

DR & AJU Weekly Legislative Report

For the week of November 7, 2022 – November 11, 2022



DR&AJU LLC

As the first-ever Korean law firm to issue specialized legislative journals, DR & AJU LLC has been publishing the monthly *Policy & Business (P&B)* Report since August 2019. The *P&B Report* provides analyses of plenary sessions of the National Assembly, as well as standing committee and subcommittee meetings. In addition, the firm has been co-hosting the *Future Leaders Forum* with the Herald Business, inviting chairpersons of standing committees to discuss relevant legislative issues and tasks.

As an extension of this service, DR & AJU has also been issuing the *Weekly Legislative Report*, which covers various legal issues at the center of public debate along with editorials and columns on the Serious Accidents Punishment Act ("SAPA") from major daily news outlets. The report will be released with an update on newly proposed or pending bills. Enclosed is this week's legislative report, and please refer to the *P&B Report* for further details.


If you wish to subscribe to the *P&B Report* or have any other queries, please contact us at pr@draju.com.

Executive Summary

Legislation Type	Keyword(s)	Name of Bill	Highlights
Proposed	Antitrust & Competition, Corporate Finance	① Act on the Restoration of Fairness in the Digital Asset Market and Establishment of Safe Transaction Environment	This Act safeguards user assets and imposes penalties at the level of the current Financial Investment Services and Capital Markets Act on unfair trading practices involving digital assets, such as the use of nonpublic information and market price manipulation.
	Antitrust & Competition, Intellectual Property	② Fairness in Online Platform Intermediary Transaction Act	This Act requires giant online platform intermediaries whose total profits from intermediary trading are at least KRW 500 billion or whose total sales amount is at least KRW 3 trillion to install a "Chinese Wall" (information transmission barrier). The Act also prohibits these intermediaries from unfair trading practices and retaliatory actions and expands the limit of the fines to a maximum of KRW 10 billion if the amount of violation cannot be calculated.
Pending	Tax	③ Partial Amendment to the Corporate Tax Act	This Amendment lowers the maximum corporate tax rate from the current 25% to 22% and simplifies the current four stages of tax bases into three stages.
Promulgated	Administrative Procedure & Litigation, Employment	④ Enforcement Decree of the Act on the Promotion of Employees' Participation and Cooperation	This Enforcement Decree mandates the attendance of a majority of workers to the election of the workers' members of a labor-management council and deletes the requirement for candidacy, which demands recommendations from at least ten co-workers.
Undergoing Pre-Announcement of Legislation/ Administration	Construction & Real Estate, Infrastructure & Technology	⑤ Partial Amendment to the Enforcement Decree of the National Land Planning and Utilization Act	This Amendment mitigates the floor area ratio of industrial complexes with corporations that have strategic technology to a maximum of 1.4 times the legal limit to support investments in expanding production facilities in national high-tech strategic industries such as semiconductors.


1. Proposed Bill(s)

*Please refer to the link at the bottom of each section for the full text of the legislative bill or examination report.

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
1	 <p>Chang Hyun YUN (People Power Party)</p>	Act on the Restoration of Fairness in the Digital Asset Market and Establishment of Safe Transaction Environment	<p>■ Despite the rapid growth of the digital asset market and the increase in the number of users, the government has delayed legislation to maintain global consistency.</p> <p>However, the scale of arrested illegal activities involving digital assets, which was KRW 170 billion in 2018, increased more than 18 times to KRW 3.13 trillion last year. Suspected unfair trading cases involving digital assets have also been frequently reported in the media.</p> <p>In particular, the case of Terra Luna in the first half of 2022, which caused extensive damage to multiple users, reconfirmed the urgent need and reasons to speed up the restoration of fairness in the digital asset market and protect users through regulations on unfair trading.</p> <p>Accordingly, rather than waiting for international opinions and global standards to be established, the situation calls for the establishment of a user protection regulatory system with minimum regulations before gradually proposing a step-by-step legislation to supplement this system.</p> <p>In consideration of the urgency of user protection, this Bill compares, analyzes, and reflects the user protection and anti-unfair trading provisions, which are commonly included in the 14 virtual asset-related bills currently pending before the National Assembly's National Policy Committee.</p> <p>Therefore, this Bill focuses on the regulation of unfair practices such as the protection of user assets (protection of user deposits from the bankruptcy of digital asset service providers), prohibition of unfair trade practices (use of nonpublic information, manipulation of market price, unfair trading, etc.), and responsibility for autonomous monitoring (market monitoring and imposition of obligations to report, etc.).</p>	https://www.hankyung.com/politics/article/202211019364i	Proposed October 31, 2022

