



Korean Law Bytes - August 2023

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Please see below summaries of notable developments in Korean law for August 2023. For comprehensive details of these developments, please feel free to contact us.

Topics covered in this update are listed in alphabetical order:

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| <ul style="list-style-type: none">• Anti-bribery – permitted gift• Corporate/M&A – shareholder protection• Fair trade – consumer group mediation• Finance – securitization• International trade/manufacturing – chemical• Labor – foreign labor | <ul style="list-style-type: none">• Banking – business reorganization• Corporate/VC – super-voting/dual-class shares• FDI – industrial zone• Finance – investment contract security• Labor – facility• Medical device – software |
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- **Anti-bribery – permitted gift:** The Enforcement Decree of the Improper Solicitation And Graft Act (which categorizes quasi-public personnel like media employees and university professors as public officials) has been amended. The amendments allow for an increased maximum gift value of agricultural, poultry, fishery and related processed products from 100,000 Korean won to 150,000 Korean won (for Lunar New Year or Chuseok/Mid-Autumn Harvest, from 200,000 Korean won to 300,000 Korean won). Also, the range of other permissible gifts (capped at 50,000 Korean won) has been broadened to include exchange vouchers, such as movie ticket or coffee vouchers.
- **Banking – business reorganization:** The Enforcement Decree of the Banking Act has been amended so that any closure, divestment or acquisition of business that accounts for 10% of the party's total assets or operating profit requires a prior approval of the Financial Supervisory Commission.
- **Corporate/M&A – shareholder protection:** The Ministry of Justice has proposed amendments to the Korean Commercial Code to allow for (1) online or hybrid shareholders' meetings (including the board of directors to authorize physical or electronic pre-meeting votes), (2) dissenting shareholders' appraisal right in case of vertical spin-off involving at least 10% of total assets (including for private companies such as joint ventures), (3) shareholders' access to the company's basis for valuation of appraisal right, and (4) companies to proceed with proposed corporate reorganizations once they've settled all payments for exercised appraisal rights (including payments to the court in trust as an alternative to direct payments to shareholders), even in the event of a valuation dispute. The intention is to have these amendments to come into force during 2024.

- **Corporate/VC – super-voting/dual-class shares:** The Ministry of SMEs and Startups has proposed amendments to the Enforcement Decree of the Act on Special Measures for the Promotion of Venture Businesses to specify the minimum funding threshold for early-stage companies wishing to issue super-voting shares (also known as dual-class shares). An early-stage company needs to have received a minimum of 10 billion Korean won since its inception with the latest round accounting for a minimum of 5 billion Korean won, in each case excluding any investment from its specially-related parties (i.e., only third-party funding is counted for this purpose).
- **Fair trade – consumer group mediation:** The Korean Fair Trade Commission has proposed an amendment to the Enforcement Decree of the Framework Act on Consumers to allow a consumer group to submit a mediation request when 50 or more similar complaint cases are clearly expected (as opposed to 50 or more cases having been identified).
- **FDI – industrial zone:** The Ministry of Trade, Industry and Energy has proposed amendments to the Industrial Cluster Development and Factory Establishment Act to allow for (1) more flexible determination of permitted business types for industrial zones, (2) sale-leaseback transactions for industrial zones outside the Seoul Metropolitan Area and (3) leasing of adjacent lands for factory expansion.
- **Finance – securitization:** The Financial Services Commission has proposed to amend the Asset-Backed Securitization Supervisory Regulations. These amendments would permit companies with total assets of 50 billion Korean won or more, capital impairment under 50% and an unqualified opinion from an external auditor to issue asset-backed securities (which would make more companies eligible).
- **Finance – investment contract security:** ArtTogether filed a registration statement with the Financial Supervisory Service for the first investment contract security in Korea. The underlying asset will be a painting.
- **International trade/manufacturing – chemical:** The Ministry of Environment has proposed to amend the Act on Registration and Evaluation of Chemical Substances (the “**Chemical Registration Act**”) to make it less onerous. Under these amendments, the yearly registration threshold for importing or manufacturing a new chemical will be increased from 0.1 ton (or 100 kilograms) to 1 ton. Also, instead of submitting a full copy of foreign literature detailing testing data, only its source may be submitted for the government authority to verify. Furthermore, starting from January 4, 2024, if a company undergoes a business reorganization such as a business transfer or merger, and the company had previously registered, reported or secured an exemption for a chemical under the Chemical Registration Act, the succeeding entity or transferee inherits those rights. The proposed change would require the succeeding entity or the transferee to submit a transfer report and supporting document within one (1) month from the date of the transfer to Korea Environment Corporation (K-eco).
- **Labor – facility:** Starting in August 2023, a business site with at least 20 full-time employees will need to have a resting area that satisfies certain specifications under the Occupational Safety And Health Act.
- **Labor – foreign labor:** The Ministry of Employment and Labor announced that it will (through the Foreign Labor Policy Committee) increase the maximum number of foreign workers allowed at each business site from 40 to 80 (manufacturing), 30 to 75 (service) and 25 to 50 (agriculture/dairy).
- **Medical device – software:** The Food and Drug Administration has clarified its medical device classification guideline for software. Those software that take inputs from medical devices (alone or together with in-vitro diagnostic medical devices) are considered medical devices while those software that take inputs only from in-

in vitro diagnostic medical devices are considered in-vitro diagnostic medical devices. Software, which may be supported by artificial intelligence, that assesses lung disease, diabetes, liver disease or prostate disease falls under the risk-level class 2 category.

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