of evaluating intangible assets and circulating information favorable to them to gain unfair profits.
- c) **(COMPANY C)** The accused entities pushed up stock prices through placement of large scale buy orders at upper limit price and use of matched orders.
- d) **(COMPANY D)** The accused entities acquired company D through company C and in the process engaged in price manipulation by placing a total of 1,053 orders including 881 orders intended to affect market prices.

(CASE FAST-TRACKED) SFC Chair decided to refer the case to the prosecutors' office through the fast-track system. Seoul Southern District Prosecutors' Office indicted company A's CEO and three other company executives and six other accomplices who secured funds (investigation ongoing).

³ Spreading false information claiming that company A is manufacturing and exporting COVID-19 sample transport medium after getting approval from the U.S. FDA, which is the first time for domestic companies.

⁴ KRW775 (Mar. 19, 2020) → KRW9,140 (Sep. 9, 2020, up 1,079%)

[Case #3] Cases involving investment fraud of stock chat room operators in social media

(CASE SUMMARY) Front-running trading schemes involving stock chat rooms in KakaoTalk (a social media platform) or YouTube clips.

- a) An operator of a stock chat room on KakaoTalk engaged in front-running to buy and sell stocks and recommended the chat room members to make purchase and sale of stocks accordingly in a repetitive pattern to acquire unfair profits.
- b) An operator of a stock chat room on KakaoTalk, with the aim of supporting the purchase of stocks owned by a large shareholder of company A at high prices, circulated false information about that stock item to the chat room members to entice stock purchases.
- c) A YouTuber specializing in stock investment made recommendations about particular stock items to the viewers and sold those stocks held in own account.

(CASE FAST-TRACKED) These cases were referred to the prosecutors' office by SFC Chair through the fast-track system. Seoul Southern District Prosecutors' Office arrested and prosecuted the entity who acquired KRW360 million in unfair profits by engaging in front-running (investigation ongoing for other cases).

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