

Amendment of the Monopoly Regulation and Fair Trade Act of South Korea

Abolishment of the 30-Day Deadline for Filing of Pre-Closing Report of Business Combination

Abolishment of the Deadline for Pre-Closing Notification of Business Combination

Under the current version of the MRFTA, assuming the satisfaction of other requirements for the reporting obligation, a party to a business combination, if it is a company with total assets or turnover amounting to KRW 2 trillion or more ("large company"), must make the pre-closing notification within 30 days of entering into the relevant agreement. However, the 30-day deadline for pre-closing notification has been abolished under the revised MRFTA and accordingly, large companies may report the business combination at any time after the execution of the relevant agreements but before the closing date.

The purpose of the revision is to remove unnecessary regulations on business activities in the private sector, and to allow large companies to decide the timing for the filing to conform to the global standard of many other jurisdictions.

Caveats

As the KFTC's review period for a notified business combination is still 30 days starting from the date of filing, during which the parties may not consummate the business combination (this period may be extended for an additional 90 days if the KFTC in its discretion deems it necessary, and such standstill period may be further extended if the KFTC orders to supplement the filing documents given that the period spent for such supplementation is not included in the calculation of the review period), parties to a business combination subject to the pre-closing reporting obligation need to consider the period remaining until the closing date for the business combination when choosing the filing date.

Effective Date of the Amendment

The amended provision of the MRFTA which abolishes the 30-day deadline to file the pre-closing report of business combination will become effective 3 months after the public announcement of the amendment. Please note that business combinations taking place prior to the implementation of the amended MRFTA will be subject to the existing provisions.

For questions and legal advice, please inquire with your contact at Bae, Kim & Lee LLC, or the following attorneys of our firm:

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