KIM & CHANG

Newsletter

A Quarterly Update of Legal Developments in Korea

February 2016, Issue 1

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Recognized as one of the world's Top 10 Pro Bono Firms - Who's Who Legal Pro Bono Survey (2015)

CORPORATE

By Jong Koo Park (jkpark@kimchang.com) and Teo Kim (teo.kim@kimchang.com)

National Assembly Passes the "Special Act for Business Reinvigoration"

On February 4, 2016, the National Assembly held a plenary session, and passed the "Special Act for Business Reinvigoration" (the "One-Shot Legislation").

The act is a temporary legislation. It will become effective on August 13, 2016, and stay in effect for 3 years.

Applicability

The One-Shot Legislation aims to reduce the time and costs associated with reorganization of business (through M&A, new business entry or otherwise) by companies that have their business reorganization plans approved by the Business Reorganization Plan Review Committee of the Ministry of Trade, Industry and Energy (the "Approved Companies"). The One-Shot Legislation does not limit its applicability based on company size or type of industry.

However, the legislation does explicitly provide that it is only applicable to reorganizations for the purpose of "reliev[ing] oversupply." The legislation also requires that a separate (not yet announced) Presidential Decree set the detailed standards for satisfying such a condition.

In addition, certain benefits under the One-Shot Legislation are not available to companies that are affiliated with large enterprise groups (as defined in the Monopoly Regulation and Fair Trade Act (the "FTL")).

Key Provisions

1) Special Provisions under the Korea Commercial Code

The One-Shot Legislation permits expeditious reorganization of business by implementing special provisions in the Korea Commercial Code.

Among others, the One-Shot Legislation:

- Reduces the notification period for shareholders' meetings and the publication period for reference dates required in connection with mergers, spin-offs, and business transfers;
- Newly establishes provisions, which allow the approval of small-scale spin-offs by a resolution of the board of directors under certain circumstances;
- Relaxes the conditions for small-scale merger/spin-off, and short-form merger/spin-off; and
- Reduces the creditor protection and shareholder appraisal periods.

2) Special Provisions under the FTL

The One-Shot Legislation implements special provisions under the FTL, which:

- Extend the exemption periods for leverage ratio restriction and the requirement to hold minimum percentage of equity interests in direct subsidiaries imposed on holding companies;

- Extend the exemption periods for the requirement to hold minimum percentage of equity interests in second-tier subsidiaries and the restriction on co-investment in second-tier subsidiaries that are imposed on direct subsidiaries of holding companies; and
- Extend or newly adopt, as applicable, grace periods for application of cross shareholding restrictions and debt guarantee restrictions.

3) Tax Support under the Special Tax Treatment Control Law (the "STTCL")

To provide the legal basis for tax support contemplated under the One-Shot Legislation, the STTCL was amended on December 15, 2015. The amendment includes new tax benefit provisions that exempt or defer imposing certain taxes (e.g. exemption of securities transaction tax or deferral of corporate income tax) in connection with business reorganizations.

The detailed scope of the applicability of the tax benefits provided under the STTCL is to be defined under the not yet announced Presidential Decree.

Latest M&A Invigoration Plan Update – The Korean National Assembly Passes the Amendment to the Korean Commercial Code

On October 6, 2014, as part of the government's "M&A Invigoration Plan," a bill to amend the Korean Commercial Code (the "Amendment") was submitted to the National Assembly. And on November 12, and December 1, 2015, the National Assembly passed the Amendment. It is slated to take effect on March 2, 2016.

Based on our review and analysis, we find the following to be the key components of the Amendment:

Items	Contents
Introduction of Triangular Share Exchange	▪ In a triangular share exchange, shareholders of the target company[1] would receive shares of the acquiring company's parent in exchange for the target company's shares. ▪ As a result, a reverse triangular merger through triangular share exchange is now permissible.
Introduction of Triangular Spin-Off Merger	▪ In a triangular spin-off merger, the shareholders of the target company that is being spun off receives shares of acquiring company's parent in exchange for the target company's shares.

[1] Upon a comprehensive share exchange, the target company would become a wholly-owned subsidiary of the acquiring company.

Items	Contents
Clarification on Assumption of Liabilities by a Spun-Off Company	▪ The parties are now allowed to agree to specify the scope of liabilities that will be assumed by the newly spun-off company in the spin-off plan. ▪ This has the effect of reducing the risk of the newly spun-off company being liable for contingent liabilities.
Introduction of Simplified Business and Asset Transfer	▪ If certain conditions are met, the Amendment permits the board of directors to grant corporate approval for business transfers and asset transfers *without* having to obtain a shareholders' resolution.
Relaxation of Requirements Governing Small-Scale Share Exchanges	▪ The Amendment relaxed the requirements governing small-scale share exchange. ▪ Now, the threshold for small-scale share *exchanges* and small-scale *mergers* is the same - 10% of the total issued shares (previously 5%).
Clarification on Standard for Small-Scale Mergers	▪ The Amendment clarifies that numbers of both newly issued shares *and* treasury stocks being transferred in a merger should be counted in determining whether the number of shares reaches the 10% threshold of the total issued shares to qualify the merger as a small-scale merger.
Clarification on Non-Voting Stock Shareholders' Appraisal Rights	▪ The Amendment specifies that the dissenting holders of non-voting stocks may also exercise appraisal rights.

Key Implication

We expect that the Amendment will likely invigorate corporate restructurings and M&A transactions in Korea.

The Amendment will enable creative corporate restructurings of and investments in companies by introducing various new methods of mergers and acquisitions. Additionally, the Amendment clarifies areas that has been inviting different interpretations of the law by statutorily promulgating the clarifications into law.

LABOR & EMPLOYMENT

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Key Changes to Employment and Labor Laws in 2016

Several new labor laws and regulations recently took effect, or are scheduled to take effect in 2016.

1. 30-day Termination Notice Requirement for Employees Who Have Been Employed for Less Than 6 Months – Recent Constitutional Court Decision

On December 23, 2015, the Constitutional Court issued a decision on the constitutionality of Article 35, Paragraph 3 of the Labor Standards Act ("LSA"). The Constitutional Court ruled that Article 35, Paragraph 3 of the LSA was unconstitutional, because it would infringe upon the relevant employee's rights, and violates the principle of equality.

- This provision of the LSA stipulates that the 30-day advance notice requirement (or payment in lieu thereof) for employee termination does not apply to a monthly-paid employee, who has been employed for less than 6 months.
- A law declared unconstitutional loses its effect immediately, as of the date of the Constitutional Court's decision. Therefore, as of December 23, 2015, Article 26 of the LSA, which requires a 30-day termination notice, will apply to monthly-paid employees who have been employed for less than 6 months.

2. New Laws and Regulations

1) Earliest Mandatory Retirement Age Set at 60[2]

- On May 22, 2013, the National Assembly put in place a limitation on employer's ability to set a mandatory retirement age.[3] Under the amendment, the earliest retirement age that a company may set is age 60.
- Beginning January 1, 2016:
  - The new mandatory retirement age limitation will apply to businesses employing 300 or more permanent employees, public institutions[4], and local public corporations and agencies[5].
  - For businesses employing fewer than 300 permanent employees, the new mandatory age limitation will apply beginning January 1, 2017.

2) Expansion of Permissible Grounds for Interim Severance Payment

- Interim severance payments are only allowed for specific reasons set forth in the Employee Retirement Benefit Securities Act ("ERBSA").
  - Concerns have been raised regarding the recent introduction of the wage peak system, because employees who are subject to the wage peak system would not have been allowed to withdraw interim severance payment when their wages hit their respective peaks.
  - This would result in reduced total severance payments for these employees, as compared to what the employees would have been entitled to but for the adoption of the wage peak system.

[2] Article 19 of the Act on Age Discrimination Prohibition in Employment and Promotion of Employment of the Aged.

[3] By amending the Act on Prohibition of Age Discrimination in Employment and Promotion of Employment of the Aged.

[4] As defined by Article 4 of the Act on Management of Public Institutions.

[5] Established under the Local Public Corporation Act.

- The relevant provision of the Presidential Decree of the ERBSA was amended as of December 15, 2015, and took effect immediately.
  - The amended Presidential Decree allows the interim withdrawal of a severance payment where:
    (1) An employer adopts a wage peak system under which an employee's wage may start to decrease at a certain age, service year or when wages hit a certain amount in exchange for extending the employee's retirement age; or

    (2) An employer and an employee agree to adjust the prescribed working hours by one hour per day or five hours or more per week, and the employee continues to work under the adjusted working hours for more than three months.

3. Workplace Nursery Requirement Strengthened[6]

- Business places with 300 or more female workers, or 500 or more total workers, are required to provide nursery facilities for employees.
  - The Infant Care Act requires such an employer to establish and operate nursery facilities, or to provide support for the care of workers' children by executing service agreements with local nursery facilities.
- Currently, no particular penalty is imposed under the Act for failure to establish a workplace nursery, except the Ministry of Health and Welfare's disclosure of the list of workplaces which have not complied with the requirement.
- Starting January 1, 2016, however, employers in violation of the above requirements may be ordered to comply and/or be subject to administrative fines of up to KRW 100 million twice a year.

4. Amendment of Existing Laws

1) The Fair Hiring Procedure Act

- The Fair Hiring Procedure Act ("FHPA") was promulgated on January 21, 2014. Most recently, on January 1, 2016, the FHPA took effect for business with 100 to 299 permanent employees.
- Article 11:
  - Under the FHPA, where a job applicant who has submitted documents required for hiring to a business with 30 or more permanent employees demands that the documents be returned, the business must return those documents to the job applicant.
  - In addition, a business with 30 or more permanent employees must keep the documents submitted by job applicants for a certain period of time,[7]) in preparation for possible requests for return of the documents.
- A business that violates these requirements may be subject to a corrective order from the Minister of Employment and Labor and/or a monetary penalty not exceeding KRW 3 (Article 17 (2)).
- The FHPA took effect on January 1, 2015 for businesses with 300 or more permanent employees and public organizations.
- On January 1, 2017, the FHPA will take effect for businesses with 30 to 99 permanent employees.

