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Fintech

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Law and Practice
Young-Hee Jo, Seungmin Jasmine Jung and Youngju Kim
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Contributed by:
Young-Hee Jo, Seungmin Jasmine Jung and Youngju Kim
LAB Partners see p.18

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1.1 Evolution of the Fintech Market

2019 saw a fundamental shift in the mode of payment and money transfers. As internet banks continued to thrive, mobile money transfer and mobile payment applications gained traction, with mobile phones gradually replacing cash and credit cards.

One of the contributing factors to this shift is the change in legislation, in particular, the amendments to the Supervisory Rules on Electronic Financial Transactions, effective as of January 2019, and to the Special Act on Support of Innovation of Finance (Finance Innovation Act), effective as of April 2019.

The most notable change under the amendments to the Supervisory Rules on Electronic Financial Transactions is the expanded scope of cloud computing, allowing financial institutions to adopt cloud to process "critical financial information" in addition to the previously permitted "non-critical information". This amendment enables financial institutions to develop innovative services based on financial data and advanced IT infrastructure in a cost-efficient manner.

Under the amendments to the Finance Innovation Act, the following deregulatory measures have been adopted:

- a "Regulatory Sandbox" allowing regulatory exemptions for businesses designated as innovative financial services, for up to four years;
- a "Quick Regulatory Advisory System" where the Financial Services Commission (FSC) provides one-stop advice, upon compiling opinions from other relevant regulatory agencies, enabling test operations for new financial services which fall into a regulatory grey area; and
- a "Designated Agent System" which allows the outsourcing of core business to fintech companies without obtaining separate regulatory approval each time.

In 2020, further developments are expected in relation to "Open Banking" and the "MyData" initiative, which have been on the rise since the last quarter of 2019. Open banking has been deployed since 30 October 2019 with eight major commercial banks participating in "payment open" trial systems. From 18 December 2019, open banking has been expanded to fintech companies. The latest development in open banking is financial services based on open API, offered by commercial banks in conjunction with fintech companies.

In relation to the MyData initiative, the amendments to the Credit Information Use and Protection Act (Credit Information Act) and the Personal Information Protection Act (PIPA) that passed the National Assembly on 9 January 2020 are noteworthy. It is expected that these amendments will have a positive impact in enabling individuals to take control over their financial data, which is sporadically retained by various financial institutions.

2. Fintech Business Models and Regulation in General

2.1 Predominant Business Models

The following five verticals are the predominant business models revolutionising the way financial services are being provided:

- Mobile payment and mobile money transfer systems: moving away from complicated certification or repetitive security verifications, recent mobile payment/money transfer systems use a one-time, secure pre-certification method that allows instantaneous payment linked to a credit card or bank account.
- Internet banks: with convenient mobile applications substituting physical branches and human workforce, the resulting cost savings can be applied towards lower interest rates for loans and higher returns on deposits.
- Crowdfunding and P2P loans: by raising small amounts of funds from many investors, crowdfunding provides financing for creative ideas or business plans which traditionally had difficulty in raising funds. On the other hand, P2P lending involves an online lending platform which matches borrowers' needs with funding raised from various lenders, becoming an important fixture in the middle interest market.
- Robo-advisers and comprehensive asset management services: replacing private bankers, robo-advisers provide customised online portfolio management based on artificial intelligence (AI) and big data. The low fees and low investment amount threshold eliminate the previous high entry barrier for engaging personal asset management services.
- MyData business, offering overall management and provision of financial transaction data and credit information: by compiling financial transaction data that was previously spread out among various financial institutions, in one place, MyData business provides integrated credit checks, financial credit management and recommendation of financial products tailored to individual consumers.

2.2 Regulatory Regime

Fintech business is generally subject to the pre-existing finance-related laws of Korea such as the Financial Services and Capital Markets Act (FSCMA), the Banking Act, and the Electronic Financial Transactions Act (EFTA). Additionally, new laws such as the Special Act on Establishment and Operation of Internet

Banks (Internet Bank Act) and the Act on Online Investment-Linked Financial Business and Protection of Users (Online Investment-Linked Financial Business Act) have been enacted to regulate predominantly fintech businesses. The following is an overview of the regulatory regime for each vertical.

Mobile Payment and Mobile Money Transfer Systems
Mobile payment and mobile money transfer systems fall under the financial services regulated under the EFTA. Unless the service provider is a bank, approval from, and registration with, the FSC is required to conduct mobile payment and mobile money transfer services.

Internet Banks
Internet banks are regulated under the Internet Bank Act effective as of 17 January 2019. Compared to the traditional requirements under the Banking Act, the Internet Bank Act provides certain flexibility in the requirements for establishing an internet bank, as follows:

- minimum capital reduced to KRW25 billion;
- relaxed requirements for shareholder eligibility; and
- allows non-finance focused entities to hold shares up to 34%.

Crowdfunding and P2P Lending
Crowdfunding platforms are regulated under the FSCMA as "online small amount investment brokers" and are required to be registered with the FSC.

P2P lending platforms are currently regulated under the Guidelines on P2P Lending. Until now, there has been no separate licensing regime for P2P lending platforms. Typically, P2P lending involves a lender licensed under the Act on Registration of Credit Business, etc, and Protection of Finance Users (Credit Business Act) to act as the lender, whereas the P2P lending platform itself would act as the platform matching the lender and the borrower without any licences. However, as of 27 August 2020, the Online Investment-Linked Financial Business Act will become effective, requiring P2P lending platforms to register with the FSC and to be subject to, inter alia, the following:

- disclosure of financials, P2P transaction structure, size of loan portfolio and default interest, etc;
- prohibition of loans to other P2P lending platforms and its majority shareholder in order to ensure transparency of investment and prevent capital inadequacy; and
- restriction on loan drawdown before fund raising and on discrepancy in maturity of the investment and of the loan.

Robo-Advisers
In the past, investment advisory and asset management business required registration under the FSCMA, and the analysis of robo-advisers could be used to assist investment decisions. As of 24 July, 2019, however, the Enforcement Decree of the FSCMA was amended to include provisions on robo-advisers referring to them as "Electronic Investment Advice Machines". These so-called "robo-adviser rules" allow robo-advisers to have investment discretion subject to the following:

- in case of funds, the investment management must be consistent with the purpose, terms and strategy of the investment; and
- in case of investment advisory or discretionary investment services, the investment tendency of the investor will be analysed based on the investor's investment purpose, financial status and investment experience.

Furthermore, the outsourcing of asset management to robo-advisers has been made easier in the context of funds by making it exempt from the requirements for outsourcing of core business, if:

- the asset manager has exclusive access and control over the robo-adviser;
- the asset management contract provides that the asset manager will continue to be liable towards the investors regarding the robo-adviser's investment decisions; and
- the asset manager fully understands and maintains the robo-adviser.

