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Korea

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Regulatory framework

- 1 What are the principal governmental and regulatory policies that govern the banking sector?

The legislative intent of the Bank Act is to promote the sound management of banks, improve the efficiency of financial intermediation, protect depositors and maintain the sound credit market, thereby helping to achieve the stability of financial markets and strengthen the national economy. In order to accomplish the above goals, the regulators are implementing various policies, such as restricting and regulating market entry into the banking sector, bank ownership and management structures, establishing sound management standards, taking timely corrective measures and imposing sanctions, and implementing depositor-protective mechanisms.

In order to establish a bank, a minimum paid-in capital of 100 billion won is required, and an applicant must obtain prior approval of the Financial Services Commission (FSC). Until the early 1990s, new bank licences were issued; thereafter, however, no new bank licence has been issued, although Korean branches of foreign banks have been established continuously in line with the FSC policy as long as certain conditions are met.

In order to prevent private use of a bank by major shareholders, a single person may not hold more than 10 per cent of the shares in a bank (4 per cent in the case of a shareholder that is a non-financial business operator). Prior approval of the FSC is required in order to own shares in a bank in excess of the above limits, subject to meeting certain criteria. A bank is required to operate a board of directors and an audit committee, each consisting of a certain number of outside directors.

In order to ensure the sound management, banks are required to maintain BIS capital ratio of at least 8 per cent and liquidity ratio of at least 100 per cent for Korean won and 85 per cent for foreign currencies. Also, in evaluating the soundness of bank assets, certain asset classification criteria apply, and depending on the outcome of such classification, the bank must set aside a certain amount of reserve. If the BIS capital ratio falls below a certain level, the FSC orders the bank to promptly procure additional capital. In addition, a deposit insurance programme is in place to ensure the return of deposits to depositors in case the bank becomes bankrupt.

- 2 Please summarise the primary statutes and regulations that govern the banking industry.

The Bank Act is the fundamental law regulating the banking business in Korea, and the following statutes also contain provisions that pertain to the regulation of banking business in Korea: the Act on Structural Improvement of Financial Industry, the Act on Establishment, etc, of Financial Services Commission, the Bank

of Korea Act, the Financial Holding Companies Act, the Depositor Protection Act, and the Foreign Exchange Transaction Act. There are detailed enforcement rules and regulations for each of the above laws.

The Bank Act sets out regulations on establishment of, and licensing requirements for, banks, limitation on control and management structures, banking business operation, and operation of foreign bank branches. The Act on Structural Improvement of Financial Industry seeks to promote structural improvement of financial institutions, including banks, by way of merger, conversion, consolidation, and other methods.

The Act on Establishment, etc, of Financial Services Commission sets out rules on establishment and operation of financial business regulators, namely the FSC and the Financial Supervisory Service (FSS). The Bank of Korea Act sets out rules concerning the establishment of the central bank, the Bank of Korea (BOK) and the operation of monetary and credit policies, such as setting minimum reserve requirements. The Financial Holding Companies Act sets out rules on the establishment, operation and supervision of financial holding companies, and banks formed under a financial holding company are subject to certain restrictions under the above law in respect of transactions with affiliates, and other matters. The Depositor Protection Act sets out rules on the establishment of the Korea Depositor Insurance Corporation (KDIC), which runs deposit insurance programmes for financial institutions, such as banks, non-banks and insurance companies. Under the Depositor Protection Act, all banks are required to participate in the deposit insurance system.

The Foreign Exchange Transaction Act regulates foreign currency transactions entered into by and among any individuals and entities, and banks must also comply with this law when entering into foreign exchange transactions.

- 3 Which regulatory authorities are primarily responsible for overseeing banks?

The main regulatory authorities overseeing banks in Korea are the FSC and the FSS established under the Act on Establishment, etc, of Financial Services Commission. The FSC is one of the central governmental organisations and responsible for formulation of financial supervisory policies, promulgation, implementation and amendment of supervisory regulations, and licensing of banks, etc. The FSS is a special public corporation and responsible for, under the supervision and instruction of the FSC, conducting audit and inspection of banks and imposing sanctions and taking other measures based on the outcome of the audits and inspections. The FSS also performs certain other functions and duties as delegated by the FSC.

The BOK and the KDIC also handle some regulatory and supervisory functions over banks as part of carrying out their own

functions by, for instance, requesting the FSS for joint inspection and audit of banks as deemed necessary.