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[6] Articles 44-2 and 44-3 of the Infant Care Act.

[7] Has not yet been specified by statute.

2) Reduced Working Hours for Pregnant Employees[8]

- A female employee, who is within the first 12 weeks of her pregnancy, or who has completed 36 weeks of her pregnancy, may request a reduction of her working hours by upto 2 hours per day. Her employer must accept this request[9].
- Further, the employer cannot reduce the female employee's salary during this reduced work schedule period[10].
- Since March 25, 2015, the above provisions have applied to businesses with 300 or more permanent employees.
- Beginning September 25, 2016, these requirements will to businesses with fewer than 300 permanent employees.

3) National Health Insurance Premium Will Increase by 0.9%[11]

- The National Health Insurance Premium rate has increased from 6.07% in 2015 to 6.12% in 2016.

4) Minimum Wage Will Increase by 8.1%[12]

- The minimum wage has increased from KRW 5,580 per hour in 2015 to KRW 6,030 per hour in 2016.

TAX

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Update on the Korea-Hong Kong Tax Treaty

The Korea-Hong Tax Treaty ("Hong Kong Treaty") has not yet been ratified[13]. As a result, the Hong Kong treaty did not enter into force in 2015. Consequently, its provisions will not have effect in 2016.

This is because the Hong Kong Treaty enters into force only on the 15th day after the ratification notices by Korea and Hong Kong are exchanged. The provisions of the Hong Kong Treaty do not have effect on Korean taxes until the calendar year following the date on which the treaty enters into force (2017 at the earliest).

[8] Article 74 (7) of the Labor Standards Act.
[9] Article 74(7) of the LSA.
[10] Article 74(8) of the LSA.
[11] Article 44 of the Presidential Decree of the National Health Insurance Act.
[12] Article 10(1) of the Minimum Wage Act.
[13] Signed on July 8, 2014 and was expected to be ratified by Korea's National Assembly for entry into force by the end of 2015.

The Korean Government Promulgates Amendments to the Presidential Decrees of the Recently Approved Tax Laws

On December 24, 2015, the Ministry of Strategy and Finance announced proposed amendments to the presidential decrees, aimed at providing details on the changes in the recently approved tax laws for 2016.

In February 2016, the amendments to the Presidential Decrees of the Tax Laws were promulgated.

1. Company automobile expenses – new rules

New rules for deducting company's automobile expenses have been adopted[14].

Below are the details of the new rules[15]:

- To claim a deduction for automobile expenses, a company's automobiles should be covered by car insurance that limits the coverage to the company's officers and employees only.
- The new deduction rules for automobile expenses apply to depreciation, lease payments, fuel, repairs, and insurance relating to acquisition and maintenance of the automobiles.
- In addition, the company should maintain operational record of the automobiles or other evidence to support the claim should be maintained.
- However, where a company has appropriate insurance coverage, but does not maintain operational record, the deduction for automobile expenses will be limited to KRW 10 million per year. Higher deduction is available if the company maintains operational record or provides other evidence to support the deductions.

2. High income secondees – withholding tax obligation

In an effort to ensure greater income tax compliance for foreign company high-income expatriates seconded to Korean entities, a new 17% withholding tax (18.7% inclusive of local income tax) has been introduced on payments made by the Korean host entity to the foreign company seconding the expatriates.

To pay any tax shortfall or claim a refund for any overpaid taxes, the foreign employer (or the Korean host company as agent for the foreign employer) will be required to file an annual income tax reconciliation on behalf of the secondees by February of the following calendar year.

The new withholding tax rule applies to Korean host companies meeting all of the following criteria:

1) Total payments to a foreign company for services provided by the secondees exceed KRW 3 billion (on an aggregate basis if such payment is made to more than one foreign company);
2) Prior fiscal year revenue amounted to at least KRW 150 billion, or assets amounted to at least KRW 500 billion; and

[14] Took effect for fiscal years commencing on or after January 1, 2016.

[15] Under the Presidential Decree (Article 50-2 of the Presidential Decree to the Corporate Income Tax Law).

3) The host company is in one of the following industries:
   A. Air transportation, construction, professional, scientific and technical services.

The new withholding tax rules will apply to payments made by Korean entities on or after July 1, 2016.

ENVIRONMENT

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Environment Ministry Issues New Administrative Regulations to Guide the Disclosure of Information on Chemical Substance

Effective December 31, 2015, Korea's Ministry of Environment (the "MOE") promulgated the "Regulations on the Management of Chemical Substance Investigation Results and Information Disclosure System" (the "Management Regulations").

The Management Regulations provide the MOE with specific grounds to publicly disclose information on chemical substances of the companies handling these substances on the MOE website. The information is gathered from the submissions the MOE receives in the course of its statistical research on chemical substances (the "Statistical Research").

Significance

This represents the first instance in which a Korean government body will make an online disclosure of information on companies' chemical substances.

It should also be noted that this coincides with the growing interest in information disclosure of companies' chemical substances. This is evidenced by the demand from labor associations and NGOs for the MOE's strict review of data protection requests made by companies. Among other reasons, labor associations and NGOs believe that chemical information should be disclosed to protect the public's health.

Our View & Helpful Tips

Since disclosure of trade secrets may cause irreparable harm to the owner of those trade secrets, companies that have submitted chemical substance data to the MOE may wish to first, carefully consider requesting for data protection, and if so, to make a timely request prior to the deadline. Doing so would help prevent any unintended disclosure of trade secrets related to the chemical substance data.

- In particular, the Management Regulations provide that a request for data protection must be made by no later than February 29, 2016 (the "Request Deadline").
- If a company fails to submit a data protection request by the Request Deadline, the company will not only lose the opportunity to obtain a decision to have its chemical substance information undisclosed by the MOE's data protection review committee, but also, the company will have limited opportunity to bring an administrative action against the MOE's decision to disclose its chemical substance information down the road.

In Making a Data Protection Request to the MOE

It is important to prepare the supporting materials to ensure the materials address each of the following elements of trade secret:

1) Secrecy of the information;
2) Competitive or economic advantage conferred on the owner by the information; and
3) Reasonable efforts by the owner to maintain secrecy of the information.

To ensure a successful outcome on the data protection request, it will also be necessary to prepare the supporting materials in as thorough a manner as possible.

Chemical Laws in Korea – A Year in Review & Outlook

Korea is marking the first anniversary of the two primary chemical laws in the country – Act on the Registration, Evaluation, etc. of Chemicals ("K-REACH"), and the Chemicals Control Act ("CCA").

2015

Both took effect on January 1, 2015, amidst growing concerns by the companies over increasingly stringent chemical regulations.

In enforcing K-REACH and the CCA, the Ministry of Environment ("MOE") focused on the following:

- Strengthening relevant organizations/personnel, and building up infrastructure, such as the REACH IT system; and
- Explaining the new chemical regulatory scheme to companies.

2016

This year, the MOE is expected to further strengthen K-REACH/CCA enforcement by initiating various surveys and investigations, among other measures. They will do so to ensure that the intended goals of these chemical laws are being fulfilled.

Key Issues & Helpful Tips

We advise companies to review the following issues in advance to ensure that they are compliant with K-REACH and the CCA.

1. Submission of written confirmations for chemical substances

Prior to manufacture or import, a manufacturer/importer must first confirm whether its chemical substance or chemical component of a chemical product falls under any of the regulated chemical substances in Korea[16] through a written confirmation ("WC") submitted to the Minister of Environment.

- The manufacturer/importer must submit the WC once prior to the first manufacture/import of the chemical substance.
- WCs are not needed for subsequent manufacture/import of the same chemical substance.
- However, if the content/composition of the product containing the chemical substance (for which the WC was submitted) is later changed, the manufacturer/importer must submit a new WC for the newly formulated product.

Since the MOE announced the list of 510 phase-in chemical substances subject to registration ("PSSRs") on June 30, 2015, PSSRs have been included as regulated chemical substances subject to written confirmation.

- Thus, beginning July 1, 2015, through WCs to the MOE, manufacturers/importers should have indicated whether their chemical substances/component chemicals of chemical products include PSSRs.

For manufacturers/importers who already submitted WCs for products containing PSSRs prior to the above PSSR announcement, the MOE clarified that new WCs would need to be submitted, and granted a 6-month grace period through December 31, 2015.

2. Registration of non-phase-in chemical substances

Manufacturers/importers of non-phase-in chemical substances must register them under K-REACH.

- Compared to the registration requirements under the Toxic Chemicals Control Act ("TCCA"), the former chemical regulations regime prior to K-REACH/CCA focused on toxicity. K-REACH has expanded the scope of the assessment to include both toxicity and environmental risks of a non-phase-in chemical substance. Accordingly, registration under K-REACH requires expanded type and scope of information materials.

Further, as sanctions against violations of the registration requirement have been strengthened, manufacturers/importers of chemical products must first confirm whether any of their products contain non-phase-in chemical substances, and comply with the registration requirement prior to manufacturing or importing such products.

[16] E.g., a prohibited substance, a restricted substance, a toxic substance or a non-phase-in substance).

Also, upon consultation with the Ministry of Justice ("MOJ") in 2015, the MOE carried out a 6-month leniency program[17] to provide companies with the opportunity to remedy past violations of the TCCA[18].

- We have been informed that there were approximately over 500 leniency applications submitted to the MOE during the leniency period.
- As the MOE is likely to investigate companies that did not file for leniency during the program, we recommend conducting a thorough inspection to determine whether there have been any past TCCA violations, and to develop a plan to minimize legal risks resulting from any such violations.

3. Registration of PSSRs

With the announcement of the 510 PSSRs on June 30, 2015,[19] the 3-year grace period for the registration of those PSSRs went into effect.

- As such, companies that manufacture or import the announced PSSRs at an annual volume of at least 1 ton must register them no later than June 30, 2018.
- Companies that fail to register the PSSRs by this deadline will be banned from further manufacture/import of the relevant PSSR.

In principle, companies that are required to register PSSRs should jointly submit certain registration data/information. Accordingly, companies need to establish and develop a strategy regarding:

1) Scope of data/information to be jointly submitted;
2) Whether to produce such data/information or purchase pre-existing materials from data-owners; and
3) Allocate necessary budget for data collection and joint submission activities.