MyData
On 9 January 2020, the amendments to the Credit Information Act setting out the requirements for MyData business passed the National Assembly. Seeking to lower the entry barrier for MyData business, the FSC has set the minimum capital at KRW500 million and does not apply the pre-existing shareholder eligibility criteria for financial institutions. MyData businesses can do the following:

- act as an agent for personal data management;
- recommend customised financial products; and
- offer discretionary investment and financial product advisory services.

Combining these permitted activities with open API, MyData is expected to grow exponentially in the coming years.

2.3 Compensation Models

Other than the compensation restrictions under traditional finance regulations, there are no regulations specifically targeting fintech companies. Most fintech companies adopt lower

fees to increase their competitiveness against legacy financial institutions. Some fintech businesses adopt indirect compensation models by posting advertisements or promotions in the application. Another source of compensation is receiving commission for sale of financial products or licence fees for intellectual property rights such as those in relation to robo-advisers.

2.4 Variations Between the Regulation of Fintech and Legacy Players

Unlike legacy players, many fintech companies are not licensed as financial institutions and the services they provide depart from the traditional practice of financial services.

In its regulatory reform efforts, the government seems to be prioritising the development of the financial industry over the stability of financial markets. In March 2018, the government designated fintech as one of the "Eight Businesses Leading Innovative Development" and has been implementing its "Plan for Promotion of Fintech Innovation". In January 2019, the government announced the following six strategies:

- implementation of a regulatory sandbox;
- revamping of outdated regulations;
- expansion of investment in fintech;
- cultivation of new industry sectors;
- supporting global expansion; and
- enhancing digital financial security.

In April 2019, the Finance Innovation Act came into effect, launching the regulatory sandbox. The government is also seeking to integrate open banking and MyData projects into the fintech industry to improve the financial infrastructure.

Of these initiatives, the limited liability provisions under the Finance Innovation Act are particularly noteworthy. The Finance Innovation Act was enacted to facilitate the innovative development of financial services and was expected to boost the economy by increasing the benefits for financial consumers and jobs in the financial industry. Under the Finance Innovation Act, government officials or commissioners of the Innovative Financial Services Examination Committee, the FSC, Financial Supervisory Service (FSS), administrative agencies related to the FSC or the FSS, and other designated supervisory authorities are exempt from sanctions if any such official or commissioner makes decisions in a proactive and pro-business manner pursuant to the Finance Innovation Act absent any gross negligence or intentional misconduct.

2.5 Regulatory Sandbox

Following the Finance Innovation Act, the financial regulatory sandbox came into effect on 1 April 2019. The regulatory sandbox designates certain financial services as novel and innovative and grants such services up to four years of probation or exemptions from regulatory oversight and permit requirements.

To take advantage of the regulatory sandbox, a fintech company or financial institution needs to apply for designation as an innovative financial service provider to the Innovative Financial Services Examination Committee established by the FSC. Once designated as an innovative financial service provider, it will be granted regulatory exemptions until expiration of the designation period. A service provider of a designated innovative financial service can be granted exclusive rights to provide the financial service for another two years after the expiration of the designation period, if approval or permission is obtained for the service before the designation period expires. This will enable the service provider to contest any launch of the same financial service by other service providers.

According to the FSC, from the launch of the regulatory sandbox on 1 April 2019 until 18 December 2019, a total of 77 services were designated as innovative financial services over ten intervals.

2.6 Jurisdiction of Regulators

In general, fintech services are subject to financial regulations and information technology/data privacy regulations, under the purview of the relevant government agencies as follows:

FSC
- FSCMA
- Act on the Structural Improvement of the Financial Industry
- Act on Real Name Financial Transactions and Confidentiality
- Financial Holding Companies Act
- Depositor Protection Act
- Interest Limitation Act
- Act on the Regulation of Conducting Fund-Raising Business Without Permission
- Credit Information Act
- Banking Act
- Mutual Savings Banks Act
- Specialised Credit Finance Business Act
- Insurance Business Act
- EFTA
- Credit Business Act

Ministry of Economy and Finance (MOEF)
- Foreign Exchange Transaction Act

Ministry of Science and ICT (MSIT)
- Act on Promotion of Information and Communications Network Utilisation and Information Protection, etc
- Digital Signature Act

- Framework Act on Electronic Documents and Transactions

Fair Trade Commission (FTC)
- Act on the Consumer Protection in Electronic Commerce, etc

Ministry of the Interior and Safety (MOIS)
- Personal Information Protection Act

Korea Communications Commission (KCC)
- Act on the Protection, Use, etc of Location Information

The responsible government agency has the ultimate regulatory authority to make decisions regarding the relevant laws. In view of the criticism that over-regulation by agencies suppresses financial innovation in fintech, a "Civilian-Government Joint Task Force for Regulatory Reform" has been created to reform financial regulations. For non-financial regulatory reform, the Office for Government Policy Co-ordination acts as the control tower, reviewing and streamlining regulatory reform.

2.7 Outsourcing of Regulated Functions

Prior to the amendment to the Rules on Outsourcing and etc by financial institutions (Outsourcing Rules) in May 2018, financial institutions were not permitted to outsource any core business functions. The amended Outsourcing Rules, however, have introduced a system for outsourcing to a designated agent.

The designated agent system allows a financial company to designate an agent (including fintech companies) to outsource core business functions (eg, receipt of deposit, review of loan applications, underwriting insurances) and to conduct a trial run for innovative financial services in conjunction with fintech companies.

Notwithstanding the designated agent provisions under the Outsourcing Rules, financial investment businesses were restricted from taking advantage of such designated agent system due to the prohibitions on delegating core business functions (eg, managing fund assets, underwriting securities, providing advice on investment judgment upon request) under the FSCMA. As of 1 April 2019, such restriction has been lifted through the Finance Innovation Act.

2.8 Significant Enforcement Actions

With respect to cryptocurrencies, the government has introduced the following policies to combat the increase of speculative investments and prevent financial loss:

- cryptocurrency transactions must be conducted on a real-name basis;
- there must be indirect monitoring of settlement and anti-money laundering procedures of cryptocurrency exchanges through regulation of banks that open accounts for cryptocurrency exchanges;
- online advertisements regarding cryptocurrencies must be restricted; and
- there must be indirect supervision of cryptocurrency exchanges in relation to unfair user terms etc through regulation of banks.

2.9 Implications of Additional Regulation

Fintech is highly intertwined with data, making the development of data privacy, cybersecurity and anti-money laundering (AML) regulations crucial to the advancement of fintech.

Data Privacy

The amendments to the PIPA, the Network Act and the Credit Information Act (the so-called "3 Major Data Laws") were passed by the National Assembly on 9 January 2020, making it easier to use big data for business purposes. In particular, the Credit Information Act provides a legal basis for the use of big data in the financial industry and for the development of MyData business.