- 4 Describe the extent to which deposits are insured by the government.

The KDIC was established pursuant to the Depositor Protection Act in January 1996 for purposes of protecting depositors by guaranteeing return of their deposits in case the bank becomes insolvent or bankrupt and thereby maintaining public confidence in the financial system. All banks established under the Bank Act are required to be enrolled under a depositor insurance policy pursuant to the above law. In order to qualify for protection under the above policy, deposits must take the form of either demand deposits, money market deposits, or instalment deposits; no negotiable certificates of deposit and bank-issued notes are eligible for such protection. Beginning from November of 2008, foreign currency deposit accounts are also covered under the deposit insurance program. The insurance premium is 0.1 per cent of the deposit amount, and the maximum insured amount is 50 million won per depositor.

- 5 Which legal and regulatory limitations apply to transactions between a bank and its affiliates? What constitutes an 'affiliate' for this purpose?

Restrictions on transactions with major shareholders and specially related persons

Under the Bank Act, a bank is prohibited from extending a loan to a major shareholder (including its specially related person) in the amount of the lesser of 25 per cent of its total capital and the amount invested in the bank by the relevant major shareholder. The total amount of loans extended to major shareholders must not exceed 25 per cent of the bank's total capital. The term 'major shareholder' refers to a shareholder either holding 10 per cent of the bank's equity interests, or holding 4 per cent of the bank's equity interests as the largest shareholder or exercising management control over the bank. The enforcement rules of the Bank Act sets out the scope of 'specially related persons' in detail, and in general, a specially related person is one who is connected with the major shareholder by either of the following: ownership of 30 per cent or more of equity interests or the ability to control the other company's management.

A bank must not acquire any shares issued by a major shareholder (including its specially related persons) in excess of 1 per cent of the bank's total capital. In order to extend a loan to a major shareholder or acquire shares issued by a major shareholder, each in excess of a certain amount, a bank must seek prior unanimous approval of the board and promptly make public disclosure of such activity (ie, lending or acquisition).

Also, a major shareholder may not, in pursuit of its own interest, request for confidential non-public information of the bank or exercise unfair influence over the management of the bank that is in conflict with the bank's interest.

Restrictions on transactions with subsidiaries

Certain restrictions apply under the Bank Act on transactions between banks and their subsidiaries (ie, companies 15 per cent or more of which are owned by a bank). A bank may not extend credits of an amount in excess of 10 per cent of its total capital to each subsidiary and 20 per cent to all of its subsidiaries. Transactions with subsidiaries must be made on an arm's length basis without any prejudicial or disadvantageous terms.

Restrictions on parent-subsidiary transactions

Additional restrictions apply when a bank becomes the parent of another bank. The subsidiary bank may not hold any share in the parent bank or extend any credits to the parent bank. The subsidiary bank may extend a credit to its subsidiary bank subject to meeting certain collateral reserve requirement. No transaction involving assets classified as 'precautionary' or below the 'precautionary' level may be entered into by and between the parent and its subsidiary banks.

Restrictions under the Financial Holding Companies Act

A bank owned by a financial holding company is subject to certain restrictions when transacting with the financial holding company or other affiliates (ie, companies also controlled by the financial holding company). The bank may not extend any credit to the financial holding company or hold shares in any of its affiliates. The bank may not extend credit of an amount in excess of 10 per cent of its total capital to each affiliate and 20 per cent to all of its affiliates. When extending credit to a subsidiary, certain collateral reserve requirement must be met, and no transaction involving assets classified as 'precautionary' or below the 'precautionary' level may be entered into by and between the bank and its affiliates.

- 6 What are the principal regulatory challenges facing the banking industry?

Since the global financial crisis began, banks are increasingly under pressure by the government to make loans to small and medium sized enterprises while they are also required to comply with regulations limiting their exposure to risky loans and maintain the capital adequacy ratios. Similarly, the government has encouraged banks to cut interest rates and extend payment terms for troubled mortgage borrowers while requiring banks to raise additional capital and retain more profit to increase their tier 1 capital.

- 7 How have the regulatory authorities responded to the current state of crisis in the banking industry? What approaches, if any, have they taken to restore confidence in the banking system (eg, nationalisation, capital injections, etc)?