4. Permit to operate a hazardous chemical substance business

Business registrations regarding toxic chemical substances under the former TCCA has been replaced by permits to operate hazardous chemical substance business under the CCA. Related to this change, the government agency in charge of the issuance of relevant business permits has also been changed from the relevant municipal office (i.e., city, county, district, etc.) to the competent regional environmental office.

Thus, it would be prudent for companies handling hazardous chemical substances to confirm whether they have:

1) Obtained the requisite permit to operate hazardous chemical substance business from the competent regional environmental office; and
2) If the company's place of business has recently changed, confirm whether you applied for a change to the relevant business permit.

In addition, companies that previously applied for business registrations regarding toxic chemical substances under the TCCA must submit an "Off-site Consequence Analysis" to the competent regional environmental office to be deemed fully compliant with the CCA.

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[17] From May 22, 2015 to November 21, 2015.

[18] Caused by the manufacture/import of non-phase-in chemical substances without the requisite toxicity examinations.

[19] Please see "I. Submission of written confirmations for chemical substances" in this article.

SECURITIES

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Korea's Top Financial Watchdog Announces Plans for Regulatory Reform

Background

Since the March 2015 ad hoc Financial Reform Advisory Panel, there have been active discussions on the need for financial regulatory reform.

On October 14, 2015, Korea's top financial watchdog, the Financial Services Commission (the "FSC"), and its enforcement arm, the Financial Supervisory Service (the "FSS"), announced an omnibus guidepost plan on financial regulatory reform measures to boost competitiveness of the Korean financial industry (the "Reform Plan").

Experts expect various reform measures that are being contemplated by the Reform Plan to be gradually implemented through the end of 2016.

Key Reform Measures Being Contemplated

1. Cross-border business guideline

- Unless it is conducted on a strict reverse-inquiry basis, in their business interactions with Korean clients, foreign financial institutions must go through a licensed onshore broker-dealer as an intermediary. However, what has not been made clear is the scope of activities that foreign financial institutions can engage in when utilizing this "intermediary method."
- On December 8, 2015, the FSS distributed a cross-border business guideline on the scope of activities that foreign financial institutions can engage in vis-à-vis Korean clients and licensed onshore broker-dealers.
  - Offshore foreign financial institutions are allowed to: (1) Visit an onshore licensed dealer upon request from the onshore licensed dealer; (2) visit clients in Korea solely for relationship maintenance purposes (i.e., without mentioning specific products or services); and (3) visit clients in Korea by accompanying an onshore licensed broker to perform a supporting role, without engaging in any direct investment solicitation or marketing activities, when the onshore licensed broker explains a product to the clients.

2. Rehypothecation of collateral

- In Korea, "pledge" is the common way to provide securities as collateral in financial transactions.
  - However, in a "pledge," the ownership of the pledged securities does not transfer to the secured party, and rehypothecation of the collateral securities is usually not an available option to the secured party.
  - To give secured parties more flexibility in utilizing the collateral securities, the Reform Plan contemplates allowing securities lending for collateral purposes.
- Currently, securities firms must procure separate collateral from the borrower when entering into a securities lending transaction. Also, in principle, a securities lending transaction without returning the securities lent is not permitted.

- The Reform Plan addresses these two points so that transaction parties can pursue rehypothecation of collateral as an option:
  1) Securities companies will not be required to take collateral in certain securities lending transactions.
  2) Termination of securities lending transactions without physically returning the securities lent will be allowed, but the risk of naked short selling must not be high.

- The Reform Plan also contemplates the following:
  - The Korea Securities Depository will institute a new separate system for intermediating and monitoring securities lending transactions for collateral purposes;
  - In the early stage, only Korean Treasury Bonds and Monetary Stabilization Bonds may be lent for collateral purposes under the new intermediation system; and
  - At the beginning, the purpose of the rehypothecation will be limited to collateralization and repo transactions. Down the road, there will be the possibility of further expansion, depending on the level of its usage in the market.

3. Lending capacity of "comprehensive investment banks"

- Currently, the aggregate credit amount (including corporate lending and all other types of credit, e.g., payment guarantees) that a securities firm designated as a comprehensive financial investment business company (i.e., "comprehensive investment bank") can provide is limited to 100 percent of its equity capital.
  - To promote corporate lending by a "comprehensive investment bank," the Reform Plan gives more flexibility to a "comprehensive investment bank" in managing its credit exposure. This is done by allowing corporate lending up to an amount equal to 100 percent of its equity capital (without considering all other types of credit).
- Also, the current limit on payment guarantees of a "comprehensive investment bank" will be abolished, aiming to place a "comprehensive investment bank" on a level playing field with other securities firms.

4. Stock trading of "comprehensive investment banks"

- The Reform Plan contemplates "comprehensive investment banks" trading unlisted shares *without* having to go through a broker by allowing:
  - Direct transactions with customers; and
  - Brokering the trading of unlisted shares through "internalization" (i.e., execution of internal orders).
- Also, on a limited basis, "comprehensive investment banks" will be allowed to operate a trading facility for listed shares.

5. "QIBs" private placement market

- Due to regulatory constraints, the private placement market for qualified institutional buyers ("QIBs") is rarely used.
  - The Reform Plan contemplates allowing any domestic company to issue securities in the QIBs private placement market so long as its total assets are less than KRW 2 trillion.
  - Also, foreign companies, regardless of their asset size, will be allowed to issue securities in the QIBs private placement market. The goal is to allow foreign companies to use the QIBs private placement market in issuing foreign currency-denominated bonds, such as Chinese Yuan denominated bonds.

- If bonds issued and traded in the QIBs private placement market satisfy certain requirements, the bonds will be treated as securities, not as loan receivables. Privately placed bonds can then be used in securities lending transactions or repo transactions between institutions.

6. Securities firms' hedge funds operations

- Subject to having an appropriate conflict of interest policy in place, all securities firms will be allowed to set up and manage hedge funds.

7. The scope of professional investors

- The Reform Plan contemplates expanding the scope of individuals who qualify as a "professional investor":
  - A balance of at least KRW 500 million in financial investment products; and
  - An annual income of at least KRW 100 million or total assets of at least KRW 1 billion.
- Also, the Reform Plan contemplates expanding the scope of corporations that qualify as a "professional investor" by including corporations with a balance of at least KRW 5 billion in financial investment products, and total assets of at least KRW 12 billion.
- We also expect the Reform Plan to exclude professional investors from counting the number of investors in determining whether or not securities are offered in a public offering.

8. Affiliate information sharing

- To give more flexibility to financial institutions when sharing information with their affiliates (i.e., "wall crossing"), the Reform Plan contemplates the following:
  - *Stage 1*: Regulators will first collect opinions from the market to expand the list of exceptions to the prohibition on information sharing.
  - *Stage 2*: In the long term, regulators will consider amending the relevant provisions in the Financial Investment Services and Capital Markets Act to shift the regulatory focus from the current prohibition-based scheme to a regulatory system that focuses on post facto punishment where a violation occurs.

9. Underwriting

- Currently, a securities firm, which owns 5% or more equity in a company, or together with its affiliates, 10% or more, cannot act as a manager for the company's initial public offering (the "IPO") or underwrite the largest portion of the shares offered in the IPO.

- Under the Reform Plan:
  - If the shares owned by the securities firm are subject to a sale restriction from the execution date of the relevant underwriting agreement until six months after the IPO, such shares will be excluded for the purpose of determining whether the securities firm is an interested party of the issuer.
  - This will ease the qualification requirements for underwriters. However, if the securities firm is the largest shareholder or an affiliate of the issuer, regardless of the sales restriction, the securities firm cannot act as a manager in the IPO.
  - The relevant underwriters' proprietary trading desks will be allowed to participate in the IPO book building process.

Korea's Top Financial Watchdog Plans to Improve the No-Action Letter System

On September 30, 2015, the Financial Services Commission (the "FSC"), Korea's top financial watchdog, announced its plan to improve the no-action letter system.

To promote the availability of the no-action letter system, the FSC will execute a memorandum of understanding with self-regulating organizations that contains the FSC's commitment to operating the no-action letter system in an active and consistent manner, and reflect financial companies' experiences and opinions in the no-action letter system.

Background

Generally, a FSC "legal interpretation" only provides an official interpretation of certain laws and regulations in response to an applicant's request. A "no-action letter" will go one step further and indicate whether the authorities will take action against the specific activity.

The no-action letter system was first initiated in the securities sector by the U.S. Securities and Exchange Commission (the "SEC") in 1934. Shortly thereafter, the SEC expanded its coverage to other sectors.

In Korea, the no-action letter system was first adopted for the securities sector in May 2001. By July 2005, the scope was expanded to include banking, insurance, and other financial sectors.

However, since its adoption, the no-action letter has rarely been used in practice.

Improvement Efforts

In 2015, the FSC initiated efforts to revamp the no-action letter system.

In March 2015, for both legal interpretations and no-action letters, the FSC constructed the financial regulatory consumer complaint website[20] to facilitate online requests and responses.

The FSC studied and benchmarked other countries with advanced financial regulatory systems, and the following reform measures are examples that the FSC is contemplating in improving the no-action letter system:

- Expand the scope of applicants for a no-action letter from "financial institutions" to individuals and domestic non-financial companies that would be subject to the FSC's regulatory measures.
  - Also, foreign financial institutions seeking to obtain a license to conduct financial business in Korea would be permitted to apply for a no-action letter.