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
			<p>Additional institutional regulatory measures to matters including the issuance, listing, public disclosure of digital assets, and entry and business activities of digital operators (duty of good faith, duty to explain, the principle of conformity and appropriateness, regulations on advertisements, etc.) are intended to be supplemented in 2023, reflecting the direction of discussion of international organizations related to digital assets. This Bill prescribes the contents and the time limit under the addenda for matters requiring research and analysis so that the Financial Services Commission can support the upcoming supplementary legislation.</p> <p>Main Content</p> <ol style="list-style-type: none"> I. Defines “digital asset” as electronic certificates with economic value that can be traded or transferred electronically, applying subparagraph 3 of Article 2 of the Act on Reporting and Using Specified Financial Transaction Information mutatis mutandis and defines digital asset service providers, digital asset market, etc. (Article 2). II. Prescribes matters on the protection of user assets, including the trust of user deposits, storage of digital assets, insurance or deductible subscription in preparation for accidents such as hacking or computer impairment, the obligation to accumulate reserves, etc. (Articles 5 to 7). III. Prohibits unfair trading practices such as the use of material nonpublic information, market price manipulation, unfair trading, and self-issued digital asset transaction, and imposes an autonomous and regular duty to monitor and report digital asset service providers to ensure a sound trade order (Articles 8 to 11). IV. Vests the Financial Services Commission with the authority to monitor and examine digital asset service providers and prescribes the matters necessary to execute such authority, including the authority to examine and investigate, and disposal authority such as corrective orders, business suspension, accusation against investigative agencies, etc. (Article 12). V. Allows the Financial Services Committee to entrust all or part of the services that must be performed under this Act to the Governor of the Financial Supervisory Service (Article 13). 		

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
			<p>VI. Mandates the deliberation of the Digital Asset Committee when the Financial Services Committee monitors or investigates the digital asset market or digital asset service providers or imposes administrative fines and allows the Digital Asset Committee to seize and search for unfair trading investigations (Articles 14 and 15).</p> <p>VII. Prescribes penalties against the corporation and the individual for when an individual commits unfair trading practices, and enables the confiscation and collection of properties acquired by such unfair trading practices (Articles 16 to 18).</p> <p>VIII. Enables the imposition of administrative fines on violators of the provisions of this Act (Article 19).</p>		
			<p>Source(Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_Q2M2S1C0X2A6X1L6P1W9E1A8C7O4E4</p>		


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2	 <p>Gi Hyoung OH (Democratic Party of Korea)</p>	Fairness in Online Platform Intermediary Transaction Act	<p>■ Due to the recent rapid growth of the online platform trading market, the economic status of online platform intermediaries has been reinforced, and unfair trade practices have been frequently committed against online platform business users—the majority of which are micro-enterprises. In particular, the practice of some major online platform intermediaries has been criticized for impeding fair competition by offering their goods or services while mediating transactions of others' goods or services through their online platforms.</p> <p>Therefore, this Act aims to establish an institutional basis for the fair order of online platform intermediary transactions by introducing the obligation to install a system suspending the transmission of information for online platform intermediaries with large trading scales and prescribing matters regarding the criteria of unfair trade practices of online platform intermediaries, systems to resolve disputes between business operators, investigation and processing of violations by the Korea Fair Trade Commission ("KFTC"), on violations, and the liability of online platform intermediaries for damages incurred by the violations.</p> <p>■ Main Content</p> <ol style="list-style-type: none"> I. Defines business operators whose total profits from online platform intermediary service is at least KRW 500 billion or online platform intermediaries whose total sales amount of goods and services sold to domestic consumers is at least KRW 3 trillion as "specific online platform intermediaries" (Article 2(4)). II. Introduces a duty to establish a system suspending the transmission of information for specific online platform intermediaries to prevent conflicts of interest between online platform intermediary services and other businesses operated by such intermediaries (Article 4). III. Establishes Standards of Specific Online Platform Intermediaries' Unfair Trade Practices (Article 5). <ol style="list-style-type: none"> i. Specifies unfair trade practices by specific online platform intermediaries, including using their superior bargaining position and coercing online platform business users into purchasing unwanted goods or services or providing economic benefits. ii. Unfair trading practices of specific online platform brokers shall be applied only to transactions in which online platform intermediaries have superior bargaining positions over online platform business users. The KFTC shall determine and publicly notify the detailed standards for determination, in consideration of the structure and current status of the online platform intermediary market. 	https://www.edaily.co.kr/news/read?newsId=03591606632498496&mediaCodeNo=257&OutLnkChk=Y	Proposed on November 2, 2022