In order to provide more liquidity to commercial banks, the Korean government plans to establish a bank recapitalisation fund in the amount of 20 trillion Korean won. The fund will be used to increase banks' total capital by purchasing preferred stock, subordinated bonds, and hybrid instruments issued by the banks. Likewise, the government has made contributions in-kind worth 1.65 trillion Korean won to three government-owned banks (Korea Development Bank, Industrial Bank of Korea, and Korea Eximbank) and plans to make further contributions to those banks so that these banks can provide additional liquidity to private commercial banks. In addition, to provide dollar liquidity, the government has pledged to guarantee US\$100 billion in foreign debts and supplied US\$55 billion to banks and financial institutions through purchases of repurchase agreements (RPs). Finally, in order to encourage more dollar deposits, the government has expanded the coverage of its deposit insurance programme to include foreign currency deposit accounts.

- 8 In what ways do you anticipate the legal and regulatory policy changing over the next few years?

One of the aims of the new government, which began its term on 25 February 2008, is to 'promote the market economy through

deregulation'. Accordingly, the government has established a special committee consisting of experts from financial regulatory agencies and the banking industry to study and make recommendations regarding the deregulation of the financial industry. Based on the committee's recommendations, the government has established its plans to deregulate the banking industry and is in the process of implementing the plans. From the outset, this regulatory reform has focused on removing any existing regulatory hurdles to the development of the banking industry and the competitiveness of banking business. Under the government's initiative to deregulate the industry, any regulations restricting diversification of banking businesses or limiting the potential synergies that may be generated through joint venture with other financial businesses will continue to be first reviewed and then scrutinised.

At the same time, privatisation of government-owned banks is expected to take place. The Korea Development Bank, the Industrial Bank of Korea and Woori Financial Holding Company are the ones being considered for privatisation. Any regulatory restrictions limiting the privatisation of these banks are also expected to be lifted. The strict separation policy between the banking industry and industrial capital is anticipated to become somewhat loosened to allow the Korean pension fund or other domestic funds to acquire domestic banks. Currently, the legislative bills to amend the Bank Act to ease restrictions on bank ownership and the Korea Development Bank Act to allow privatisation of the Korea Development Bank are being introduced to the National Assembly. If the bills pass the Korean National Assembly, the government is expected to take concrete steps to sell its shares in the Korea Development Bank and other banks.

Supervision

9 How are banks supervised by their regulatory authorities? How often do these examinations occur and how extensive are they?

The FSS conducts ongoing, regular audits and inspection of banks. For each bank, an RM (relationship manager) is designated among the FSS officials to constantly monitor business activities of the bank by reviewing regularly submitted business reports and interviewing officers and employees of the bank, and to discover and detect managerial weaknesses of each bank.

Banks are inspected through either comprehensive inspection or partial inspection. Comprehensive inspection, which generally takes place every two years, covers the overall business and financial status of a bank, and based on the outcome of the inspection, one of five ratings on its overall management condition is assigned to the bank. Partial inspection takes place when deemed necessary when there is a regulatory need to inspect a particular issue. Upon completion of an inspection, an inspection report is prepared and delivered to the bank, and if necessary, the FSS takes some measures or imposes sanctions against the bank or its officers and employees.

10 How do the regulatory authorities enforce banking laws and regulations?

The regulatory authorities have placed their focus on seeking voluntary compliance by banks through establishment of their own compliance systems. Each bank must hire a compliance officer who meets certain criteria and is appointed by a board resolution pursuant to the Bank Act. The compliance officer is responsible for checking compliance of internal control standards by each officer and employee of the bank and report any instance of non-compliance to the audit committee of the bank.

When conducting a comprehensive inspection, the regulators

evaluate whether internal control and compliance review systems of the bank are effectively functioning. The evaluation results are being considered as an important factor when determining the rating of its overall management condition. If any weaknesses in the internal control and compliance review system are found from the comprehensive inspection, the FSS takes appropriate measures, including imposing sanctions and issuing corrective orders.

Also, if a serious violation of any law or regulation is discovered, the FSS may issue severe sanctions, such as licence cancellation, business suspension, institutional warning or reprimand for the bank and dismissal, salary reduction, reprimand or warning for individual officers and employees.

11 Would you describe the regulatory regime as more principles-based or rules-based?

So far, the regulatory regime in Korea has been focused on rules-based regulation, and each and every business activity of a bank was regulated by the regulators. Criticism arose as the above policy was inflexible and ineffective in responding to market need and hindered the creativity of financing business. Accordingly, in October 2007, the regulators issued a roadmap for advancement of regulatory supervision of the financial industry and announced that the regulatory regime would be changed to a principles-based one. We expect to see an incremental change in our regulatory regime from a rules-based one to more of a principles-based regime.