[20] http://better.fsc.go.kr

- Previously, each applicant was required to disclose its name and to submit its application separately when applying for a no-action letter.
  - The FSC plans to adopt a "Class No-Action Letter" system that would allow multiple applicants with a common interest to apply for a no-action letter collectively. [21]
- Even before receiving any official application, the FSC is considering issuing a no-action letter immediately after laws or regulations are enacted or amended, or in the case of repeated violations.
- The level of uncertainty over the interpretation and application of any newly enacted or amended law or regulation is usually at its highest immediately after its enactment or amendment.
  - To address this issue, the FSC is considering establishing a specified time period for the concentrated collection of legal interpretation and no-action letter applications.
  - If necessary, the FSC would issue no-action letters in advance even if requests have not been made.
- As the difference between "no-action letters" and "legal interpretations" may not be clear, the FSC is considering consolidating the application forms for "no-action letters" and "legal interpretations."
- Previously, only the applicant who submitted the application for a legal interpretation or no-action letter could access the authorities' response.
  - The FSC is considering permitting the general public to access the legal interpretation or no-action letter issued so long as the applicant chooses to make it available to the public.
- Previously, the financial regulators only had two options in responding to no-action letter applications – "action" or "no-action." The financial regulators had to issue an "action" response even if just one of the requirements for a "no-action" response is not satisfied.
  - The FSC is considering the possibility of issuing a conditional response, giving alternative options or specifying additional conditions to be satisfied in order for the applicant to receive a "no-action" response.
- Previously, no-action letter requests were reviewed by a committee, solely consisting of members of the FSC's enforcement arm, the Financial Supervisory Service ("FSS").
  - The FSC plans to include external experts on the review committee.

BANKING

By Sang Hwan Lee (shlee@kimchang.com) and Hak Jin Lee (hakjin.lee@kimchang.com)

FSC Grants Preliminary Approval for Korea's First Internet-Only Banks

On November 29, 2015, Korea's top financial regulator, the Financial Services Commission (the "FSC"), granted preliminary approval to Korea Kakao Bank consortium and K Bank consortium to establish Korea's first internet-only banks.[22]

[21] For example, multiple applicants could apply under the name of the relevant self-ruling organization, such as the Korea Financial Investment Association.

[22] Banks that will operate banking business by way of electronic financial transaction, as defined under the Electronic Financial Transactions Act. There were 3 applicants, and the FSC granted approval to two of the three.

Currently, the FSC is amending the Banking Act to allow non-financial companies, such as ICT companies, to increase their ownership in internet-only banks. The FSC has announced that once the regulations are amended, it will grant additional approvals for internet-only banks.

Also, to further allow creative internet-only bank business models, the FSC is considering whether amendments to certain restrictions under the relevant laws and regulations are necessary, such as the Electronic Financial Transactions Act.

With the introduction of the internet-only bank system in Korea, we expect to see the Fin-Tech market open up in full scale in the near future.

Background of Preliminary Approval

This preliminary approval was granted as part of the FSC's two-stage "Initiation to Introduce Internet-only Banks" [23]:

- *Stage 1 (Within Current Regulatory Scheme)*: As intended under the announced plan, the FSC granted the license to one or two internet-only banks. Korea Kakao Bank consortium and K Bank consortium received those approvals. However, the approvals are subject to the condition that internet-only banks may conduct banking business by way of electronic financial transaction; and
- *Stage 2 (Under the Amended Regulatory Scheme)*: Once the National Assembly approves the amendment to the Bank Act introducing systems for internet-only banks, the FSC intends to grant license to additional internet-banks.

Major Evaluation Factors

The evaluation committee consisted of external experts in the relevant fields. In evaluating the applicants for preliminary approval, the most critical factor that the evaluation committee considered was the business plan. In conducting a detailed review of the business plan, committee members considered innovativeness of the business ideas, sustainability of the business model, and whether the business would provide convenience or other improvements to the financial consumer's experience.

Other evaluation factors included shareholding structure plan, size of equity capital. Also, operational considerations were taken into account, such as IT systems, sales and physical facilities, and human resources.

Overview of Applicants

A wide range of companies applied for preliminary approval. Applicants included financial institutions as well as various companies in the gaming industry participating in the consortiums (e.g., platform, distribution, IT payment systems, IT security and ICT companies).

[23] Announced on June 18, 2015.

Led by Korea Investment Holdings, Kakao, and Kookmin Bank, Korea Kakao Bank consortium's business model is centered around the idea of increasing efficiency through direct communication between merchants and customers, mid-level interest rate loans using advanced credit rating systems, and easy remittance systems, utilizing the Kakao Talk platform.

K Bank consortium, led by KT Corporation, Woori Bank, and Hyundai Securities, proposed a business model focused on mid-level interest rate loans, using big data from communications, payments and distribution information, easy payment systems (using mobile phones and e-mails), and asset management services based on robo-advisor systems.

After receiving preliminary approval, the Kakao and K Bank consortiums are now in the process of applying for the main approval. The two consortiums are expected to obtain the main approval within the year, and launch their internet-only banking business.

Korea's Financial Stability Measures Focus on Global Standards and Relaxing Certain Requirements

On October 29, 2015, the Financial Services Commission (the "FSC"), Korea's top financial watchdog, and its enforcement arm, the Financial Supervisory Service (the "FSS"), announced their "Prudential Regulation Reform" (the "Reform") for the financial industry.

Financial regulators appear to now focus on improving their prudential regulation to reduce systemic risk in the industry.

The Reform aims to amend the financial regulatory regime by adopting global standards provided by intergovernmental financial supervisory organizations. At the same time, the Reform measures relax certain requirements that have been viewed as excessive (compared to global standards).

The Reform includes the following changes for the banking industry:

Specific Timetable for Phased Introduction of Global Prudential Standards

The Reform specifies the year in which the remaining measures of the Basel III framework will become effective in Korea.

- Beginning this year, the FSC/FSS will implement the additional loss absorbency requirement for domestic systemically important banks, as well as the capital conservation buffer, and countercyclical buffers.
- Starting in 2018, the FSC/FSS will begin applying the net stable funding ratio and leverage ratio requirements.
- Financial regulators will reflect these matters in the "Regulation on Supervision of Bank Business."

In addition, the FSC/FSS are jointly preparing a regulatory framework for the recovery and resolution plan, which has been proposed by the Financial Stability Board. After finalizing the details, the regulators plan to introduce the new plan in 2017. In order to do so, they are expected to seek amendments to the relevant laws and regulations.

Relaxation of Excessive Regulatory Requirements

The FSC is evaluating its existing regulations in light of the global standards, and where appropriate, relax those that are overly burdensome for the industry.

For example, after the net stable funding ratio requirement becomes effective, the KRW loan-to-deposit ratio, which most major countries do not regulate for their financial institutions, may be abolished in 2018.

Until then, local branches of foreign banks[24] will be allowed to include long-term loans they receive from their head office (as deposits for calculating their KRW loan-to-deposit ratio).

Additionally, following the introduction of the Basel III capital requirements, banks will no longer be required to retain additional earned surplus reserves.

INSURANCE

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FSC Begins Rollout of the Amendment to the Insurance Business Supervisory Regulation

On November 24, 2015, the Financial Services Commission ("FSC") promulgated an amendment to the Insurance Business Supervisory Regulation[25] ("Amendment").

This Amendment is being rolled out in phases. As part of the follow-up actions to "The Roadmap for Strengthening the Competitiveness of the Insurance Industry," the phased approach is designed to help ensure prompt policy implementation, and to improve the cancellation refund system of savings-type insurance.

Key updates of the Amendment include:

1. **Standard interest rates abolished.**

   The standard interest rate system, which caused uniform insurance product prices, was abolished to promote competition by inducing insurance companies to autonomously determine the premiums.

[24] They do not fund their loans from local deposits.

[25] Via FSC Notification No. 2015-37.

2. **Greater flexibility in adjusting the official interest rate.**

   Goal is to enhance autonomy through gradual expansion of the "official interest rate" adjustment range. This is used for settlement of variable rate insurance products.[26]

3. **Enhance autonomy concerning safety premiums of risk rates.**

   The Amendment aims to gradually increase the safety premium limit for risk rates when developing insurance products that target new risks, and for class of people who have difficulty buying insurance.[27]

4. **Adjustment limit for risk rates abolished.**

   The Amendment, in principle, abolishes the adjustment limit for risk rates (±25%) applied when calculating insurance premiums. Gradually, the adjustment limit will be discontinued for indemnity health insurance, as it may be subject to uniformed price increase following such deregulation.[28]

5. **Cancellation refund system of savings-type insurance improved.**

   The Amendment also seeks to reduce the deductible amount for cancellation of savings-type insurances by increasing the weight allocation ratio of the cost of entering into an insurance agreement among the operating expenses.

   Additionally, the Amendment aims to gradually reduce the surrender value for savings-type insurance sold through bancassurance and online channels to 50% of the surrender value for general insurance solicitor channels.[29]

REAL ESTATE & CONSTRUCTION

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Korean National Assembly Adopts Relaxed Measures to the Real Estate Investment Trust Act

On December 28, 2015, the National Assembly adopted certain amendments (the "Amendments") to the Real Estate Investment Trust Act (the "REIT Act"). The Amendments are aimed at facilitating the use of real estate investment trust companies ("REITs").

[26] Pre-Amendment rate of ±20% → ±30% in 2016 → Abolishment in 2017.

[27] Pre-Amendment rate of ±30% → ±50% in 2016 → Abolishment in 2017.

[28] Pre-Amendment rate of ±25% → ±30% in 2016 → ±35% in 2017 → conditional deregulation in 2018.

[29] I.e., expand the weight allocation ratio of the cost of entering into an insurance agreement to about 50% for insurance solicitor channels, 70% for bancassurance channels and 100% for online channels.

The Amendments are scheduled to become effective on July 20, 2016. Key measures include:

1. Minimum Paid-In Capital of REITs Lowered

- Under the current REIT Act, self-managed REITs are required to have a minimum paid-in capital of KRW 1 billion at establishment. Third-party managed REITs and corporate-restructuring purpose REITs ("CR-REITs") are required to have a minimum paid-in capital of KRW 500 million at establishment.
- The Amendments will lower entry barriers for establishing REITs. Specifically, for self-managed REITs, the required minimum paid-in capital will be reduced to KRW 500 million. For third-party managed REITs and CR-REITs, to KRW 300 million.

2. Requirement for REITs to Commence Business Eased

- Under the current REIT Act, all REITs – regardless of their types – are required to obtain business approval from the Korean Ministry of Land, Infrastructure and Transport (the "MLIT") prior to commencing their business.
- However, under the Amendments, third-party managed REITs or CR-REITs that meet certain conditions[30] will simply be required to be register with the MLIT.