Cybersecurity

With respect to cybersecurity, the security standards for financial institutions under the EFTA and the Supervisory Rules on Electronic Financial Transactions are also applicable to fintech companies. Any violation thereof could be subject to criminal sanctions and administrative fines.

AML Laws

Prior to July 2019, AML obligations were not imposed on electronic financial companies. However, the amendments to the Act on Reporting and Using Specified Financial Transaction Information (FTRA), effective from 1 July 2019, make electronic financial companies and lending companies subject to AML requirements, and legislation is moving towards restricting fintech companies from being used for money-laundering purposes.

2.10 Regulation of Social Media and Similar Tools

Since the 3 Major Data Laws were passed on 9 January 2020, fintech companies have been able to use pseudonymous data for business purposes without separate consent. This is likely to open the door to the use of data collected through social media for big data and AI purposes. In the past, however, due to the strict consent requirements for using personal data in Korea, financial institutions could only use social media to a limited extent (for example, to provide customised services based on the transaction patterns of customers detected from social media).

2.11 Review of Industry Participants by Parties Other Than Regulators

Other than the regulators and auditors for accounting purposes, no actors are authorised to review industry participants.

2.12 Conjunction of Unregulated and Regulated Products and Services

Mobile payment and money transfer systems, such as Kakao Pay, Toss and Finnq, usually require a prepaid charge to use their systems. Users can make payments or money transfers up to the charged amount. Recently, Toss, one of the largest mobile payment and money transfer systems in Korea, started giving interest on prepaid charges a level higher than the normal interest rate of financial institutions to attract more users. Such interest was criticised as a pseudo-deposit service (ie, collecting deposits or funding without the requisite licence or registration), which is restricted under finance-related laws. The government issued a warning to Toss after which, Toss stopped paying interest on prepaid charges. Since then, mobile payment and money transfer systems have adopted other incentives, such as giving out points that can be used in the mobile payment and money transfer system. As illustrated in this instance, the government seems to be taking the position of regulating through expansion of existing laws rather than adopting new laws with respect to unregulated products and services.

3. Robo-Advisers

3.1 Requirement for Different Business Models

The law does not require different business models for different asset classes per se. However, under the Robo-Advisor Rules in the Enforcement Decree of the FSCMA, separate investment standards are prescribed for funds.

3.2 Legacy Players' Implementation of Solutions Introduced by Robo-Advisers

Legacy players are proactively utilising robo-advisers. As of June 2019, nine banks, 19 securities firms, two asset management firms, and five investment advisory firms were providing investment advice or asset management services using robo-advisers. Banks provide robo-adviser solutions in relation to funds, pensions and individual savings accounts (ISAs). Securities firms, unlike banks, seem to focus on asset management by recommending stocks, advising on the timing of trade, and management of wrap accounts. As for asset management firms and investment advisory firms, robo-advisers were introduced to allocate and manage investment assets in domestic and foreign stocks and exchange-traded funds (ETFs) after the amendment to the Rules on Financial Investment Business effective, as of 20 March 2019, which made it possible to enter into non face-to-face discretionary investment contracts.

3.3 Issues Relating to Best Execution of Customer Trades

One of the issues relating to best execution of customer trades is that there is a need to verify whether services provided by robo-advisers are safer and more systematic than face-to-face services provided by human advisers. There is a risk that a customer may suffer damages due to an error in the robo-adviser algorithms. For instance, an error in the development stage could randomly rearrange the order of trades. If there is no systematic error detection mechanism in the operation of algorithms, it may be difficult to prevent the risk of damages to customers, given that algorithms require minimal human intervention. An error could cause a robo-adviser to give unsound investment advice or to place a massive order by mistake, or an error could even result in serious and rapid system failures.

Robo-Adviser Test Bed

To address such risks, on 29 August 2016, the FSC announced a framework plan for the operation of a robo-adviser test bed. Through the test bed, the FSC seeks to verify whether the minimum level of regulations required for allocation of assets, analysis of investors' preferences, hacking prevention systems, and other functions related to investment advisory services and discretionary investment management by robo-advisers are working properly. Participants in the test bed are chosen based on criteria such as types of eligible companies, algorithms and the capability to generate portfolios based on investor preference. In particular, the FSC will continue to develop and refine the methodology to verify whether a robo-adviser has fulfilled its duty to obtain the best execution of customer trades through the test bed.

4. Online Lenders

4.1 Differences in the Business or Regulation of Loans Provided to Different Entities

Kakao Bank and K Bank are the only two internet banks in Korea. Both were established in 2017 and offer loans such as mortgage loans, personal loans and medium-interest loans.

Internet Banks

Prior to 17 January 2019, when the Internet Bank Act came into effect, internet banks could not offer a credit line to entities. Although the Internet Bank Act has made it theoretically possible for internet banks to offer credit to small and medium-sized companies, internet banks had made few corporate loans by the end of 2019. This is mostly due to the lack of manpower to evaluate corporate credit, the small size of the internet banks, the lack of necessary infrastructure and the lack of experience and know-how in making corporate loans. Not only that, if an internet bank equipped itself to conduct face-to-face evaluation

of loan applications like traditional banks, such practice would be against the policy goals of the financial authorities for introducing internet banks. In light of the above, the overwhelming majority of the loans made by the internet banks have been made to individuals without any face-to-face interaction.

P2P Lenders

On the other hand, P2P loans have steadily increased, with the cumulative amount of loans reaching approximately KRW6.2 trillion by the end of June 2019, due to the P2P lenders' development of new markets related to medium-interest or small-scale real estate. Due to the current lack of official data for type of borrower, it is difficult to accurately assess how much of the total loans have been made to individuals and to small business borrowers. According to data published by the Korea P2P Finance Association, as of 30 November 2019, the aggregate amount of loans made to association members is more than KRW1.56 trillion, consisting of KRW518.2 billion in real estate project financing, KRW313 billion in personal mortgages, KRW157.1 billion in corporate mortgages, KRW152.4 billion in asset-backed securities, KRW128.7 billion in loans secured by receivables, KRW114.9 billion in loans secured by personal property, and the remainder include unsecured loans based on credit ratings. These figures indicate that real estate-related loans account for a large proportion of the total loans, while loans made to individuals and corporations account for a very small proportion of the total loan portfolio.

4.2 Underwriting Processes

The underwriting processes of internet banks have become somewhat similar to traditional banks in that loans can be extended without face-to-face interaction, and a variety of fintech methods are used in the credit review process. However, one approach that sets internet banks apart is that they continue to develop and market products targeting untapped financial consumers, with limited access to financial services, in relation to medium-interest rate loans. To this end, internet banks have utilised seemingly irrelevant information to review loan applications, such as the price of a consumer's mobile phone, their history of mobile phone instalment payments, track record of cellular and data plans, and frequency of using roaming services.