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
			<p>IV. Mediation of Disputes Between Business Operators (Articles 7, 11 to 13)</p> <p>i. The Online Platform Transaction Dispute Mediation Council (hereinafter the “Council”) shall be established under the Korean Fair Trade Mediation Agency to settle disputes between specific online platform intermediaries and online platform business users. The Council shall be comprised of nine members, including one chairperson.</p> <p>ii. Enables disputing parties and the KFTC to request or apply for the Council to mediate disputes under this Act. When the Council terminates the mediation procedure, it shall report the mediation process or grounds for the termination of the mediation procedure to the KFTC and notify the disputing parties of the details thereof.</p> <p>iii. Following the conclusion of the dispute mediation, the Council shall prepare a settlement agreement in which the mediators and disputing parties either sign their names and affix their seals or signatures. The disputing parties shall submit the results of the implementation to the KFTC.</p> <p>V. Investigation and Handling of Violations by the KFTC (Articles 15, 17 to 22)</p> <p>i. The KFTC may investigate violations based on reports or ex officio. Where the KFTC makes a disposition or fails to make a disposition under this Act as a result of such investigation, the relevant parties shall be notified of the details and grounds for the disposition in writing.</p> <p>ii. The KFTC may impose corrective orders or fines on specific online platform intermediaries that violate the provision to suspend the transmission of information or the prohibition of unfair trading practices and retaliatory actions.</p> <p>iii. This Bill introduces a consent decree for corrective measures for specific online platform intermediaries under investigation or deliberation by the KFTC to voluntarily resolve unfair transactions and actively relieve the damages of online platform business users.</p>		

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			<p>VI. The KFTC'S Documentary Inspection on Actual Conditions (Article 25)</p> <p>i. The KFTC shall conduct a documentary inspection on actual conditions regarding transactions between online platform intermediaries and online platform business users and publish the results thereof to establish a fair trading order.</p> <p>ii. Where the KFTC intends to conduct a documentary inspection, it shall formulate a plan including the scope of persons to be investigated; period and details of investigation; methods thereof; scope of publication of the investigation results; and the disclosure of the results thereof, and may request the persons to be investigated to submit documents necessary for the investigation, such as the actual conditions of transactions and the current status of business operations.</p> <p>VII. Specific Online Platform Brokers' Liability for Damages (Article 26)</p> <p>i. If a specific online platform intermediary has caused any loss to an online platform business user as a consequence of the intermediary's violation of this Act, the intermediary shall be liable for the compensation of such loss unless it is proved that there was no intent or negligence.</p> <p>ii. The court may order the relevant online platform intermediaries to submit documents necessary to prove or calculate the damages in a claim for damages caused by unfair trade practices. If the documents are necessary to prove damages or calculate the amount, no online platform brokers shall refuse to submit documents, even if it contains trade secrets.</p>		

Source (Korean): http://likms.assembly.go.kr/bill/billDetail.do?billId=PRC_E2Y2O1N0F2C8N0A8U5K6D0Y4I0K9W3