3. Restriction on Establishment of Subsidiaries Relaxed

- Except in certain cases, the current REIT Act prohibits REITs from holding more than 10% of the shares of another company.
- The Amendments add to such exception by allowing REITs to acquire the shares of a company that leases real property[31] owned by such a REIT and operates business related to management of real property, tourism accommodation business or another purpose enumerated in the Presidential Decrees of the REIT Act.

Amendments to the Tourism Promotion Act Aim to Increase Global Competitiveness

On December 22, 2015, certain amendments to the Tourism Promotion Act (the "Amendments") were promulgated into law. They were designed to enhance the Korean tourism industry's competitiveness by increasing tourism accommodations.

[30] E.g., 30% or less of the REIT's assets were invested in real estate development assets, and in the case of a third-party managed REIT, 30% or more of its shares were acquired by the National Pension Plan and/or one of the other specifically enumerated pension plan type shareholders.

[31] Or real property-related rights, such as superficies rights, easements, and "cheonse"-rights.

The Amendments will become effective on March 23, 2016. However, the Amendments will only be effective for five years (until March 24, 2021).

Requirements Prior to the Amendments

Prior to the Amendments, the School Health Act prohibited the location of tourism accommodation within 50m or less from a school entrance. Similarly, the location of hotel facilities, which are more than 50m and 200m or less from a school entrance, required prior review of a school environment sanitation and clean-up committee.

Under the Amendments

- The location of hotel facilities within 75m or less from a school entrance is still prohibited
- However, the location of hotel facilities that satisfy each of the following requirements are freely permitted in areas that are more than 75m from a school entrance:
  1) Absence of certain specified entertainment facilities;
  2) 100 or more guest rooms; and
  3) Open-type common space within the hotel facility (the "75m case").

The easing of regulations for hotel facilities falling in the 75m case will only apply to specific areas, and is currently expected to include Seoul and its surrounding areas. These relaxed measures will be specified in the related Presidential Decrees.

The location of hotel facilities falling within the 75m Case will also be subject to review by the local construction committee to assess any negative impact on the educational environment. And the local government could impose certain conditions for the protection of the educational environment and traffic safety.

TECHNOLOGY, MEDIA & TELECOMMUNICATIONS

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KCC Amends Enforcement Decree of the Broadcasting Act to Specify Specific Categories of Prohibited Conduct

On December 31, 2015, the Enforcement Decree of the Broadcasting Act (the "Enforcement Decree") was amended to enumerate specific categories of conduct that constitute prohibited acts under the amended Broadcasting Act.

Amendment to the Broadcasting Act

On March 13, 2015, the Broadcasting Act was amended (the "Amendment"). The Amendment introduced a provision prohibiting broadcasting channel service providers specializing in product promotion and sales broadcasting ("Home Shopping Service Providers") from unfairly determining, cancelling, and changing the vendors' broadcast dates, times, durations, and any related production expenses.

Specifics of the Amended Enforcement Decree

The Enforcement Decree further prohibits the following conduct:

1) Unfairly cancelling or changing the fixed date, time, and/or duration of a vendor's broadcast without prior agreement;

2) Any of the following conduct, if undertaken in response to a vendor's refusal to accept a proposed profit sharing plan not related to the profits from sales of the vendor's products[32]; and
   - Allocating a grossly disadvantageous broadcast date, time, and/or duration;
   - Cancelling a fixed broadcast date, time, and/or duration of a vendor's broadcast; and
   - Changing a fixed broadcast date, time, and/or duration of a vendor's broadcast to a grossly disadvantageous date, time, and/or duration.

3) Unfairly shifting all or portions of the Home Shopping Service Provider's production expenses[33] to vendors by conditioning the allocation of the vendors' broadcast schedules on the acceptance.

What This Means

Engaging in any of the above conduct may result in administrative sanctions issued by the Korea Communications Commission (the "KCC"), including corrective orders and administrative fines of up to 2% of sales revenue.

In addition, the KCC must notify the Ministry of Science, ICT and Future Planning (the "MSIP"), if it orders Home Shopping Service Providers to implement corrective measures.
The MSIP may then do any one of the following:
1) Revoke the Home Shopping Service Provider's business approval;
2) Reduce the effective period of such approval; or
3) Suspend all or a part of the Home Shopping Service Provider's business for up to 6 months.

[32] Excludes profits derived from sales of products which do not generate sales during the broadcast, such as insurance products, tour package products, etc.

[33] Including pre-production expenses and appearance fees.

Korea's Radio Research Agency Reduces Identification and Labeling Burden on Broadcasting and Communications Equipment

On November 30, 2015, the National Radio Research Agency (the "RRA") amended and made effective the "Notification on the Conformity Assessment of Broadcasting and Communications Equipment and/or Devices" (the "Amendment").

Background

Under Article 58-2, Paragraph (6) of the Radio Waves Act (the "RWA"), broadcasting and communications equipment/devices (and any devices that disturb or are affected by electromagnetic waves) are required to bear an indication on their surface and packaging that certifies proper completion of the Conformity Assessment (the "CA") conducted by the Ministry of the Science, ICT and Future Planning.

Key Changes of the Recent Amendment

The recent Amendment reduces the burden that the RWA previously imposed, permitting products equipped with a display to bear electronic forms of indication through use of firmware or software ("e-labelling").

Key changes include:

1) Applies to broadcasting and communications equipment/devices with built-in displays that cannot be removed at the user's discretion (including self-display products such as projectors).

2) Information to be Indicated
   - The basic Korea Certification ("KC") mark and CA information (e.g., identification code and trade name (or company name), name of equipment/device (or product name), product model, manufacturing date (manufacturing month and year), manufacturer and country of manufacturing); and
   - Identification code of certified wireless transmission and receiver parts.

3) E-labeling Requirements
   - The product's packaging material or user's manual must indicate that the product bears e-labeling;
   - Users' access to the above information must not be restricted by passwords or other authorization processes. Users must be able to access such information in less than three steps from the tool's main menu;
   - Users must be able to access the above information without using a separate device (e.g., a USIM card); and
   - Users must be provided guidelines on how to access the above information.

4) Not Covered
   - Since the Amendment only permits e-labelling for products that have their own built-in displays (including self-display products). Products that only use displays through connections with other products with built-in displays, such as video transmitters, are not eligible for e-labeling.

Did Eight Affiliates of the Korean Conglomerate, Kumho Asiana Group, Violate Korean Antitrust Law by Extending Commercial Paper Maturity Periods?

The Korea Fair Trade Commission ("KFTC") investigated the conduct of Kumho Asiana Group's ("Kumho Group") eight affiliates over a two-day period in 2009[34] for allegedly extending the maturity periods of commercial papers issued by Kumho Industrial and Kumho Tire.

In November 2015, the KFTC concluded its long investigation with a finding of no violation, and determined that the affiliates did not engage in any act of "unjust support.[35]"

Background

- At the end of 2006, Kumho Group had acquired funds from financial investors to acquire Daewoo Construction. Through a shareholders' agreement, Kumho Group gave these financial investors options to sell Daewoo Construction shares back to Kumho Group ("put-back options").
- However, starting in 2007, the construction industry began to suffer a downturn. Due to the 2008 global financial and the US subprime mortgage crisis, Daewoo Construction's share prices began to spiral downward.
- In June 2009, Kumho Group entered into a financial restructuring agreement with its major creditor banks. During the corporate restructuring, Kumho Group began the process of selling Daewoo Construction.
- By the end of 2009, financial investors were able to exercise their put-back options. This is important, because due to complications in obtaining investment funds, Kumho saw that completing the sale before the deadline to exercise the put-back options would be difficult.
  - Thus, on December 30, 2009, Kumho Industrial and Kumho Tire had to enter into a "workout" process.
- During this process – and over the critical two-day period (Dec. 30-31, 2009) – Kumho Group's eight affiliates extended the maturity period of commercial papers that were issued by Kumho Industrial and Kumho Tire.
  - The KFTC investigated this extension under the suspicion that the eight affiliates had engaged in an act of "unjust support."

Kim & Chang's Representation & KFTC's Finding

- Kumho Group's Position: Kumho Group argued that this extension of the maturity periods did not constitute "unjust support," because it was conducted as part of a proper corporate restructuring:
  1) At the time, all Kumho Group affiliates had entered into the financial restructuring agreement with the major creditor banks; and
  2) When the maturity extension occurred, Kumho Industrial and Kumho Tire were in the "workout" process.
- KFTC's Finding: The KFTC sided with Kumho Group, and was further persuaded that the maturity period extension did not constitute "unjust support" under the KFTC's Guidelines on Acts of Unjust Support, because it had to be done to reallocate losses within unavoidable scope.
- Kim & Chang, who represented five of the eight affiliates (Asiana Airlines, Kumho Resort, Asiana Airport, Kumho Industrial, and Asiana IDT), was instrumental to the KFTC's finding of no violation.

[34] From December 30 to 31, 2009.
[35] Under Korean competition law, a holding group cannot provide benefits to its affiliates, where, when viewed from an arms-length basis, such an act is not justifiable.

Cheil Industries and Samsung C&T Merger

Kim & Chang advised Samsung C&T in connection with an affiliate merger between Cheil Industries, the surviving company, and Samsung C&T, the non-surviving company.

This merger was significant not only in terms of deal value, but also as a landmark case with precedential value for future cases involving Korean conglomerate corporate restructuring.

Key Aspects

- Merger between two large-sized listed companies with major control within Samsung Group, Korea's largest corporate group (conglomerate).
- Involved complex legal issues, including: (1) Reciprocal ownership under the Korea Monopoly Regulation and Fair Trade Act; (2) merger ratio under the Financial Investment Services and Capital Markets Act; and (3) disposal of preferred shares.
- Gave rise to disputes between shareholders of Samsung C&T. This resulted in a number of lawsuits, which attracted nationwide media attention.