As for P2P lending, the typical underwriting process begins with the submission of a loan application with the necessary documentation for corporate, credit or mortgage review by the P2P platform. After review, the P2P platform posts the loan on the platform, indicating the appropriate interest rate and the maximum loan amount, and investors can make their investments. Some P2P platforms have integrated personal credit rating systems, which, inter alia, analyse the trend of financial data over the past 12 months, enabling more meticulous review of loan applications.

On 10 October 2019, Korea became the first country to enact a law on P2P lending when the National Assembly passed the Online Investment-Linked Financial Business Act, which will become effective as of 27 August 2020. Under the Online Investment-Linked Financial Business Act, a P2P lender has, among others, the following obligations:

- registration and disclosure requirements;
- to provide investors with information such as the linked loan, borrower information and details of the investment;
- segregation of investment funds from proprietary funds;
- to ensure bankruptcy remoteness of P2P loans upon insolvency; and
- to observe the cap on loan amount per borrower and investment amount per investor in relation to a P2P lender, while each investor will be subject to varying limits on the amount they may invest through P2P loans.

4.3 Sources of Funds for Loans

For internet banks, the main sources of funds for loans are deposits, which is similar to traditional banks.

As for P2P lenders, the main sources of funds are the investments of individual investors. However, once the Online Investment-Linked Financial Business Act becomes effective on 27 August 2020, P2P lending platforms will be able to use its proprietary assets to fund loans.

4.4 Syndication of Loans

At present, internet banks seldom extend corporate loans. Accordingly, there have not been any syndicated loans involving internet banks. As for P2P lending, there have been instances of participation in syndicated loans related to project financing, although this is not common.

5. Payment Processors

5.1 Payment Processors' Use of Payment Rails

There is no requirement for payment processors to use existing payment rails such as credit cards or electronic payment settlement agencies. Indeed, certain payment processors have established new payment methods using applications to transfer funds from a payer's account directly to the payee's account. Another trend is the use of QR codes for simple payment, but the regulatory authorities have not yet provided clear guidance on this issue.

5.2 Regulation of Cross-border Payments and Remittances

Both cross-border payments and cross-border remittances are regulated under the Foreign Exchange Transactions Act. With regard to cross-border payments, the amendment to the Enforcement Decree of the Foreign Exchange Transactions Act on 28 May 2019 has enabled companies other than financial institutions to engage in the issuance and management of electronic money and prepaid electronic payment methods. In this context, companies such as NHN Payco, Kakao Pay and Naver Pay are working in collaboration with foreign mobile payment companies to launch their cross-border payment services and find merchants who will accept such services as payment.

With regard to cross-border remittances, the amendment to the Enforcement Decree of the Foreign Exchange Transactions Act on 27 June 2017 introduced the concept of small-amount overseas remittances allowing overseas remittances to be conducted by companies other than banks. This amendment allows fintech companies to:

- make cross-border remittances of up to USD3,000 per transaction and up to USD30,000 per year; and
- use cryptocurrencies for remittance.

However, due to the government's scrutiny, the use of cryptocurrencies for cross-border remittance has not so far materialised. In comparison to traditional cross-border remittances which usually take between two to three days, the small-amount overseas remittance may be completed in ten minutes and at lower cost. Due to these advantages, fintech companies engaging in cross-border remittances have gained over 10% of the market share. Finnq, Coinone Transfer, Moin and Sentbe are some of the fintech companies which offer cross-border remittance services.

6. Fund Administrators

6.1 Regulation of Fund Administrators

A fund administrator is defined under the FSCMA as an entity to which an investment company has delegated the following:

- operation of the fund;
- administration for issuance of shares and transfer of ownership;
- calculation of fund assets;
- notices and public notices pursuant to relevant statutes or the articles of incorporation; and
- convening the board of directors' meeting or general meeting of shareholders and preparation of minutes, etc.

A fund administrator must be registered with the FSC and the registration requirement does not vary based on the type of work delegated. However, an entity engaged in banking, insurance, financial investment or merchant banking which seeks to register as a fund administrator must have established a system for preventing conflicts of interest. To protect investors and maintain sound trading practices, the FSC may issue necessary orders to a fund administrator in relation to matters concerning its proprietary property, business principles and methods, conflict of interest and delegation.

In relation to calculating the fund assets, a fund administrator is obligated under the Rules on the Business and Operation of Financial Investment Companies to:

- retain securities accounting guidelines in writing and ensure that calculations are done in accordance with such approved guidelines;
- assign dedicated personnel to enter data and perform tasks related to the results;
- ensure that the system does not permit any modification to the net asset value once the calculation is complete;
- compare the securities holdings with those of the trustee each month to screen for abnormalities and keep records of proof; and
- maintain confidentiality of all information related to investor and asset management, which the fund administrator has obtained directly or indirectly.

6.2 Contractual Terms

It is customary for the fund administration agreement to impose joint and several liability on:

- the fund administrator; and
- the trust company or the attributable director or auditor of the investment company,

for damages arising from the fund administrator's failure to faithfully perform its duties, etc.

6.3 Fund Administrators as "Gatekeepers"

Under the FSCMA, a trustee of the fund has a duty to act as a "gatekeeper" rather than as a fund administrator. For instance, a trustee has the obligation to monitor whether the management or operation of a fund violates the laws, the fund investment agreement or the prospectus, etc. Where any such violation exists, the trustee is required under the FSCMA to demand that the fund withdraw, revise or rectify the violation. If such violation is not remedied, the trustee must report this to the FSC.

7. Marketplaces, Exchanges and Trading Platforms

7.1 Permissible Trading Platforms

The most common type of platform companies are electronic commerce companies, followed by fintech companies, communication services, sharing economy companies and other types of online services. Electronic commerce companies are subject to the Act on Consumer Protection in Electronic Commerce, etc (Electronic Commerce Act). Fintech companies, depending on whether they engage in P2P lending, internet banking and/or electronic payment, may be subject to the Credit Business Act, the Internet Bank Act and the EFTA. In April 2019, the Finance Innovation Act came into effect and relaxed the regulations over fintech companies. Since then, there have been discussions on amending existing provisions and introducing new laws to facilitate growth in the fintech industry.

7.2 Regulation of Different Asset Classes

As different financial asset classes are associated with varying rates of return and risk levels, the scope and severity of applicable regulations also vary across types of financial asset classes. Cash and savings are regulated by statutes such as the Depositor Protection Act and the Credit Business Act. Securities and derivative products, which are financial investment products, are subject to the FSCMA and related regulations. Insurance products are regulated by the Commercial Act and the Insurance Business Act.

In addition to traditional financial assets, new types of assets such as cryptocurrencies have surfaced. Although no law specifically regulating cryptocurrencies has been enacted, several legislative bills are pending in the National Assembly, and there are ongoing discussions regarding the nature and characteristics of cryptocurrencies.