12 What are the most common enforcement issues and how have they been addressed by both the regulators and the banks?

During the past several years, there has been fierce competition among banks to grow in size, which triggered them to extend more and more housing loans, leading the housing price to rise sharply. The regulators have been focusing on managing risks associated with the above activity. In particular, the loan-to-value ratio (LTV ratio) has been required to remain between 40 per cent and 70 per cent depending on the loan maturity and types of mortgaged properties. Also, the DTI (debt to income) ratio can only be up to 40 per cent. The regulators are monitoring and conducting inspection over banks to check their compliance with the above requirements, thereby proactively responding to the possible market disorder that may erupt from the excessive level of housing loans extended by banks.

The regulators have implemented the new standards for capital requirement, the New Basel Capital Accord, since January 2008. In June 2007, new capital guidelines were promulgated based on the above international standards, and thereafter the regulators designated ECAIs (eligible external credit assessment institutions) whose credit rating would be used when determining the risk weight of each credit and conducted review of banks that applied for adoption of an internal ratings-based approach. The regulators have granted permission to six banks that applied for adoption of the internal ratings-based approach in calculating their capital requirements. Following this precedent, other banks are also making efforts to improve their own risk-management systems in order to obtain the government's permission to adopt the internal ratings-based approach.

13 How has bank supervision changed in response to the current crisis?

In response to the current crisis, the government has turned its attention to restoring banks' original function of extending credits to households and businesses. In this regard, the government is currently focusing on ensuring that banks use the government-provided liquidity to increase their lending. In addition, the bank

supervision has been increasingly focused on exposure to toxic assets and managing risks related to such exposure.

Capital requirements

14 Please describe the legal and regulatory capital adequacy requirements for banks.

The regulators implemented the New Basel Capital Accord beginning in January 2008, the capital requirement standards recommended by the BIS, for banks' capital adequacy standards. In accordance with the standards, banks in Korea have to determine the size of their risk-weighted assets based on a standardised approach or internal ratings-based approach considering their own risk management abilities and make efforts to maintain the ratio of those assets to the total capital at 8 per cent at a minimum.

Also, the regulators determine the rating of the overall management condition for each bank when conducting a comprehensive inspection on a regular basis. One such evaluation criterion is 'capital adequacy', determined based on the BIS capital ratio as well as tier 1 capital ratio and leverage ratio. The minimum capital amount required to be injected in order to establish a new bank is 100 billion won under the Bank Act.

15 How are the capital adequacy guidelines enforced?

Under the Bank Act and relevant regulations, banks are required to meet the BIS capital standards. The regulators check whether the banks are complying with the requirements through review of call reports submitted by the banks on a quarterly basis. If there is any risk of non-compliance with the relevant requirements, the regulators instruct the relevant bank to limit an increase in risk assets or increase the amount of its capital in order to meet the requirements.

In addition, banks are required to make detailed public disclosures regarding whether they are complying with the capital adequacy requirements. Through the public disclosure requirement, the regulators are seeking to have shareholders, depositors and other interested parties of a bank to actively monitor the appropriateness of its capital level. If the bank fails to meet the minimum capital requirement, the regulators issue an order for timely correction of the problem.

16 What happens in the event that a bank becomes undercapitalised?

If a bank fails to meet the minimum capital requirement, pursuant to the Act on Structural Improvement of Financial Industry, the regulators take a corrective action, such as recommendation, request or order for management improvement, depending upon the degree of undercapitalisation (ie, deviation from the minimum 8 per cent requirement). Specific regulatory measures that can be included in the corrective action taken by the regulators are to increase capital, suspend new investments, restrict ownership or dispose of risky assets, or transfer business in whole or in part to a third party.

17 What are the legal and regulatory processes in the event that a bank becomes insolvent?

If a bank whose liabilities exceed assets fails to make payments as they become due or is deemed to be unable to operate its business in a normal way, the regulators must designate the bank as a 'failing bank' under the Act on Structural Improvement of Financial Industry and issue the order for management improvement, the most severe one of corrective actions. Through the action, the regulators may order the bank to suspend or transfer its business

in whole or in part, transfer its contracts for deposit or loan to another bank, merge with or become the acquisition of another bank or other measures.