Kim & Chang's Services

Based on extensive experience in advising merger transactions, Kim & Chang provided legal advice on all aspects of the merger including:

- Pre-merger preparation, due diligence exercise, execution of the merger agreement and board resolutions, preparation of shareholders meeting and proxy solicitation, review of disclosure issues, undertaking creditor protection procedures and shareholder appraisal rights.
- We also successfully defended all claims raised by an international hedge fund, and worked closely with the foreign legal advisors.

SK and SK C&C Merger

Kim & Chang advised both SK (the non-surviving company) and SK C&C (the surviving company) in connection with an affiliate merger.

Key Aspects

- Between two large listed companies in Korea
- Involved various legal issues including: (1) Merger ratio under the Financial Investment Services and Capital Markets Act; (2) requirements for listing preferred shares; and (3) new share allotment of treasury stocks under the Korean Commercial Code.

Merger also gave rise to several disputes concerning governmental approvals, including securities report and business combination report.

Kim & Chang's Services

In successfully completing the merger, we also provided advisory services relating to potential post-merger issues, including regulations on a holding company under the Korea Monopoly Regulation and Fair Trade Act, and a large shareholder change report under the Telecommunication Business Act.

Hana Bank and Korea Exchange Bank Merger

On September 1, 2015, Hana Financial Group Inc. launched KEB Hana Bank.

KEB Hana Bank is the merged entity of Hana Bank and Korea Exchange Bank ("KEB"). As a result, the merged entity is now South Korea's largest bank, with collective assets of KRW 299 trillion[36].

[36] As of June 2015.

Key Aspects

- Integrates Hana Bank's strengths in retail banking and asset management with KEB's strengths in currency exchange service and competitive global operation.
- In 2012, when Hana Financial Group acquired KEB, the original plan was for Hana Bank and KEB to maintain a "two-bank" system.
- In 2014, however, due to drastic changes in the Korean economy and the financial regulatory environment, Hana Financial Group decided to integrate the two banks earlier than initially planned.
- KEB's union fiercely opposed the integration, calling for separate management of KEB. In February 2015, KEB's union obtained a preliminary injunction to suspend the integration process from the Seoul Central District Court.

Kim & Chang's Services

- Despite this challenging environment, in June 2015, in representing Hana Financial Group and KEB, we successfully convinced the Seoul Central District Court to rescind the preliminary injunction order.
- The two banks were then able to complete their merger by September 2015 to launch the KEB Hana Bank.
- In addition to getting the preliminary injunction order rescinded, we facilitated the successful merger of the two banks by providing comprehensive legal services, including negotiations with the union and the government merger filing.

Sampyo Consortium Acquires Tongyang Cement

On September 25, 2015, the Sampyo Consortium[37] acquired 54.96% equity interest (59,008,784 shares) in Tongyang Cement & Energy Co., Ltd. ("TY Cement") from Tongyang Co., Ltd. ("Seller") for approximately KRW 794.3 billion.

Key Aspects

- Since Seller intended to use the proceeds from this sale to repay debts for concluding its rehabilitation proceeding, all of the Seller's decisions required the court's approval (i.e. room for negotiation was extremely narrow).
- Parties reached a mutual agreement through coordination by Kim & Chang, and Sampyo Consortium was able to acquire TY Cement shares at a price which was lower than the original offer price indicated in the consortium's bidding package.

Kim & Chang's Services

- Through Kim & Chang's coordination and advice, the parties reached a mutual agreement, and Sampyo Consortium acquired TY Cement shares at a lower price than the original offer price (as indicated in the consortium's bidding package).
- We advised on all aspects of the transaction, including reviewing the transaction structure, consulting on the acquisition financing, as well as conducting legal due diligence, negotiating and drafting the transaction documents, business combination report, and assisting in the closing.

[37] A consortium consisting of Sampyo Cement Co., Ltd., a subsidiary of Sampyo Co., Ltd., and KDB Sigma No. 2 Corporate Financ Stabilization Private Equity Fund.

GS Engineering & Construction Sells Parnas Hotel

On August 31, 2015, GS Engineering & Construction Corp. ("GS E&C") sold its 67.56% equity stake (6,654,675 shares) in Parnas Hotel Co., Ltd. ("Parnas Hotel") to GS Retail Co., Ltd. for KRW 760 billion.

For the share transfer to take place, GS E&C needed to obtain consent from the Korea International Trade Association ("KITA"), a 31.86% shareholder of Parnas Hotel.

We advised GS E&C on all aspects of the transaction, including conducting legal due diligence, negotiating and drafting the transaction documents, and assisting in the closing.

Litigation

Does a Casino Operator Have a Duty of Care to Protect Against Excessive Gambling Losses?

Recently, the Supreme Court ruled en banc that casino operators cannot be held liable for failing to protect their customers from suffering excessive gambling losses at the casino. Kim & Chang successfully defended the casino operator in obtaining the Supreme Court's favorable en banc decision.

Background

A customer, who had gambled at a members-only gaming room at the casino, brought an action against the casino operator, Kangwon Land ("KL"). For three years and six months, the customer had been using so-called "soldiers[38]" for his gambling games. He alleged that KL employees were well aware of the fact that he was violating the casino's betting ceilings. Rather than preventing him from playing, the customer alleged that KL employees encouraged him to continue playing, which caused him to suffer damages in the amount of KRW 29.3 billion.

Supreme Court's Ruling

The Supreme Court adopted Kim & Chang's developed "principle of self-liability [39]," and ruled that this principle should apply to the legal relationship between casino operators and their customers, and dismissed the customer's claim in this case.

The Supreme Court reasoned that while it is true that casino operators are comprehensively regulated for public policy reasons, unless there are clear provisions in the relevant statutes stating otherwise, casino operators have no duty to protect their customers from suffering excessive monetary damages, and do not need to put their customers' interests above their own (commercial) interests.

Therefore, the Court concluded that even if the KL employees were in violation of the restrictions on bet price ceiling, there was no tort violation by the casino operator, since KL did not have the duty to protect their customers.

Kim & Chang's Development of the Principle Adopted by the Supreme Court

Kim & Chang successfully engaged in an in-depth analysis of the various factual inter-relationships that arise in a casino game situation. We examined court cases from the U.S., Australia and Europe, and developed the principle of "self-liability" for application in the casino game context.

[38] Players who make bets on behalf of another person with that other person's money

[39] Any individual who engages in an act according to his or her own free will should be held responsible for the consequences of such and act, and no liability resulting from the act should be shifted or attributed to others.

Securities

Kim & Chang Advises on the First Ever Issuance of Covered Bonds Under the Korean Covered Bond Act of 2014

On October 21, 2015, KB Bank issued covered bonds with a 5-year maturity in the amount of USD 500,000.

This is significant, because it was the first issuance of such securities ever undertaken in Korea, pursuant to the Korean Covered Bond Act. This legislation came into effect in 2014. Kim & Chang was significantly involved in the legislative process for the Korean Covered Bond Act.

We advised KB Bank, and performed a crucial role in the successful issuance of the covered bonds, including overcoming various regulatory and other deal-related hurdles.

Insurance

Accidental Death Claim Litigations – Insurance Companies Continue to Receive Favorable Judgments

Insurance companies are continuing to receive favorable judgments in appeals of accidental death claim litigations brought against them on restrictive clauses concerning suicide indemnity. And recently, Kim & Chang successfully represented some of these insurance companies in obtaining favorable court rulings for our clients.

Background

On October 7, 2015, the Appellate Division of the Seoul Central District Court revoked the judgment from the court of first instance, and dismissed the appeal brought by the claimant, the beneficiaries, against the defendant, an insurance company.

On January 13, 2016, the Chuncheon Civil Division 1 of the Seoul High Court also revoked the judgment from the court of first instance and dismissed the claimant's request for an appeal.

These cases were accidental death claims based on an accidental death rider clause[40], together with the main insurance contract, which provides for a general sum payable at death.

Recent Trends & Case Analysis

Recently, there have been numerous insurance claim litigations between insurance companies and beneficiaries concerning accidental death clauses.

- Concerning the claims made by the claimant:
  - In its ruling, the appellate court stated that, based on the understandability of the clause by an average customer, suicides would not be considered as an insured accident.
  - Further, the court opined that the restrictive clause concerning suicide indemnity is merely an "erroneous statement" when considering the relevant factors.
    - E.g., the purpose of the accidental death rider clause, the true intention of both parties, and the details of how the terms and conditions were established.
- Regarding a claim for declaration of non-existence of liability related to accidental death settlement:
  - The appellate division of the Seoul Southern District Court also revoked the judgment from the court of first instance, and confirmed to the claimant that the settlement liability does not exist.

[40] The clause reads as: "[T]his shall not be the case if the insured commits suicide over two years after the commencement date of liability[.]"

- This judgment is significant, because it explicitly confirms that restrictive clause concerning suicide indemnity should be interpreted as an erroneous statement even when it is found in the terms and conditions of the insurance policy covering only accidental injuries and deaths[41].

Real Estate & Construction

Kim & Chang Advises Korea's Simone Investment in Its Purchase of a Commercial Building in Germany

Kim & Chang advised Simone Investment in its purchase of a 94.9% interest in a commercial building known as "Lateral Towers." The building was owned by Commerzbank AG, and is located in Frankfurt, Germany (the "Property").

The acquisition closed on December 18, 2015.

Kim & Chang provided comprehensive legal advice during all stages of the transaction, including the establishment and registration of the REF, assessment of the materiality of due diligence issues with local counsel, and review and negotiation of the SPA. Our attorneys created the optimal structuring of the transaction, taking into account recent changes in the accounting policies of intervening jurisdictions.

Labor & Employment

Seoul High Court Denies Including Regular Bonus in Ordinary Wage

On November 17, 2015, the Seoul High Court dismissed a claim brought by certain employees of Hyundai Motor Company (the "Company") against the Company seeking to include their regular bonuses as part of their ordinary wage.

Kim & Chang represented the Company in this case, and was able to obtain a favorable result.

Court's Decision & Rationale

Here, the court held that the regular bonus at issue did not constitute ordinary wage, because the employees who worked fewer than 15 days during the base period were not eligible for the regular bonus.

Further, the court reasoned that in determining whether a regular bonus is part of ordinary wage, the requirements for payment stated in the relevant internal regulation should be considered.