7.3 Impact of the Emergence of Cryptocurrency Exchanges

Korea was one of the first jurisdictions to embrace cryptocurrencies in legislation by allowing it to be used for small or small-amount overseas remittances in 2017. In the early stages, the largest cryptocurrencies in the world were mostly Korean. In 2017, the high volume and frequency of cryptocurrency trades in Korea earned the nickname "kimchi premium" with trading volumes amounting to KRW8 trillion during a 24-hour cycle. However, such enthusiasm in the market soon gave rise to scrutiny from the government. Although there are no specific laws governing cryptocurrencies, the FSC has made policy announcements, ranging from the requirement for real names to restriction of ICOs, in order to curb the speculation and fervour in the cryptocurrency market.

The AMLC Guidelines

There are bills pending in the National Assembly targeting the regulation of cryptocurrency exchanges and amendments to the FTRA, but the only piece of pseudo-legislation on cryptocurrencies is the Anti-Money Laundering Guidelines for Cryptocurrencies (AMLC Guidelines) issued by the Korean Financial Intelligence Unit of the FSC (KoFIU) on 30 January 2018. Under the AMLC Guidelines, the government indirectly monitors the activities of cryptocurrency exchanges by requiring banks to suspend transactions with, and account opening for, cryptocurrency exchanges that have not established proper anti-money laundering procedures. Furthermore, any transactions of KRW10 million or more per day, or KRW20 million per week, must be reported to the KoFIU as a suspicious activity.

7.4 Listing Standards

Korea is the birthplace of some of the largest cryptocurrency exchanges in the world, such as UPbit, Bithumb and Coinone. Currently, there is no law regulating the listing standards of cryptocurrency exchanges, and there does not appear to be any generally accepted industry standard. Instead, each cryptocurrency exchange has established its own listing standards and uses the standards to decide on the listing of cryptocurrencies. For instance, UPbit reviews listing requests based on factors including transparency of the project managing the cryptocurrency, capabilities to support trading, and fairness in investor participation. Bithumb makes its listing determinations on continuity of business, technological foundation and possibility for technological expansion, and marketability. Not all listing standards have been publicly disclosed but in general, the technological importance, market value and the developer or company of the cryptocurrency are considered.

7.5 Order Handling Rules

In relation to publicly traded securities, in order to aid investor judgement, enhance the services of securities firms, and increase the efficiency of the market's price-discovery function, the FSCMA, its Enforcement Decree and the Business Regulations of the Marketable Securities Market require the Korea Exchange to provide real-time market prices of securities.

In relation to cryptocurrency transactions, there is no law requiring cryptocurrency exchanges to publish real-time market prices for cryptocurrencies. As with security exchanges, however, in practice cryptocurrency exchanges provide all users with real-time data on cryptocurrency market prices.

7.6 Rise of Peer-to-Peer Trading Platforms

P2P lending has shown phenomenal growth, with the cumulative amount of loans over the past four years reaching almost KRW6 trillion. Despite this growth, there has been a lack of any specific regulation and, until now, P2P lending has been subject

to the Credit Business Act. According to this Act, a person who intends to engage in credit business or loan brokerage business must register each business office with the FSC, or the mayor or governor with jurisdiction over the business office. Also, no loan broker may act as a broker for an unregistered credit service provider. Due to these regulations, P2P trading platforms, which do not register themselves as credit service providers under the Credit Business Act, cannot provide loans. As a result, P2P trading platforms often establish a subsidiary which they register under the Credit Business Act, or make loans to borrowers in association with financial institutions.

However, the Credit Business Act and related guidelines have not been sufficient to provide adequate guidance and supervision over P2P lending. As such, the P2P finance business in the course of its rapid growth has suffered from problems such as false public disclosures, misuse of investment capital, and embezzlement. To address these problems, the Online Investment-Linked Financial Business Act will become effective in the second half of 2020, which will, among other things, do the following:

- require a person who intends to engage in the P2P business to register with the FSC;
- fix the minimum capital amount of a P2P at KRW500 million;
- permit financial companies to invest;
- impose strict obligations to protect investors;
- introduce a line of credit and a limitation on investment; and
- grant the FSC and FSS authority to inspect and supervise.

7.7 Issues Relating to Best Execution of Customer Trades

The best-execution rule, in the event of any price difference between security exchanges in relation to a trading order, obligates traders and brokers to transfer the order for execution at a price that is most favourable to the investor. This rule is perhaps the most important policy mechanism to reduce the price variance arising from split trading markets and to protect investors who cannot access certain exchanges.

Under the FSCMA, the best-execution rule is imposed on investment traders and investment brokers, requiring execution of the offers or orders for trading financial investment instruments in accordance with the guidelines for the execution under the best trade terms (Guidelines for Best Execution), as prescribed by presidential decree.

There has not been any discussion regarding measures related to the best-execution rule for protection of users in cryptocurrency trading.

7.8 Rules of Payment for Order Flow

Payment for order flow is the compensation that a broker, often a small brokerage firm which is unable to process thousands of orders, receives for directing clients' orders to another entity for execution. Due to the criticism that this practice may induce brokerage firms to route orders in a manner that conflicts with client interests, certain jurisdictions require disclosure of payments received by brokers for order flow. In Korea, however, the FSCMA is silent on whether an investment broker may direct clients' orders to another investment broker and, therefore, the best-execution rule would generally apply.

8. High-Frequency and Algorithmic Trading

8.1 Creation and Usage Regulations

High-frequency trading (HFT) is routinely used in the market for derivative financial products, and the use of HFT is expected to rise due to technological advances and evolving trading strategies. While there is no law directly or specifically regulating HFT, the restrictions under the FSCMA related to unfair trading and market disturbances and the provisions under the Business Regulations of Securities Market, the Business Regulations of the KOSDAQ Market and the Business Regulations of the Derivatives Market regarding algorithmic trading would generally apply.

Furthermore, to prevent algorithmic trading accidents and thereby contribute to the safety of the market and investor protection, in November 2014, the Market Oversight Commission of the Korea Exchange issued the Guidelines on the Management of Risks of Algorithmic Trading. These Guidelines propose specific measures for proper operation of internal controls and systems, which the Guidelines recommend that members of the Korea Exchange implement voluntarily to prevent accidents.

8.2 Exchange-like Platform Participants

In the context of the Guidelines on the Management of Risks of Algorithmic Trading, which makes recommendations for Korea Exchange users engaging in algorithmic trading in the securities and derivatives market, there are different provisions based on whether the participant is trading for proprietary investment or for discretionary investment. Additionally, members of the Korea Exchange may recommend that investors, such as institutional investors, conducting algorithmic trading, manage the risks of algorithmic trading by voluntarily adopting the Guidelines in part or in whole.

8.3 Requirement to Register as Market Makers When Functioning in a Principal Capacity

A market maker is a participant that has entered into a market maker contract with the stock exchange and regularly trades the securities allocated thereunder at the market price. The stocks subject to market-maker trading are newly listed stocks and stocks that would benefit from liquidity improvements according to a liquidity evaluation (ie, bid-ask spread for prevailing price and turnover ratio). Of these stocks, each KOSPI200 stock may be allocated to two or more competing market makers, while other stocks may only be allocated exclusively to a single market maker. To date, 12 market makers have been designated.