2. Pending Bill(s)

No.	Proposer	Name of Bill	Content	Related Article (Korean)	Progress
3	 Woo Taik CHUNG (People Power Party)	Partial Amendment to the Corporate Tax Act	<p>■ The current legal framework divides the tax bases of corporate tax rates into four stages and imposes a maximum tax rate of up to 25% for bases that exceed KRW 300 billion.</p> <p>However, according to Taxation of Korea 2020, published by the National Assembly Budget Office, the domestic maximum corporate tax rate is higher than the average maximum corporate tax rate of OECD member states, which is 21.5%. Contrary to major developed countries that are pushing to lower the corporate tax rate to promote the business activities of domestic companies and create jobs, Korea has been maintaining a maximum tax rate higher than that of other developed countries.</p> <p>Therefore, this Amendment aims to simplify the tax bases from the current four stages into three stages and lower the maximum corporate tax rate from 25% to 22%, thereby lightening the corporate tax burden on domestic businesses and attracting investment from foreign corporations (Article 55(1)).</p> <p>Source(Korean): http://ikms.assembly.go.kr/bill/billDetail.do?billId=PRC_P2F2R0L5H1J9K1F3T4Z8V1M0K6X5X2</p>	https://www.sedaily.com/NewsView/26DJ7TK64Q	<p>Proposed on June 16, 2022</p> <p>Tabled to Subcommittees on July 25, 2022</p>

3. Promulgated Bill(s)

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Date
4	Ministry of Employment and Labor	Enforcement Decree of the Act on the Promotion of Employees' Participation and Cooperation	<p>■ The Act on the Promotion of Employees' Participation and Cooperation has been amended (Act No. 18927, promulgated on June 10, 2022, and enforced on December 11, 2022) to directly prescribe matters concerning the election of members representing workers (hereinafter referred to as "workers' members"), which were prescribed by Presidential Decree under the Act, to secure the representativeness and democratic legitimacy of the workers' members in the labor-management council that must be established in businesses or workplaces that employ at least 30 full-time workers. This Amendment deletes the contents concerning the election of workers' members that were newly stipulated by the Act, which requires any person who intends to run for workers' member to obtain recommendations from at least 10 employees at the business or workplace and allows candidates to freely run for election without the need for recommendations from employees.</p> <p>Source(Korean): https://www.law.go.kr/법령/근로자참여및협력증진에관한법률시행령/(32983,20221108)</p>	http://news.heraldcorp.com/view.php?ud=20221101000385	<p>Partially Amended on November 8, 2022</p> <p>Enforced on December 11, 2022</p>

4. Bill(s) Undergoing Pre-Announcement of Legislation/Administration

No.	Competent Ministry(s)	Name of Bill	Content	Related Article (Korean)	Notice Period
5	Ministry of Land, Infrastructure and Transport	Partial Amendment to the Enforcement Decree of the National Land Planning and Utilization Act	<ul style="list-style-type: none"> This Amendment aims to improve and supplement some deficiencies in the operation of the current system by establishing grounds for applying the mitigated floor area ratio ("FAR") for the support of high-tech strategic industries and the smooth supply of publicly-constructed rental housing; including the division of land to be used for public facilities for minor activities which may be dispensed with permission for development activities; adding the extension of existing sites where the creation of which has been completed within the scope of up to 10/100 of the site to development activities exempt from deliberation by an urban planning committee; and expanding the scope of building expansion, which falls under the development activities exempt from deliberation by an urban planning committee, from the current scope of up to 5/100 of the area of the existing building site to up to 10/100 thereof. Main Content <ol style="list-style-type: none"> Establishes Grounds for the Mitigation of FAR of High-tech Strategic Industries (Article 46(14) Newly Inserted) <p>Allows the mitigated application of the FAR of industrial complexes to up to 140% of the maximum limit of the FAR of special-purpose areas through a district-unit plan if a strategic technology holder under the Act on Special Measures for Reinforcement and Protection of National High-tech Strategic Industry Competitiveness is located in the mentioned complex.</p> Mitigates the FAR of Publicly-Constructed Rental Housings Regardless of the Mandatory Rental Period (Article 85(3)1) <p>Deletes the mandatory rental period of publicly-constructed rental housing among the requirements for applying the mitigated FAR to private rental housing and publicly-constructed rental housing.</p> 	https://www.mk.co.kr/news/realstate/view/2022/10/956745/	October 28, 2022 - December 7, 2022

