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## Press Release

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August 20, 2013

### REVISION TO ENFORCEMENT DECREE OF THE FINANCIAL INVESTMENT SERVICES AND CAPITAL MARKETS ACT APPROVED AT CABINET MEETING

The revised Enforcement Decree of the Financial Investment Services and Capital Markets Act (FSCMA)<sup>1</sup> was approved at the Cabinet Meeting on August 19, which will take effect on August 29 in line with the implementation of the revised FSMCA.

#### **INTRODUCTION OF ALTERNATIVE TRADING SYSTEM(ATS)**

To be registered as an ATS, a securities firm will be required to hold equity capital worth KRW 20 billion or more. The Enforcement Decree specifies types of products that can be traded through ATSs as stock certificates and depository receipts (DRs).

An ATS will be subject to the same rules applied to exchanges in regard with measures on market surveillance and market stabilization such as daily price limit or trading halt, while it will be granted greater autonomy and flexibility in regard with trading business<sup>2</sup>.

The revised Enforcement Decree specifies cases in which an ATS is permitted to own more than 15% shares: for example, the ATS forms a partnership with an overseas ATS; or its largest shareholder is a financial holding company.

Trading volume of an ATS (during the past 6 months) through a competitive bidding method should not exceed 5%<sup>3</sup> of the total trading volume in securities market.

If trading volume of an ATS through a non-competitive bidding method exceeds a certain level<sup>4</sup>, the ATS will be required to beef up its staff & electronic facilities and ensure a system to prevent a conflict of interest.

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<sup>1</sup> Legislation notice was made on June 14, 2013 for public comments.

<sup>2</sup> Trading size, minimum quotation size, trading hours, anonymous block trading

<sup>3</sup> The trading volume of an individual stock through an ATS should not exceed 10%.

<sup>4</sup> 5% of the total trading volume in securities markets; or 10% of the total trading volume of an individual stock

## **MAJOR CHANGES TO A DRAFT OF REVISION SINCE ITS LEGISLATION NOTICE<sup>5</sup>**

### **1. Condition for an ATS to become a stock exchange**

(Before revision) An ATS will become a stock exchange in case it exceeds certain level of trading volume and trading cost. An ATS on a competitive trading basis will be required to reinforce its manpower, electronic facilities, and conflict of interest prevention system in case it exceeds certain level of trading volume and trading cost.

(After revision) An ATS will become a stock exchange in case it exceeds certain level of trading volume. An ATS on a competitive trading basis will be required to reinforce its manpower, electronic facilities, and conflict of interest prevention system in case it exceeds certain level of trading volume.

### **2. Scope of gold banking deregulation**

In case a financial institution intends to operate gold banking business, it will be permitted to submit application for opening up the business even if it does not satisfy required qualifications and it will be exempt from hiring investment experts.

### **3. Range of guaranteed loan issuers when setting credit offering ceiling**

(Before revision) Guaranteed loans from financial institutions including banks will not be taken into account when investment banks set corporate credit offering ceiling.

(After revision) Guaranteed loans from the central government, local autonomous governments, foreign governments, Korea Credit Guarantee Fund (KoDIT), Korea Technology Finance Corporation (Kibo), and financial institutions including banks will not be taken into account when investment banks set corporate credit offering ceiling.

### **4. Point of introduction and conversion of contingent capital**

(Before revision) Contingent capital will be introduced on the second business day since the occurrence date of its introduction and converted into stocks on the first business day since the occurrence date of its conversion.

(After revision) Contingent capital will be introduced on the third business day since the occurrence date of its introduction and converted into stocks on the second business day since the occurrence date of its conversion.

### **5. Penal records kept and managed by Korea Financial Investment Association (KoFIA)**

(Before revision) Penal records of an executive or employee of a financial investment business entity shall be kept and managed by the KoFIA.

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<sup>5</sup> Press release (June 14, 2013) titled “Revision to Enforcement Decree of the Financial Investment Services and Capital Markets (FSCMA)” is also available on the FSC website.

(After revision) Penal records of an executive or employee of a financial investment business entity and all related financial investment experts shall be kept and managed by the KoFIA.

#### **6. Credit rating agencies banned from providing additional profit in property to clients**

(Before revision) Credit rating agencies are not allowed to acquire additional profit from clients other than credit rating fees.

(After revision) Credit rating agencies are not allowed to acquire additional profit from clients other than credit rating fees as well as providing additional profit in property to clients.

#### **7. New rules and regulations established for a financial institution to obtain approval of change of major shareholder**

Rules and regulations are newly established related to financial institutions' reporting duty to the Financial Services Commission when it intends to obtain approval of appointing or dismissing its major shareholders in accordance with Article 26-2 of the revised Enforcement Decree of the FSCMA.

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