SHIN & KIM

Derivatives

Shin & Kim acts as local counsel for major market participants in over-the-counter and exchange-traded derivative transactions, providing systematic and in-depth legal advice on various types of derivatives transactions, securities lending, repurchase transactions and derivative-linked securities involving foreign and domestic corporate entities and financial institutions. Our services include conducting advance review of all relevant laws and regulations, advising on the structure, filing of reports with regulatory authorities, preparing and negotiating documentation and issuing legal opinions with the goal of ensuring that not only our clients' derivatives transactions (ranging from simple derivatives to structured products with complex embedded derivatives) are in full compliance with Korean laws and regulations, but also providing for measures that mitigate the risk of any dispute and regulatory issues which may arise in connection with specific transactions.

Key Services

Shin & Kim provides following services for derivatives transactions:

- Analyzing transactions for issues under all laws and regulations applicable to derivatives transactions including the Financial Investment Services and Capital Markets Act and the Foreign Exchange Transactions Act.
- Advising on and devising structures for derivative transactions
- Preparing and revising standard transaction agreements such schedules to be annexed to ISDA Master Agreements, GMSLA or GMRA based on negotiations with the counterparty such as the Schedule, Credit Support Annex and Confirmation for ISDA Master Agreements
- Advising on insolvency law implications including reviewing the application of Korean insolvency laws to derivatives transactions
- Advocacy of clients in dispute resolution proceedings including lawsuits filed in connection with derivative transactions
- Assessing issues and formulating defense strategies in connection with proceedings for administrative sanctions such as regulatory inspections, investigations or other administrative sanctioning process conducted by regulatory authorities in Korea in relation to derivative financial transactions

Experience

- Foreign and domestic companies and financial institutions, in drafting and negotiating contracts, devising appropriate transaction structures and on regulatory issues pertaining to derivative financial transactions
- Advised on structuring issues and prepared documentation for the first synthetic ABS transaction in Korea
- A domestic financial institution, in its dispute with Lehman Brothers before a domestic court over a matter involving early termination of OTC derivatives transactions
- A domestic financial institution, in its legal dispute with a foreign financial institution over structured products with embedded derivatives
- The defendant, in a lawsuit claim seeking the return of unjust enrichment caused by the cancellation of an exchange-traded derivative transaction due to a mistake made by a domestic securities company

Key Contacts

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Awards and Rankings

- Ranked Band 1 Law Firm for Banking and Finance
  Chambers Global / Chambers Asia 2014-2026
- Ranked Tier 1 Law Firm for Banking and Finance
  Asia Pacific Legal500 2013-2019, 2024-2026
- Ranked Tier 1 Law Firm for Banking and Finance
  IFLR 1000 2022-2025
- Banking and Financial Services Firm of the Year
  Asialaw Asia-Pacific Legal Practice Awards 2019

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