While in practice, market makers heavily engage in HFT and algorithmic trading, there is no registration requirement for a market maker which uses HFT and algorithmic trading.

8.4 Issues Relating to the Best Execution of Trades

The amendments to the FSCMA in 2013 have made it possible to establish an alternative trading system (ATS) which can accommodate various forms of securities markets other than the regular securities exchanges. While several companies are known to be preparing ATSs, due to their limited profitability, no entity has launched an ATS thus far.

The best-execution rule obligates traders and brokers to transfer the order for execution at a price that is most favourable to the investor, in the event of any price difference between a security exchange and an ATS in relation to a trading order. This rule is perhaps the most important policy mechanism for reducing price variance arising from split trading markets and it protects investors who cannot access certain ATSs.

Under the FSCMA, the best-execution rule is imposed on investment traders and investment brokers, requiring execution of the offers or orders for trading financial investment instruments in accordance with the Guidelines for Best Execution, as prescribed by presidential decree.

Issues related to best execution arise where a single security is traded on multiple trading systems, as there is no clarity regarding what obligations arise under the best-execution rule, and when such obligations are triggered. These issues are subject to ongoing discussion.

8.5 Regulatory Distinction Between Funds and Dealers

The Korea Exchange's Guidelines on the Management of Risks of Algorithmic Trading do not distinguish between funds and dealers.

8.6 Rules of Payment for Order Flow

There are no explicit provisions in the FSCMA on payment for order flow, but it is generally deemed to be permitted. In practice, however, there does not seem to be such payment for order flow in the context of HFT or ATS as yet.

9. Financial Research Platforms

9.1 Registration

The financial industry collects various data and information, from data subjects and the data industry, and applies such information to sales and internal business management. In Korea, the development of the financial data industry relates to the credit information industry (the credit bureau industry or CB industry), which performs the key functions of generating and providing information such as credit ratings. CB businesses engage in the collection and provision of financial and monetary data, the creation and provision of credit ratings, and the designing of solutions in relation thereto.

Under the Credit Information Act, a person who intends to engage in the credit information business (including the credit inquiry service and credit investigation service) is required to obtain a licence from the FSC for each type of service and is not allowed to jointly engage in commercial activities other than the credit information business, with the exception of surveys and analyses for a public purpose.

Amendment to the Credit Information Act

The amendment to the Credit Information Act passed on 9 January 2020 seeks to promote big data in the financial sector by repealing the prohibition on credit bureaus from engaging in credit information business and commercial business at the same time. This amendment enables credit information companies to take on data analysis and consulting work, and in the process, accumulate trustworthy data and analytical and management know-how. As a result, the credit information companies will be positioned to lead the early stages of the big data market. Furthermore, this creates a legal basis which will allow data institutes to consolidate the vast amount of financial information held by registered credit information companies. With this amendment, users of data exchanges will be able to trade not only data in its original form, but also data which is consolidated by data institutes.

9.2 Regulation of Unverified Information

The FSCMA stipulates criminal penalties for misconduct, such as manipulation of the market price of shares by spreading false information.

9.3 Conversation Curation

Other than the data exchange planned to be established as a government initiative, there is no financial data platform for transactions over data. If such data exchange were to exist, unverified or improper information would be prevented from being posted on the data platform since only certain users, such as financial institutions, can supply the data. In other words, the data platform would not be a place where just anyone could publish financial information. To safeguard against anti-competitive activities prohibited under the FSCMA, however, further discussion on specific measures to prevent manipulation of market prices and the use of non-public information on such data platforms is necessary.

9.4 Platform Providers as "Gatekeepers"

As yet, there is no law obligating data exchanges, as platform providers, to report suspicious or unlawful activities.

10. Insurtech

10.1 Underwriting Processes

Each insurance company maintains its own unique insurance acquisition manual (standards for underwriting), and such underwriting standards are not explicitly regulated by law. The factors which an insurance company considers in the process of underwriting vary depending on the type of insurance. In the case of life insurance, an insurance company determines whether to underwrite the insurance based on information such as disclosures the policyholder made in the insurance application in accordance with the disclosure requirements and results of a medical examination. With regard to automobile insurance, a decision to underwrite such insurance is made upon a holistic examination of information, including the model of the vehicle, the driver's age, length of driving experience, and any history of accidents.

Application of Insurtech

Insurtech refers to a type of service in the insurance industry which simplifies processes and automates payment for insurance claims through the use of technologies such as blockchain, biometric authorisation and big data. As insurance companies enjoy a substantial level of autonomy in the underwriting process, they are able to apply insurtech to diversify insurance products. Currently, insurance companies are using artificial intelligence engines to assess consumer needs and design life insurance products and automobile insurance products. Insurance companies have also launched customised on-demand insurance services which instantly provide consumers with the exact product they need via platforms such as mobile applications.

10.2 Treatment of Different Types of Insurance

Under the Insurance Business Act, insurance is categorised into life insurance (eg, life insurance, pension insurance), non-life insurance (eg, fire insurance, maritime insurance, automobile insurance) and third-tier insurance (eg, injury insurance, disease insurance, nursing insurance). Insurance companies are prohibited under the Insurance Business Act from engaging in life insurance business and non-life insurance business at the same time. Accordingly, life insurance, non-life insurance, and third-tier insurance are each subject to different regulatory treatment.

Insurance policies which use insurtech are also subject to the above provisions of the Insurance Business Act and the Commercial Act.

11. Regtech

11.1 Regulation of Regtech Providers

While there is no specific law targeting regtech providers per se, regtech providers would be subject to applicable laws depending on their activities. For example, the PIPA and the Network Act could apply if data processing is involved. Furthermore, a financial investment company delegating work related to internal controls, compliance and monitoring to a third party is required under the FSCMA and its Enforcement Decree not to authorise the third party to make decisions related to the work. Accordingly, in the context of regtech services, there is no restriction on utilising regtech services, except that, where a financial services company delegates work functions related to internal controls and compliance, the financial services company must retain all decision-making authority related to the delegated work and the regtech company may not have any such authority.

11.2 Contractual Terms to Assure Performance and Accuracy

Because the FSCMA prohibits the delegation of core decision-making to a third party, financial services firms remain liable for financial accidents caused by errors in the regtech service vis-à-vis the consumer. Hence, appropriate indemnity provisions are required in the contract with the regtech provider. Furthermore, to prevent financial accidents and compliance failures caused by the regtech service, financial services companies should consider the following prior to negotiating terms with regtech service providers:

- whether the regtech service would allow the firm to achieve regulatory compliance;
- how to apportion the liability for financial accidents arising from errors in the regtech service;

- whether outsourcing to a regtech service provider would possibly result in the firm losing effective control and authority, in part or in whole, over internal compliance and becoming overly reliant on the regtech service provider; and
- how the firm may manage and supervise to ensure stable performance and accuracy in relation to the regtech service, an exercise which requires a reasonable evaluation and review of potential errors that could be caused by regtech services.

