

NEWSLETTER

June 2024

Digital Finance Team

CONTACT



Partner
Chloe Jung-Myung LEE

T: +82,2,6386,0730
E: chloe.lee@leeko.com



Partner
Myung Hyun RYU

T: +82,2,772,4442
E: myunghyun.ryu@leeko.com



Partner
Yuri ROH

T: +82,2,2191,3012
E: yuri.roh@leeko.com

Lee & Ko Advised on the First Innovative Financial Service Involving the Trust Beneficiary Certificates Following the Announcement of the Guidelines on Security Tokens

Following the Financial Services Commission (FSC)'s announcement of the "Measures to Overhaul Regulations to Permit Issuance and Circulation of Security Tokens" in February 2023, the first financial service related to the issuance and circulation of trust beneficiary certificates linked to blockchain tokens was designated as an innovative financial service on April 30, 2024 (the **Innovative Financial Service**). This newsletter provides insights into the specifics of this Innovative Financial Service, as advised by Lee & Ko's Digital Finance Team, along with key considerations for a financial service aiming to be designated as an innovative financial service before the amendments of the relevant laws are implemented.

I. Background

In February 2023, the FSC announced the "Measures to Overhaul Regulations to Permit Issuance and Circulation of Security Tokens" to address the escalating demand for issuing and trading various securities utilizing distributed ledger technology. This guideline outlined principles for determining whether digital assets utilizing distributed ledger technology can be classified as securities. Furthermore, it included plans to overhaul the relevant regulatory framework, as amendments to the Financial Investment Services and Capital Markets Act of Korea (the **FSCMA**) are necessary for the circulation of investment contract securities and the issuance and circulation of beneficiary certificates of non-monetary trusts and amendments to the Act on Electronic Registration of Stocks and Bonds (the **Electronic Securities Act**) are required for the issuance and circulation of security tokens.

However, the FSC also announced that, even before the aforementioned amendments are implemented, the circulation of investment contract securities and the issuance and circulation of beneficiary certificates will be tested, to the extent necessary, through designation as an innovative financial service (financial regulatory sandbox) if such services are recognized for their innovation.

II. The Innovative Financial Service and its Significance

The Innovative Financial Service entails Galaxia Moneytree Co., Ltd. (i) purchasing aircraft engines through a special purpose vehicle, (ii) entrusting the aircraft engines to a trustee, (iii) issuing trust beneficiary certificates by registering such certificates on the electronic registry and (iv) distributing such certificates to investors through a distribution platform.

However, financial authorities have stated that, before the Electronic Securities Act is amended, the issuance of security tokens functioning as electronic securities is not permitted. Thus, the trust beneficiary certificates involved in this service are issued by electronic registration, and the tokens linked to these certificates are subsequently issued and traded.

These trust beneficiary certificates enable investors to receive a portion of the revenue generated from lease contracts for aircraft engines. Therefore, this service is significant as it presents a secure and innovative investment opportunity for retail investors regarding aircraft engine leases, expanding beyond traditional fractional investments in real estate, artwork, and music copyrights.

Additionally, it is noteworthy for providing domestic airlines with a spare engine leasing service (the Ministry of Land, Infrastructure and Transport recommends that airlines maintain spare engines equal to 10% of their engines for stable operation and safety) funded through the issuance of trust beneficiary certificates, substantially enhancing aircraft safety and competitiveness.

As mentioned, the significance of the Innovative Financial Service lies in being the first case of issuing beneficiary certificates linked to blockchain tokens designated as an innovative financial service through the financial regulatory sandbox after the FSC's announcement of the "Measures to Overhaul Regulations to Permit Issuance and Circulation of Security Tokens". This unprecedented case allows for the preemptive identification of various regulations and precautions in the process of issuing and circulating non-monetary trust beneficiary certificates, practical issues in circulating tokens, and factors to consider for a service to be designated as an innovative financial service before the amendments are made to the FSCMA and the Electronic Securities Act.

III. Implications

As demonstrated in the aforementioned case, a multi-faceted and comprehensive review of various factors is necessary for a service to be designated as an innovative financial service before the relevant regulations, such as the FSCMA and the Electronic Securities Act, are amended to implement legislation related to security tokens.

To achieve this, it is essential, even from the selection process of the underlying asset and product, to review innovativeness of the service and the potential to provide consumer benefits and other benefits, as well as the feasibility, objectivity, and methodology of valuation, including consideration of any relevant legal restrictions or issues. Additionally, a macroscopic/regulatory review of the relevant industry and its future implications is also necessary. Also, any legal and practical issues that may arise concerning the contemplated business structure and the entrustment of the underlying asset should be thoroughly reviewed in advance. Ensuring compliance with policies set by supervisory authorities and identifying potential misunderstandings early in the process as well as facilitating

implementation of the contemplated service through active communication are also key measures. Other considerations include the infrastructure required for the contemplated service, methodologies and procedures for sharing and protecting personal data, and the mirroring of tokens with the relevant trust certificates.

With its extensive knowledge and experience in the relevant underlying assets and the digital finance industry, Lee & Ko's Digital Finance Team provided comprehensive and thorough legal advice to the client, assisting them from the selection of the underlying asset/product to the prompt designation of the service as an innovative financial service.

Please feel free to contact our Digital Finance Team if you need assistance with the designation of services involving the issuance and circulation of beneficiary certificates linked to blockchain tokens as an innovative financial service, as well as any other relevant legal/regulatory matters.

The Lee & Ko newsletter is provided as a service and promotion for general information purposes. It does not contain legal advice. Although we try to provide quality information, we do not guarantee any results and Lee & Ko is not liable for any damages from the use of the information contained in the newsletter. We reserve all copyrights on text or images in the newsletter. The text or images in the newsletter may not be copied or distributed without the prior permission of Lee & Ko. If you no longer wish to receive our newsletter, please click [here](#) or reply to this email with UNSUBSCRIBE in the subject line.

[More L&K Newsletters](#)

The logo for Lee & Ko, featuring the name in a stylized, serif font. The 'L' and 'K' are larger and more prominent, with the '&' and 'O' in between. The color is a dark red or maroon.

Seoul, Korea | PanGyo, Korea | Beijing, China | Ho Chi Minh City, Vietnam | Hanoi, Vietnam
+82.2.772.4000 | mail@leeko.com | www.leeko.com