Source(Korean): <https://opinion.lawmaking.go.kr/gcom/ogLmPp/70552?pageIndex=2>

Editorials and Columns on the Serious Accidents Punishment Act (“SAPA”)

[Chosun Biz] Controversy Over the SAPA Continues ... 23 Indictments on 192 Fatalities

https://biz.chosun.com/real_estate/real_estate_general/2022/11/07/NYHXPZJ3TZBN5CYUCQQLJLLQCA/?utm_source=naver&utm_medium=original&utm_campaign=biz

SUMMARY On November 7, the Ministry of Employment and Labor (“MOEL”) reported that it confirmed and filed 58 cases for violations of the SAPA and forwarded 23 cases to the prosecution with the opinion of indictment among the fatal accidents that occurred until the end of September since the SAPA took effect. Among the cases sent under indictment, only four cases have been indicted. As of now, there are barely any cases that are actually being punished, and there has been little to no effect in the reduction of fatal accidents. Accordingly, management circles are loudly voicing objections to the SAPA, claiming that punishing employers cannot ensure the safety of work sites. Meanwhile, labor circles are criticizing the poor application of the law.

[Herald Business] The SAPA Investigation of a Fatal Accident ... Two Casualties While Working on a Cargo Train at Obong Station in Uiwang

<http://news.heraldcorp.com/view.php?ud=20221106000005>

SUMMARY On the afternoon of November 5, a Korea Railroad Corporation (KORAIL) employee lost his life in an accident that occurred while connecting and disconnecting cargo trains at Obong station in Uiwang. The MOEL has launched an investigation into KORAIL for violations of the SAPA. This accident is the fourth fatal industrial accident that occurred in KORAIL since the SAPA was enacted. Pointing out the series of serious accidents that occurred in KORAIL, the MOEL expressed its will to strictly investigate whether the SAPA and the Occupational Safety and Health Act were violated and take legal action accordingly.

[The Hankyoreh] Fatal Accidents Have Ironically Increased in Workplaces Subject to the SAPA

<https://www.hani.co.kr/arti/society/labor/1065975.html>

SUMMARY According to the “Current Status of Fatal Accidents Subject to Cumulative Accident Investigations in the Third Quarter of 2022” released by the MOEL on November 6, the number of workers killed in industrial accidents has increased since the SAPA took effect. Among the fatal industrial accidents that occurred by the end of this September, 483 fatal accidents and 510 fatalities were reported, which is a decrease of nine accidents (1.8%) but an increase of eight fatalities compared to the same period last year, except for cases where it is evident that there is no violation of the law, such as those involving chronic illness or arson. For each category of business, 253 fatalities were recorded for the construction industry—a decrease of 14 fatalities (5.2%), while 143 fatalities were recorded for the manufacturing industry—an increase of 12 fatalities (9.2%) compared to the same period last year. According to a MOEL official, the increase in fatalities seems to be affected by the rise in accidents involving a large number of fatalities, such as the fire accident at the Hyundai Outlet in Daejeon (7 fatalities). The cause of the increase in casualties in manufacturing and other industries is under investigation.

[Yonhap News] Prior to the Expansion of Subjects Applicable to the SAPA, Support for Safety Consulting Increased from 2,000 to 16,000 Workplaces

<https://www.yna.co.kr/view/AKR20221104135300530?input=1195m>

SUMMARY According to the “2023 Budget Analysis” published by the National Assembly Budget Office on November 6, the MOEL compiled a budget of KRW 38.176 billion for next year’s consulting projects for establishing a safety and health management system. The numbers show that labor authorities have significantly increased support for the establishment of safety and health management systems for SMEs next year, ahead of the expansion of the scope of subjects applicable to the SAPA, which will take effect in January 2024. The consulting projects on establishing a safety and health management system aim to reduce industrial accidents, such as worker fatalities, by supporting SMEs that have difficulties in autonomously enhancing workplace safety.

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