11.3 Regtech Providers as "Gatekeepers"

There is no law obligating regtech providers to act as a "gatekeeper" and report suspicious or unlawful activities.

12. Blockchain

12.1 Use of Blockchain in the Financial Services Industry

The financial service industry is one of the most active industries in the adoption of blockchain. Many financial institutions are using their resources to research and develop the use of blockchain for distributed ledgers, insurance, review of loan applications, evaluation of security interests, foreign exchange and remittance.

12.2 Local Regulators' Approach to Blockchain

Other than the AMLC Guidelines, there are no specific laws on blockchain or cryptocurrencies. As noted in **7.3 Impact of the Emergence of Cryptocurrency Exchanges** and other sections in **12. Blockchain**, the government has announced policies restricting ICOs and cryptocurrency exchanges.

Unlike the government's scrutiny of cryptocurrencies, it recognises blockchain technology as an important element of the Fourth Industrial Revolution. In June 2018, the MSIT announced "Blockchain Development Strategies for the Promotion of a Reliable 4th Industrial Revolution", emphasising the following:

- creating a primary market;
- procuring competitive technology; and
- fostering an environment for industry growth.

Another notable development is the establishment of a dedicated research centre for Central Bank Digital Currency (CBDC) by the Bank of Korea as part of its 2020 Currency and Credit Policy Directive promulgated on 27 December 2019. The Bank of Korea has announced that it will be furthering its research on distributed ledger technology, crypto-assets and CBDCs to stabilise financial systems and increase supervision of them.

12.3 Classification of Blockchain Assets

Regarding the nature of cryptocurrency, the FSS announced on 31 May 2017 that: "bitcoin is fundamentally different from legal currency in that it is a so-called virtual currency, a form of digital product with fluctuating prices". The FSS reinforced this position on 23 June 2017 by announcing that cryptocurrencies are not legal currencies, nor do they fall under any financial products prescribed by law because:

- cryptocurrencies do not qualify as electronic prepayment devices nor electronic money under the EFTA, since the issuer neither refunds the balance nor exchanges it into cash or depositary funds; and
- cryptocurrencies are not financial investment products (such as securities or derivatives) under the FSCMA and therefore, transactions cannot be suspended due to extraordinary price increases or decreases under current laws.

Furthermore, the FSC announced on 4 September and 29 September 2017, that cryptocurrency transactions are not financial transactions and cannot be incorporated within the current financial regime, because neither the government nor financial institutions can guarantee the value of cryptocurrencies. The FSC went further to prohibit certain cryptocurrency transactions, such as cryptocurrency short transactions (where the investor would borrow the purchase money from cryptocurrency exchanges), and financial institutions' participation in a cryptocurrency business.

Distinction Between Security Tokens and Utility Tokens

In the context of ICOs, the FSC distinguished between security tokens and utility tokens in its press release on 4 September 2017. Security-type ICOs are defined as the issuance of tokens that share in the profit of the project or are entitled to certain rights in, and distributions from, the company. Utility-type ICOs are defined as the issuance of new cryptocurrencies on a platform. The FSC further announced that any ICOs that do not comply with the securities filing requirements would be in violation of the FSCMA and would be penalised accordingly. Generally, security tokens are deemed to fall under the "investment contract securities" definition of securities under the FSCMA (ie, a security where an investor and a third party invest funds in a joint enterprise and receive profits and losses as a result of the joint enterprise, which is mostly conducted by the third party), whereas, in the case of utility tokens, no explicit regulations apply.

12.4 Regulation of "Issuers" of Blockchain Assets

As noted in **12.3 Classification of Blockchain Assets**, the FSC announced its negative approach towards ICOs in September 2017. In its press release dated 29 September 2017, the FSC went so far as to state that all ICOs, regardless of technology and

terminology, will be prohibited. In its press release dated 4 September 2017, the FSC stated that any ICOs that do not comply with the securities filing requirements would be in violation of the FSCMA and would be penalised accordingly. In September 2018, the government circulated a detailed questionnaire to issuers of ICOs which raised concerns within the blockchain community. As a result of this negative and restrictive approach towards ICOs, the ICO market has been stifled in Korea since September 2017 with issuers launching their ICOs in jurisdictions other than Korea, with favourable ICO policies.

12.5 Regulation of Blockchain Asset Trading Platforms

Although there is a lack of explicit regulations, through indirect measures, cryptocurrency exchanges fall under the purview of the government. Initially, cryptocurrency exchanges operated in accordance with the Electronic Commerce Act by filing an online selling business report with the relevant municipality. Whether such filings should have been accepted has proved controversial, for fear that acceptance would grant legitimacy to cryptocurrency exchanges. In February 2018, the FTC interpreted cryptocurrency exchanges as not being captured by the definition of an "online selling business" and, as of now, there are no explicit permits or filings required for operating a cryptocurrency exchange. Despite the lack of statutory requirements for establishing a cryptocurrency exchange, it is clear that once established, cryptocurrency exchanges are subject to data privacy regulations and anti-money laundering regulations.

Data Privacy

In terms of data privacy, a cryptocurrency exchange is deemed a "network service provider" under the Network Act and must comply with the technical and organisational measures prescribed under the Network Act and obtain Information Security Management System certification.

Anti-money Laundering

In terms of anti-money laundering, the KoFIU has issued the AMLC Guidelines directed towards cryptocurrency exchanges. However, the AMLC Guidelines do not apply directly to cryptocurrency exchanges but are enforced against the banks where cryptocurrency exchanges have accounts. The AMLC Guidelines only allow banks to open accounts associated with cryptocurrency exchanges if the accounts have been real-name verified. As a result, cryptocurrency exchange users can only transfer funds through an account opened at the same bank in which the cryptocurrency exchange has an account, to enable real-name verification (real-name verified account services). To prevent money laundering, banks are also required to report suspicious money-laundering activities and if a financial transaction is deemed highly suspicious, the bank has the right to decline it.

In addition to the AMLC Guidelines, the amendment to the FTRA pending in the National Assembly requires cryptocurrency exchanges to conduct know-your-customer (KYC) checks and report suspicious transactions to the KoFIU, adopting restrictions similar to those announced by the Financial Action Task Force in June 2019.

12.6 Regulation of Invested Funds

There are no explicit regulations regarding cryptofunds which invest in cryptocurrencies or derivatives whose underlying is cryptocurrency. In October 2018, there was controversy as to whether a mutual fund with investments in cryptocurrencies should be subject to the public offering rules under the FSCMA, which require filing of a prospectus and public disclosures. The regulatory authorities deemed that such a fund would be in violation of the FSCMA and requested a prosecutorial investigation into the fund manager, which eventually resulted in abandonment of the plans for the fund. Due to such scrutiny and lack of regulatory clarity, most cryptofunds and ICO issuers are turning towards jurisdictions outside Korea, with less onerous policies, to launch their projects.