According to the court, if the internal regulation was established pursuant to a Collective Bargaining Agreement ("CBA"), and the Company in fact complied with its payment requirements, those requirements would be valid. This would be so even if the CBA itself did not require that an employee work a minimum number of days (15 days) to be eligible for the regular bonus.

Implications

This reaffirmed the Supreme Court's decision that regular bonus, which requires an employee to work a minimum number of days, lacks the fixed element of ordinary wage.

[41] Not only in the rider clause attached to a general life insurance policy.

We expect this decision to affect the auto manufacturing industry and other related industries facing regular bonus and other ordinary wage issues.

Supreme Court Renders Decision on the Scope of Duplicate Audits

Holding & Reasoning

In September 2015, in a case where Kim & Chang acted as legal counsel for the plaintiff taxpayer, the Supreme Court held that a subsequent tax audit – specifically focused on a share transfer that took place in a fiscal year that had previously been subject to a full-scope tax audit – was illegal. The Court reasoned that this constituted a duplicate audit of the same type of tax (here, corporate income tax) for the same tax year[42].

Implications

This Supreme Court decision implies that a subsequent tax audit will be viewed as an illegal duplicate audit, whether it entails a full-scope audit or a limited scope audit on the same tax years (provided that the same type of tax is reviewed twice).

While this Supreme Court ruling is generally favorable to taxpayers, it may prompt the tax authorities to thoroughly screen all items during tax audits.

Pharmaceutical Company's Money Spent on Product Presentations – Advertisement or Entertainment Expense?

Our client, the plaintiff pharmaceutical company, had deducted expenses associated with product presentations as advertisement expenses (including meals to doctors at hospitals).

Tax Authorities' Decision & Rationale

However, the tax authorities argued, that such expenses should be treated as entertainment expenses spent to establish good relationship with the doctors, their customers.

Further, the authorizes reasoned that these types of expenses are generally not deductible under the tax law, and thus, for corporate income tax purposes, did not allow the company to deduct expenses in excess of the statutory tax deduction limit for entertainment expense.

Appeal to the Tax Tribunal

The company appealed the assessment to the Tax Tribunal, which ruled that the expenses at issue are not entertainment expenses.

Rather, the Tax Tribunal opined that these expenses should be treated as tax deductible expense of the company, since the expenses are related to the marketing and sales of the pharmaceutical product.

Specifically,

1) Product presentations are necessary to market specialty medicines to doctors and other healthcare providers.
2) Products presentations are means of delivering drug's efficacy, as well as results of clinical trials, to doctors.

[42] Although the share transfer at issue had not been specifically reviewed during the previous audit.

3) Product presentations covered other topics of interest to doctors.
4) Product presentations were held within the limits permitted under the Pharmaceutical Affairs Law, etc.

Intellectual Property

Patent License Dispute & New Precedent – Licensee Wins a Favorable Judgment in Terminating Its Patent License Agreement

On November 19, 2015, Kim & Chang obtained a favorable decision for our client, the licensee, from the Seoul High Court in a patent license-related dispute[43].

With this decision, the court set up a new precedent, and significantly reduced the license fee claimed by the licensor.

Background

Company T (as licensee) entered into an exclusive license agreement with Institute A (licensor), whereby Company T was granted an exclusive right to use certain patent-pending technology for a module used for a ballast tank of a ship. Company T agreed to pay 3% of the revenue resulting from manufacture and sale of the module adopting the technology.

This case was brought by Institute A in 2012, in which it claimed license fees based on the revenue from sale of the ballast tank of a ship, and not on the module that constitutes a part of the ballast tank (20% in terms of revenue). The licensor made this claim on the ground that the electrolysis module is not sold separately.

In response, Company T challenged the validity of the licensed patent of Institute A, stating that the patented technology lacks inventiveness and belongs to the public domain.

In the invalidation action, the Intellectual Property Tribunal of the Korean Intellectual Property Office decided that the patent is invalid. The Patent Court affirmed the decision, which became final on September 26, 2014.

License Agreement-related Dispute (Termination)

After the invalidation action against Institute A's licensed patent was filed, our client, Company T, sent a termination notice to Institute A on April 10, 2013, stating that the license patent is invalid.

While the civil lawsuit was pending, the Supreme Court rendered a landmark decision in another case[44], (holding that in case a licensed patent becomes invalid, going forward, the relating patent license agreement becomes ineffective as of the date on which the invalidation decision becomes final, not ab initio.

As a result, in our case, the critical issue became when Institute A's entitlement to license fees ends.

In the civil case on the license agreement-related dispute, Institute A claimed that the purpose of the license agreement is to transfer Institute A's knowhow to Company T, rather than to grant an exclusive license right to the patent. Thus, Institute A argued, that despite the invalidation of the patent,

[43] Case No. 2014Na54993.
[44] Case No. 2012Da42666 was decided on November 13, 2014.

Company T continues to be obliged to pay the license fee. Institute A demanded that this payment obligation should be based on the revenue from the sale of the ballast tank of a ship.

On November 2, 2014, the first instance court accepted Institute A's claim, and decided in favor of Institute A.

Upon appeal, however, Seoul High Court viewed that the license agreement is for granting an exclusive license right to use the patent. The High Court accepted the fee negotiation history submitted by Company T showing the parties' agreement to the revenue from sale of the module.

More importantly, Seoul High Court moved a step ahead of the above Supreme Court decision, and accepted our argument on behalf of Company T that the highly likely invalidation of the licensed patent[45] is a valid ground for terminating the patent license agreement.

Accordingly, Seoul High Court held that Company T is liable for the license fee accrued only up to the time when the license agreement was terminated[46].

Appellate Court Issues Settlement Recommendation on Unauthorized Use of a Popular K-pop Celebrity's Name and Photograph

On September 11, 2015, the Seoul Central District Court's Appellate Division issued a recommendation for settlement, in which a cap manufacturer (the "Defendant") is to pay KRW 10 million in damages for using the name of a celebrity, Suzy (the "Plaintiff"). Kim & Chang represented the Plaintiff in the appeal of this matter.

Without the Plaintiff's authorization, the Defendant used Suzy's name on its keyword search advertisements, and posted three photographs of her on an online shopping mall website. On October 6, 2015, without objection by either party, the court's recommendation was finalized.

The appellate court, persuaded by the Kim & Chang's arguments, reversed the lower court's decision, and issued a settlement recommendation decision requiring the Defendant to pay KRW 10 million to our client.

Background

On December 18, 2013, the Plaintiff filed a lawsuit against the Defendant cap manufacturer, seeking damages for infringement of her publicity rights.

The lower court denied Suzy's publicity rights claim, and rendered a decision for the Defendant in its entirety.

[45] Even before the patent is finally rendered invalid.

[46] By Company T's notice on April 10, 2013 that the patent license is invalid.

On appeal, Kim & Chang asserted the following:

1) The ability of a celebrity's name and likeness to attract customers is the celebrity's most valuable property right (i.e., brand value);
2) Such property rights deserve due legal protection;
3) Failure to provide legal protection to such rights would bring a severe adverse effect on the domestic entertainment industry;
4) For its own business purpose, the Defendant misappropriated the Plaintiff's brand value. Suzy's brand value was the result of her substantial investment and efforts.
   - Thus, the Defendant's conduct constitutes both an act of unfair competition under the Korean Unfair Competition Act, and a tort under the Korean Civil Code;
5) The Defendant's act caused Plaintiff damages equivalent to the market value of her name and likeness (i.e. her modeling fees); and
6) The Plaintiff sustained emotional distress damages, since it appeared as if she had advertised the Defendant's product in violation of the advertisement modeling contract she had entered into with one of the Defendant's competitors.

Significance

To date, courts have not been able to reach an agreement on whether property damages arising from infringement of publicity rights should be legally recognized.

In previous cases, courts either ruled against plaintiffs or awarded only nominal amounts of damages.

However, in this case, the court:

1) Recognized the inherent property value of the celebrity's name and likeness;
2) Acknowledged that unauthorized business use of the celebrity's brand value causes property damage; and
3) Awarded fair damages.

Going forward, it is expected that this decision will lead to adequate protection of celebrities' publicity rights.

Awards & Rankings

Top rankings for all 18 practice areas and recognition of 54 leading individuals - Chambers Asia-Pacific (2016)

Kim & Chang ranked “Band 1” in all 18 practice areas surveyed in the 2016 edition of *Chambers Asia-Pacific*, a leading law firm directory of Asia-Pacific region, published by Chambers & Partners. The firm had the highest ranking among law firms in South Korea. The firm also ranked “Band 4” in International Arbitration in Asia-Pacific region.