Separately from taking the above corrective action, in order to help out a failing bank, the regulators may request the government or the KDIC to invest in the failing bank or otherwise purchase treasury or public bonds held, or subordinated bonds newly issued, by the failing bank.

When issuing an order for merger, business transfer or contract transfer to a failing bank, for facilitation of the process, the regulators may arrange a potential counterparty or designate a certain bank and recommend the bank to be a counterparty.

In accordance with the Bank Act, the regulators, if they determine that the interests of depositors could be seriously harmed as a result of bankruptcy or insolvency of a bank, may take an emergency measure, such as restricting the bank from taking additional deposits or extending additional loans, suspending the deposit-taking business of the bank in whole or in part, or prohibiting discharge of any repayment obligations.

18 Are capital adequacy guidelines expected to change in light of the current state of the banking industry?

In light of the current global financial crisis, some experts in the banking industry and several scholars have proposed relaxation of the capital adequacy requirement. In response, however, the regulatory authorities have expressed their reluctance to ease the capital adequacy requirement since it is a widely accepted international standard. However, the regulatory authorities may change the capital adequacy guidelines if BIS or other international agencies amend the guidelines in response to the current crisis in the global banking industry.

Ownership restrictions and implications

19 Describe the legal and regulatory limitations regarding the types of entities and individuals that may own a controlling interest in a bank. What constitutes 'control' for this purpose?

Under the Bank Act, other than the Korean government and the KDIC, a person (including its specially related persons) may not own more than 10 per cent of voting shares in a bank. Prior approval of the FSC is required for anyone intending to hold the bank's voting shares in excess of 10 per cent, 25 per cent or 33 per cent of the total number of issued and outstanding voting shares. In order to obtain the approval, an applicant must meet certain criteria concerning financial soundness and shareholder qualification based on its entity type, meaning that different criteria apply depending on whether the applicant is a financial institution or corporation in Korea, a Korean individual or foreigner, or a private equity fund, and so on. If the applicant (including any specially related persons of the applicant) belongs to a 'non-financial business operator' (NFBO), whose main business activity is non-financial business, it may hold only up to 4 per cent of a bank's voting shares and 10 per cent with prior approval of the regulators on the condition that it will not exercise voting rights beyond the 4 per cent ownership. However, under the legislative bill introduced to the National Assembly to amend the Bank Act, NFBO may obtain up to 10 per cent of a bank's voting shares without prior approval of the FSC.

20 Are there any restrictions on foreign ownership of banks?

A foreigner who intends to hold shares in a bank in excess of the 'bank ownership limit' must meet certain additional criteria under

Update and trends

Since the fall of Lehman Brothers in September of 2008, the overall lending activities of banks have substantially declined due to shrinking liquidity in the credit market. As banks became increasingly risk averse, the real economy began to suffer since it became increasingly difficult for businesses to borrow money to finance their operations. In particular, banks have been reluctant to lend money to small- and medium-sized enterprises. To address this problem, regulators

are encouraging banks to take the initiative in restructuring their corporate borrowers with high default risks. Under this programme, banks are encouraged to reorganise the debts of viable borrowers while liquidating non-viable companies. The intended effect of this programme is to encourage banks to make more loans to creditworthy companies by reducing the uncertainties in the credit market.

the Bank Act. First, the foreigner must be a company engaged in financial business in its home country or a holding company of such financial company. Also, it must be found fit to operate international business based on its asset size and business scope and must be globally reputable. The foreign applicant must not have been subject to a regulatory sanction of business suspension in the home country and must have maintained the BIS capital ratio of at least 8 per cent or other similar financial criteria for the past three years.

21 What are the legal and regulatory implications for entities that control banks?

Under article 16-2 of the Bank Act, if an investor falls within the definition of an NFBO, such investor is prohibited from holding, or exercising voting rights in respect of, more than 4 per cent of the total number of issued and outstanding voting shares in a nationwide commercial bank. With the approval of the FSC, an NFBO may hold the shares of a commercial bank in excess of the above limit, but only up to 10 per cent of the total number of issued and outstanding voting shares. Even in such a case, the voting rights of such an investor are limited to 4 per cent of the total number of issued and outstanding voting shares of such bank. However, as discussed above, the threshold for requiring FSC approval will increase from 4 per cent to 10 per cent once the legislative bill to amend the Bank Act passes the National Assembly.