12.7 Virtual Currencies

While the Korean government has described virtual currencies (ie, cryptocurrencies) as "digital denomination of value based on blockchain technology", it has taken a different approach to blockchain assets and cryptocurrencies. While cryptocurrencies are generally scrutinised, the government takes a more positive approach towards blockchain.

See **12.3 Classification of Blockchain Assets** for further discussion of the regulatory position on cryptocurrencies.

12.8 Impact of Privacy Regulation on Blockchain

Public blockchains publish information (such as the public key) that can, combined with other information, be tracked as personal data. Accordingly, there is an issue as to whether this is in violation of the consent requirement under the PIPA. To mitigate this, there have been discussions on whether the concept of pseudonymisation should be adopted or whether such information should be hashed.

Furthermore, under the privacy laws of Korea, the data processor must destroy personal data once the purpose has been achieved. This requirement is also incompatible with the irreversibility of the blockchain (ie, that it cannot reverse or delete information once it is recorded). To address this issue, suggestions such as cipher-texting personal data on the blockchain or recording personal data off-chain with the corresponding hash value pointer online on the blockchain, are being considered. However, this does not entirely resolve the privacy issues and discussions are ongoing to reconcile the fundamental dis-

connect between characteristics such as the irreversibility and transparency of the blockchain with data privacy.

13. Open Banking

13.1 Regulation of Open Banking

On 25 February 2019, the FSC announced, in the Measures for Innovation in Financial Payment Infrastructure, its plan to integrate open banking so as to enhance the competitiveness of the financial industry and facilitate innovation in financial services, and it established detailed measures and security standards in consultation with banks and fintech companies while receiving applications for participation in advance. On 30 October 2019, certain banks commenced open banking services on a trial basis. Since 17 December 2019, the total number of institutions which have introduced open banking has reached 47, consisting of 16 banks and 31 fintech companies. To date, all the banks have launched open banking, except for two remaining banks, which are scheduled to integrate open banking in the first half of 2020.

The FSC's Further Plans for Open Banking

For the seamless full-scale launch of open banking, the FSC has secured system stability, resolved consumer complaints, and conducted security inspections. In 2020, the FSC plans to expand the scope of fintech companies participating in open banking by introducing new services such as MyPayment, which enables users to make a payment by providing only their information. Furthermore, amendments to the EFTA would create a legal ground for open banking and recent amendments to the Credit Information Act will enable open banking to expand from payment services to data services through MyData projects. The FSC is also reviewing possible policies to expand the current scope of participating financial companies, which is mainly composed of banks, to also include secondary institutions such as mutual financial institutions, savings banks and the post office. Moreover, the FSC is also considering diversification of services and functions by, for instance, adding a personal asset management service to APIs for viewing the balance of, and transferring, funds.

13.2 Concerns Raised by Open Banking

Open banking started as a government initiative and the regulatory authorities, in consultation with banks and the fintech industry, spearheaded its integration. As a result, a distinct feature of the open banking system in Korea is that the Korea Financial Telecommunications & Clearings Institute (KFTCI) operates open banking and acts as an intermediary between users and providers.

On the data privacy and data securities front, the regulatory authorities have similarly taken the lead in securing system stability by expanding and upgrading the intermediary system of the KFTCI. The regulatory authorities have also established open banking operation protocols and prepared for the execution of service contracts, such as in connection with security inspections. Furthermore, only the companies that have cleared pre-verification by the Financial Security Institute are eligible to participate in open banking. The KFTCI seeks to minimise issues by monitoring transactions real-time using its 24-hour fraud detection system.

To curtail the extent of users' damages caused by a financial accident, no user may withdraw more than KRW10 million per day from their bank account. Moreover, a compensation scheme for damages has been established, such as requiring the operating institution (or the financial company) to purchase warranty insurance, which will enable them to compensate a consumer promptly for damages caused by financial accidents, such as misuse.

Banks are also introducing measures to self-monitor and manage risk factors, but such steps do not seem to have alleviated data privacy and data security concerns.

LAB Partners is known by the media as the "Avengers" of the Korean legal market. A premier boutique law firm established by partners from the top law firms in Korea, LAB Partners provides a one-stop service in all major practice areas. Its partners all have decades of experience and are regarded as being among the leading experts in their field. LAB Partners is recognised by clients for finding successful solutions, by applying its expertise, knowledge and commercial insight in an agile and efficient manner without dwelling on factors that are extrinsic to the clients' interests. LAB Partners is highly regarded by its clients for its fintech expertise and recently established the AI & Blockchain Centre (ABC) to focus on providing advice to fintech, blockchain, cryptocurrency and other disruptive technology businesses.

Authors

Young-Hee Jo is the managing partner of LAB Partners. Her main areas of practice are structured finance, including domestic and cross-border asset-backed securitisation, project financing and regulation of financial institutions, such as banking, securities, insurance and lending institutions. Due to her regulatory and transactional expertise, Young-Hee has in-depth knowledge of fintech regulations and is a member of the P2P lending committee of the Financial Supervisory Service (FSS). Young-Hee was a partner at another Korean firm for more than 10 years before joining LAB Partners, and also worked as an international associate at the New York branch of a major legal firm.

Seungmin Jasmine Jung is a partner and senior foreign attorney at LAB Partners and is considered one of the foremost experts on blockchain, cryptocurrency, cloud computing, data privacy and cybersecurity. She represents clients in the finance, fintech, energy, real estate and technology sectors and has extensive experience in cross-border financing and M&A transactions. Prior to joining LAB Partners, Jasmine gained experience in law firms in New York and Seoul and in multinational corporations, including as the head of legal for the Korean office of the largest cloud computing service provider in the world. She is also an adjunct professor at Yonsei University, where she teaches legal issues surrounding the fourth industrial revolution and data privacy.

Youngju Kim is a partner at the firm, where he specialises in corporate and financial transactions, both domestic and outbound, as well as corporate finance. Youngju has extensive experience in fund formation, structuring private equity and venture capital investments, M&A, acquisition finance, energy and infrastructure, and capital markets, and is known for combining his business acumen and legal ability to resolve complex transactional issues. Prior to joining LAB Partners, Youngju was a partner at other law firms in Seoul and worked as a visiting associate in the Hong Kong office of an international law firm.

LAB Partners

8th floor
VPLEX
501 Teheran-ro
Gangnam-gu
Seoul
Republic of Korea 06168

Tel: +82 2 6956 0250
Fax: +82 2 6956 0280
Email: lab@labpartners.co.kr
Web: www.labpartners.co.kr

LAB PARTNERS