Separately, 54 professionals were selected as “Leading Individuals” in their respective practice areas; additional 9 professionals of the firm were recognized as “Other Noted Practitioners” in their fields.
Our winning details are as below:

Practice Area

South Korea

- Banking & Finance: Band 1
- Capital Markets: Band 1
- Competition/Antitrust: Band 1
- Corporate/M&A: Band 1
- Dispute Resolution: Arbitration: Band 1
- Dispute Resolution: Litigation: Band 1
- Dispute Resolution: White-Collar Crime: Band 1
- Employment: Band 1
- Insurance: Band 1
- Intellectual Property: Band 1
- International Trade: Band 1
- Projects & Energy: Band 1
- Real Estate: Band 1
- Restructuring/Insolvency: Band 1
- Shipping: Band 1
- Shipping: Finance: Band 1
- Tax: Band 1
- Technology, Media, Telecoms (TMT) : Band 1

Asia-Pacific

- Arbitration (International): Band 4

Leading Individuals

South Korea

- Banking & Finance: Soo Man Park, Ick Ryol Huh, Young Kyun Cho, Hi Sun Yoon, Young Min Kim, Jina Myung
- Capital Markets: Chang Hyeon Ko, Young Man Huh, Myoung Jae Chung
- Competition/Antitrust: Kyung Taek Jung, Sung Eyup Park, Jae Hong Ahn, Youngjin Jung, Gene-Oh (Gene) Kim
- Corporate/M&A: Kyung Taek Jung, Young Jay Ro, Jong Koo Park, Young Man Huh, Jong Hyun Park**, Sun Yul Lee**
- Dispute Resolution - Arbitration: Byung Chol Yoon*, Eun Young Park, Liz Kyo-Hwa Chung, Kay-Jannes Wegner, Richard Menard, Joel E. Richardson**
- Dispute Resolution - Litigation: Jin Yeong Chung, Jung Keol Suh
- Dispute Resolution - White-Collar Crime: Kook Hyun Yoo, Myungsuk Choi, Seung-Ho Lee, Byung-Suk Lee**
- Employment: Chun Wook Hyun, Weon Jung Kim, Wan Joo, Deok-Il Seo, Jung Taek Park
- Insurance: Jae Hong Ahn, Woong Park, Jae Ho Baek**, Hyun Wook Shin**
- Intellectual Property: Young June Yang, Duck Soon Chang, Chun Y. Yang, Young Kim, Sang-Wook Han, Ann Nam-Yeon Kwon**
- International Trade: Wan-Gi Ahn, Ju-Hong Kim**
- Projects & Energy: Young-Kyun Cho
- Real Estate: Yon-Kyun Oh, Kwan-Sik Yu, Keun-Ah Cho, Ann Seung-Eun.Lee
- Restructuring/Insolvency: Jin-Yeong Chung, Chiyong Rim
- Shipping: Byung-Suk Chung, Jin-Hong Lee
- Shipping - Finance: Soo-Man Park, Hi-Sun Yoon
- Tax: Je-Heum Baik, Woo-Hyun Baik, Dong-Jun Yeo, Tae-Yeon Nam, Dong-So Kim, Stefan L. Moller, Im-Jung Choi**
- Technology, Media, Telecoms (TMT): Dong-Shik Choi, Brian Tae-Hyun Chung, Min-Chul Park

* Star Individual: A lawyer with exceptional recommendations in his field.
** Other Noted Practitioner: An individual who handles notable matters and /or has received some recommendation during the course of our research.

Tier 1 in all 15 areas - The Legal 500 Asia Pacific (2016)

Kim & Chang was named as "Tier 1" in all 15 practice areas surveyed, according to *the Legal 500 Asia Pacific (2016 edition)*, a leading global law firm directory published by Legalease, a UK legal media.

In addition, 15 professionals of Kim & Chang were recognized as leading individuals in their respective practice areas.

Our winning details are as below:

Firm Rankings

- Antitrust & Competition
- Banking & Finance
- Capital Markets
- Corporate/M&A
- Dispute Resolution
- Employment
- Insurance
- Intellectual Property
- Intellectual Property – Patents & Trade marks
- International Arbitration
- Projects & Energy
- Real Estate
- Shipping
- TMT
- Tax

Leading Individuals

- Antitrust & Competition: Kyung Taek Jung
- Banking & Finance: Soo Man Park, Young Kyun Cho
- Capital Markets: Soo Man Park, Young Kyun Cho
- Corporate/M&A: Young Jay Ro, Jong Koo Park, Young Man Huh, Sang Goo Lee
- Dispute Resolution: Sang Ho Han
- Employment: Chun Wook Hyun, Weon Jung Kim
- Intellectual Property: Jay (Young-June) Yang
- International Arbitration: Byung-Chol (B.C.) Yoon, Eun Young Park
- Shipping: Byung-Suk Chung, Jin Hong Lee

10 awards including "Korea Law Firm of the Year" - ALB Korea Law Awards (2015)

Kim & Chang was named as "Korea Law Firm of the Year" for the third consecutive year at the *ALB Korea Law Awards 2015* hosted by Asian Legal Business (ALB), a renowned legal publication in Asia affiliated with Thomson Reuters. The awards were held in Seoul on November 13, 2015.

ALB announced the winners in a total of 24 categories including best law firms, in-house counsels, and influential deals selected based on its own independent research and outside experts' voting results. Kim & Chang received awards in the following ten categories including "Korea Law Firm of the Year," and our firm received the highest number of awards among the winners.

Firm Categories – Only winner

- Korea Law Firm of the Year
- Banking and Financial Services Law Firm of the Year
- Construction and Real Estate Law Firm of the Year
- Intellectual Property Law Firm of the Year
- Labour and Employment Law Firm of the Year
- Technology, Media and Telecommunications Law Firm of the Year
- Litigation Law Firm of the Year
- Deal Firm of the Year

Deal Categories – Co-winner

- Debt Market Deal of the Year : The Republic of Korea's Dual-Tranche Multi-currency Note Offering
- Real Estate Deal of the Year : Development of Public Housing through REITs

Ranked as “Elite” in Competition Practice - GCR 100 (2016)

Global Competition Review 100 (GCR 100), the world's leading journal in competition law, ranked Kim & Chang's Antitrust & Competition Practice as “Elite,” the highest possible classification, in its 2016 edition.

GCR 100 groups law firms into one of three categories: “Elite,” “Highly Recommended” and “Recommended.” The evaluation criteria include the size of a firm's competition practice, number of attorneys nominated in its sister publication (The International Who's Who of Competition Lawyers), results of a survey of hundreds of lawyers and clients to nominate the very best individuals in the field, and stability of a firm's antitrust team – who's hiring, who's promoting and who's leaving.

Our Antitrust & Competition Practice Group is comprised of over 100 professionals, including attorneys specializing in antitrust law, renowned antitrust economists and advisors who have unrivalled experience and expertise in all aspects of Korean antitrust and competition law. Depending on the client or the issue, our Antitrust & Competition Practice Group works together with the firm’s other practice groups and industry experts to form a customized team with expertise in a particular industry and provides comprehensive, effective, realistic and practical advice to our clients.

Leading Tax Advisory Firms - World Tax (2016)

Kim & Chang was selected as one of the leading (Tier 1) tax advisory firms in Korea by *World Tax 2016*.

World Tax is Euromoney International Tax Review’s directory to the leading tax advisory firms around the world.

The rankings are based on feedback by tax executives and advisers, as well as the experience and specialism of individual lawyers and law firms.

As the undisputed market leader in Korea, the Tax Practice Group at Kim & Chang has worked tirelessly for nearly 40 years to achieve the highest practice standards in providing tax and legal services to our clients, and we are constantly striving to improve client satisfaction.

Tier 1 in M&A in South Korea - ALB M&A Rankings (2015)

Kim & Chang was recognized as one of the leading M&A firms in South Korea, named in Tier 1 in *ALB (Asian Legal Business) M&A Rankings 2015*, a feature article in the October 2015 issue of ALB.

ALB is one of Asia’s most respected monthly legal magazines owned by Thomson Reuters, and the rankings were determined based on volume, complexity and size of deals, firm’s visibility and profile in the marketplace, feedback from key clients as well as market data.

Our M&A Practice Group is widely recognized in Korea and throughout Asia as providing service of the highest quality that is at the same time the most cost-effective for the clients.

Recognized as one of the world’s Top 10 Pro Bono Firms - Who’s Who Legal Pro Bono Survey (2015)

Kim & Chang was recognized as one of the top ten leading law firms in the world for its pro bono services according to *Who’s Who Legal Pro Bono Survey 2015*, for three consecutive years.

Kim & Chang was the only Asian law firm to be listed. Who's Who Legal, an international legal media, has been conducting global surveys on law firms' pro bono services since 2013.

Who's Who Legal highlighted Kim & Chang's joint project with Special Olympics Korea and the Korea Differently Abled Federation which resulted in the South Korean cabinet accepting the firm's proposal on revisions concerning 14 ordinances (including the Consumption Tax Act).

Seminars

The 1st Thomson Reuters Annual Brief

Mr. Weon Jung Kim, Mr. Ji-Pyoung Kim and Mr. Gene-Oh (Gene) Kim of Kim & Chang participated as presenters at the 1st briefing session by Thomson Reuters.

The briefing session, hosted by Legal service portal site LAWnB, was held at JW Marriott Hotel on December 16th. Mr. Weon Jung Kim, Mr. Ji-Pyoung Kim and Mr. Gene-Oh (Gene) Kim gave presentations on the meaning and notice of Korea Tripartite Commission's agreement, main issues of corporate restructuring, enforcement of Fair Trade Act and compliance management respectively.

Lecture on Maritime Law Issue and Professional for Maritime Law

Mr. Byung Suk Chung of Kim & Chang participated as a presenter in a lecture on Maritime Law hosted by Research Centre for Maritime Law of Korea University.

In the lecture held at Korea University on December 10th, Mr. Chung gave a lecture on drafting international conventions for quick delivery of auctioned ship.

Seminar on Issuance of Covered Bonds

Mr. Yong-Ho Kim of Kim & Chang participated in a seminar on the "issuance of Covered Bonds."

The seminar, which was co-hosted by the Financial Supervisory Service, Korea Federation of Banks and Kookmin Bank, was held on November 19. The seminar was aimed at providing an introduction to the structure and advantages of Covered Bonds, and sharing various experiences of the professionals who participated in the issuance of Covered Bonds.

Kim & Chang - SIAC International Arbitration Joint Seminar

Kim & Chang hosted an International Arbitration Joint Seminar with the Singapore International Arbitration Center (the "SIAC"). Dr. Eun Young Park, Mr. Chul Won Lee and Mr. Joel Richardson of our firm participated in the seminar.

In the seminar held on November 9, Mr. Gary Born, who is the Chair of the International Arbitration Practice Group at Wilmer Cutler Pickering Hale and Dorr LLP and the President of SIAC Court of Arbitration, and Ms. Seok Hui Lim, who is the CEO of SIAC, were invited as speakers.

Dr. Park, co-head of International Arbitration & Cross-Border Litigation Practice Group of our firm who is also a Member of the Board and the Court of the SIAC, introduced the speakers and led the seminar. Then, Mr. Gary Born gave a presentation on "recent trends and current issues of Arbitration in Singapore," followed by a discussion session with Ms. Seok Hui Lim of SIAC and Mr. Richardson of our firm.

After the presentation and discussion, Mr. Lee, together with the speakers from SIAC, held a Q&A session on the issues that were raised during the seminar.

Newsletter

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