

October 2022

Changes to Korean Short Sale Rules

Further to the joint press release by government agencies on enforcement of short sale rules and changes to short sale regulations on July 28, 2022 (the press release can be found [here](#) and K&C Legal update can be found [here](#)), the Financial Services Commission (the "FSC") announced a proposed amendment to the Financial Investment Business Regulations on September 27, 2022.

The proposed amendment looks to codify the announcement made on July 28, 2022, reducing the collateral ratio for retail investors' short sale trades from 140% to 120% (Article 4-25 of the proposed amendment), clarifying the short sell position reporting obligations by requiring inclusion of detailed information with respect to the relevant balance of stock lending and borrowing (Article 6-31 of the proposed amendment), and creating obligations for investors who engage in long-term (over 90 days) stock borrowing to file a report to the financial regulatory authorities (Article 6-36 of the proposed amendment).

The FSC has explained that the reason for the aforementioned amendments is to address investors' concerns and to boost confidence in the market by strengthening monitoring of long-term (over 90 days) stock borrowings for short sale purposes, as individual investors have been questioning whether foreign institutions hold short positions for a prolonged period of time for certain improper purposes.

Meanwhile, the FSC announced that the amendment will become effective once the advance notice period expires on October 7, 2022. As for setting the advance notice period much shorter than the usual 40 days advance notice period, the FSC explained that a longer notice period would not be required as it had already sufficiently gathered opinions through the inter-agency meeting held on July 28, 2022, and that it is paramount to address the investors' concerns through prompt implementation of the amendment.

As the regulatory authorities are rapidly strengthening short sale regulations, the importance of compliance in dealing with short sales is also increasing. In light of this, please feel free to contact us if you have any questions, or if you need any assistance in handling short sale related queries, investigations, or requests for information from or by the regulatory authorities.

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