There are two parts to the NFBO test that are relevant to a group including an investor and its specially related persons. The group will be deemed to be an NFBO if:

- the aggregate gross capital (effectively this means shareholders' equity – ie, total assets less total liabilities) of non-financial companies in the group is 25 per cent or more of the aggregate gross capital of all companies within the group;
- the aggregate gross assets of non-financial companies in the group is 2 trillion won or more; or
- any investment company or private equity fund if more than 4 per cent of its total voting shares is held by either of the above groups.

22 What are the legal and regulatory duties and responsibilities of an entity or individual that controls a bank?

Please see question 5 for the restrictions on a bank's ability to extend loans to its major shareholders (including their specially related persons), major shareholders' ownership of the bank's shares and other limitations on the major shareholders' ability to control a bank.

The FSS may take a corrective measure against an undercapitalised bank to increase its total capital. Such request is issued upon the bank itself, but not upon its major shareholders under the relevant banking regulations.

23 What are the implications for a controlling entity or individual in the event that a bank becomes insolvent?

There is no provision under the current banking laws and regulations imposing sanctions or other burdens against a major shareholder of an insolvent bank. A major shareholder (ie, a shareholder of at least 10 per cent equity stake) of an insolvent bank is, however, prohibited from becoming a major shareholder of another financial institution (including banks) for a certain period of time (five years). In other words, under the relevant banking regulation providing for the criteria for a major shareholder of a bank, a major shareholder of a 'failing bank' designated by the regulators under the Structural Improvement of Financial Industry Act may not become a major shareholder of another financial institution (including banks).

Changes in control

24 Describe the regulatory approvals that would be required to acquire control of a bank, including how 'control' is defined for this purpose.

As stated above, under the Bank Act, a person (including its specially related persons) may not own more than 10 per cent of voting shares in a bank. Prior approval of the FSC is required for anyone intending to hold a bank's voting shares in excess of 10 per cent, 25 per cent or 33 per cent. When granting their prior approval, if deemed necessary, the regulators may impose any specific limit other than the above.

Also, even with the prior FSC approval, any shareholding change (concerning voting shares only) of 1 per cent or more will have to be immediately notified to the regulators.

25 How is the regulatory process different for a foreign acquirer?

The bank ownership restriction applies to Korean and foreign acquirers in the same manner. As discussed above, however, foreign investors intending to hold bank shares in excess of the regulatory ownership limit must meet certain additional criteria as required by the banking laws and regulations.

26 What factors are considered by the relevant regulatory authorities in considering an acquisition of control of a bank?

In order to obtain the prior regulatory approval to own more than a 10 per cent equity stake in a bank, an applicant must meet certain criteria concerning financial soundness and shareholder qualification depending on its entity type, meaning that different criteria apply depending on whether the applicant is a financial institution or corporation in Korea, a Korean individual or foreigner, or a private equity fund, and so on. If the applicant is a Korean financial institution, the following criteria must be met:

- certain financial soundness criteria set by the regulators must be met, and financial status of the applicant must be at least average in the same business industry;

- the applicant must not be insolvent or undergoing any insolvency procedure;
- the applicant must be in compliance with the restriction on credit extension to major shareholders;
- the applicant must be deemed appropriate to become a major shareholder and expected to contribute to the efficiency of financial industry;
- the applicant must not be a major shareholder of a financial institution that has been designated as a 'failing company' during the past five years or whose business licence has been cancelled; and
- the applicant must not have been subject to any sanctions for violation of financial regulations during the past five years.

27 Describe the required filings for an acquisition of control of a bank.

In order to acquire more than a 10 per cent, 25 per cent or 33 per cent equity stake in a bank, approval of the FSC must be obtained. Also, a business combination report must be submitted to the Fair Trade Commission of Korea for clearance. If the acquirer is a

foreign entity intending to acquire more than 10 per cent equity stake in a bank, a foreign investment report must be also filed. In addition, various other disclosure requirements triggered by a change of major shareholders must be complied with. If the bank is a listed company, there are also various other filing requirements triggered under the Financial Investment Services and Capital Markets Act of Korea.

28 What is the typical time frame for regulatory approval for both a domestic and a foreign acquirer?

According to the licensing guideline set by the regulators, approval process must be completed within 30 days of the date of receipt of application submitted by a Korean or foreign applicant seeking to acquire more shares in a bank. The 30-day period is ordinarily prolonged as the regulators often ask for additional information to be provided by the applicant. Based on our prior experiences, the approval process generally takes about three months.

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