



Rating of Competition Compliance Program in Korea

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To foster fair competition, the Korea Fair Trade Commission (“KFTC”) has been guiding companies to devise and adopt an internal compliance program in relation to competition laws (“CP”). To further encourage such adoption, the KFTC has published in March 2024 an incentive program where a company can submit its CP for a rating, and if a good rating is received, is eligible for some leniency if the company becomes subject to a remedial order or an administrative fine by the KFTC. This program, which is created by making amendments to the Enforcement Decree of the Monopoly Regulation and Fair Trade Act (“MRFTA”) and creating the new Regulations on Operation and Evaluation of Fair Trade Compliance Program, is expected to come into force in the June 2024.

Key details include:

- eligibility and procedure
- evaluation areas
- benefits

(1) Eligibility and Procedure

A company that has devised and adopted a CP and run it for at least one year may apply for a rating. The application needs to include a CP operation report, which has a length limit of 200 to 300 pages.

The Korea Fair Trade Mediation Agency, a statutory agency, has been designated to carry out the evaluation and rating work. The evaluation includes an on-site assessment and interviews. It currently takes about six months, and applications are due by early April each year.

(2) Evaluation Areas

The following areas are evaluated:

- (i) CP adoption—including CEO’s statement, CP operation policies and procedures and internal and external disclosures of CP operation;

(ii) Management's support—including appointment of compliance manager and allocation of monetary and human resources;

(iii) Compliance manual—including thoroughness of its content, ease of use and continuous updates;

(iv) Training program—including periodic CP training, additional training for high-risk areas, training for the management and training efficacy evaluation;

(v) Prior monitoring system—including risk assessment, prior consultation system, direct reporting system and whistleblowing system;

(vi) Penalty and incentive systems; and

(vii) CP evaluation and update—including periodic CP operation efficacy evaluation and continuous updates and implementation.

Additional points are awarded for (i) repeated rating evaluation, (ii) supporting affiliates, trading partners and other companies' adoption of CP and (iii) active promotion of CP to the public.

There are six ratings from D to AAA, with AAA being the highest. The rating is effective for two years from the beginning of the year following the year when the application was submitted.

(3) Benefits

Those companies that received A, AA or AAA are eligible for leniency in relation to those laws enforced by the KFTC, such as the MRFTA, the Fair Transactions in Subcontracting Act, the Act on the Consumer Protection in Electronic Commerce, the Act on the Regulation of Terms and Conditions, the Act on Fair Labeling and Advertising, the Act on Fair Transactions in Large Retail Business, the Fair Transactions in Franchise Business Act, the Installment Transactions Act, the Fair Agency Transactions Act and the Act on Door-to-Door Sales. Types of leniencies include less prominent remedial order publication, administrative reduction (up to 15% for AAA and plus 5% more in case the CP catches the relevant violation prior to the KFTC's investigation) and exemption from ex-officio investigation.

In February 2024, we have set up an internal unit named Compliance Center in response to the rising market demand for compliance set-up, management and maintenance. We prepared a comprehensive checklist that companies use to check their existing CP in eleven areas. Please contact compliance@shinkim.com if you would like a copy.

[\[Korean version\]](#) 공정거래 자율준수 프로그램 법제화 및 그 시사점

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