



MERGER CONTROL IN KOREA Vol. 07 - More simplified reviews for foreign M&As

2022.01.03

On December 28, 2021, the Korea Fair Trade Commission (the “KFTC”) announced the amendment to the KFTC’s M&A Review Guidelines (the “Amended Guidelines”) and the Amended Guidelines became effective on December 30, 2021.

The most important change in the Amended Guidelines is business combinations in which foreign companies are target companies with no impact on the Korean market now qualify for simplified review. Before the amendment, simplified review was only available to the establishment of a new joint venture outside of Korea with no impact on the Korean market. However, after the amendment, simplified review applies to a broader scope of transactions to include foreign M&As in general.

When a transaction qualifies for simplified review, the review period is shortened to 15 days from the initial 30-day review period which applies under the ordinary review procedure. Compared to the ordinary review procedure, simplified procedure will offer significant advantage in terms of managing transaction timeline.

According to the KFTC press release, the following four examples from actual KFTC review precedents have been cited as cases that may benefit from the Amended Guidelines.

- Acquisition of shares in a company engaging in real estate development business in Japan by a Singaporean investment company
- Acquisition of shares in a Colombian personal car loan company by a Japanese personal car loan company where there is no plan to conduct business in Korea
- Acquisition of shares in a Chinese company by a Korean steel company to jointly engage in the manufacturing and sales of automotive galvanized steel sheets in an economic development zone in China and where export to Korea is explicitly prohibited under the joint venture agreement
- Acquisition of shares in a Cambodian company established by a Korean construction company to implement irrigation canal development work in a specific region of Cambodia by another Korean construction company

Of the four, Shin & Kim strongly advocated for the expansion of the scope of transactions that fall under the simplified review procedure in the second case (car loan company case) and won a favorable outcome for its client. We understand our arguments largely contributed and ultimately led to the adoption of the Amended Guidelines by the KFTC.

We will continue to provide updates on Korean merger control issues. Please feel free to contact us at anytime should you have any questions concerning Korean merger control regulations.

Key Contacts

Young Chul Yim

Senior Counsel

+82-2-316-4629

ycyim@shinkim.com

John H. Choi

Senior Foreign Attorney / Chair of Global Cases and Investigations

+82-2-316-4232

jhchoi@shinkim.com

Sangdon Lee

Partner

+82-2-316-4638

sdlee@shinkim.com

Hyunah Kim

Senior Foreign Attorney

+82-2-316-1797

hahkim@shinkim.com