

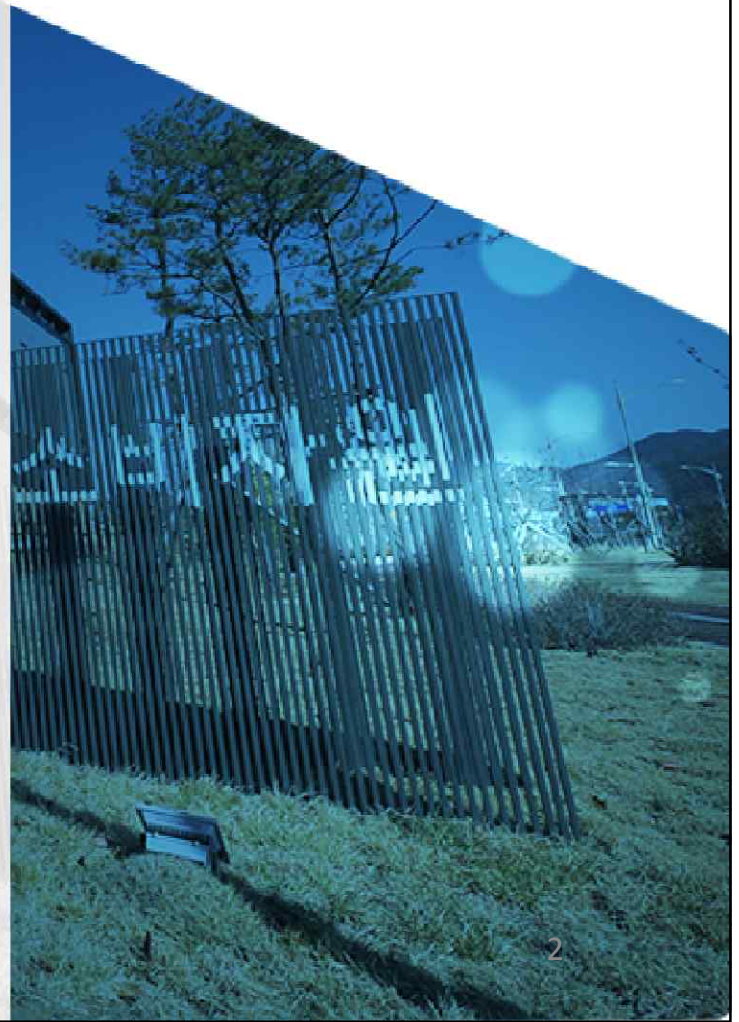
A Study on Changes of the Korean Financial Consumer Protection Regulation



Yun, Min Seop / Ph.D in Law
KCA, Head Reseacher

Table of Contents

- 1. Characteristics of the Financial Regulation**
- 2. Current status of protection Regulations**
- 3. Trends in regulatory changes**
- 4. Contents of the Financial Consumer Protection Act Bill**



1. Characteristics of the Financial Regulation(1)

A. Regulations by financial industry

- Dividing finance into bank, insurance, financial investment, credit, and other financial businesses, etc., limiting the scope of business and the types of financial products and services in each financial industry
- **Bank** : business lending funds raised by bearing debts owed to many and unspecified persons, by the receipt of deposits or the issuance of securities and other bonds
 - Permission to sell insurance and funds in addition to essential business such as deposits and loans
- **Insurance** : business of underwriting insurance, receiving premiums, paying insurance proceeds, etc. which arise in selling insurance products, and refers to a life insurance business, a non-life insurance business and a Type 3 insurance business

1. Characteristics of the Financial Regulation(2)

- Financial investment business : A business that classifies financial instruments with potential loss, such as securities, as financial investment products, and conducts business related to those products
 - Classified into 6 categories such as Investment trading business, Investment brokerage business, Collective investment business, Investment advisory business, Discretionary investment business, Trust business
- Specialized Credit Finance business : credit card business, facility leasing business, installment financing business, and new technology venture capital business
- Other financial business : electronic financial business(payment gateway system business, electronic payment business etc.)

1. Characteristics of the Financial Regulation(3)

- There are separate laws for each financial industry, and each law regulates the entry requirements and actions of the financial industry.
 - Therefore, in order to run a specific financial business, it is necessary to satisfy the requirements stipulated by applicable laws. There is a case of prohibition of combining the management of another business.
 - For example, an electronic finance company cannot run a loan product brokerage business
- Maintaining a regulatory system by financial industry, other regulations are applied to the same function, causing problems such as regulatory imbalances
 - For example, the Bank Act prohibits soliciting contracts for borrower's savings products, while the Specialized Credit Finance business Act does not prohibit borrower's credit card solicitation

1. Characteristics of the Financial Regulation(4)

B. Positive System

- Financial laws stipulate that the contents of operations that each financial business can perform are listed as examples.
 - According to the current regulatory system, only banks can handle deposit products
 - However, in practice there are financial products similar in function to deposits such as CMA accounts and savings insurance, but are not regulated by the Bank Act
- This means that financial products cannot be created, and the sale of financial products is possible if permitted by individual Acts
 - For example, banks do not have an insurance contract argument(underwriting insurance), but the sale of insurance products(bancassurance) is allowed

2. Current Status of the Protection Regulation (1)

A. Concentrate on regulations governing the conduct of financial services

- Legislations protect financial consumers by regulating the unhealthy business conduct of financial operators
 - For example, prohibiting the act of forcing a person who wants to obtain a loan to join a deposit or insurance
- Except for the capital market Act, the Bank Act, Insurance Business Act, etc. do not stipulate general principles for protecting financial consumers (for example, KYC rule, Suitability Principle, etc.)
- * The Capital Markets Law, which was enforced in 2009, prepared general principles and detailed provisions for investor protection while changing the system of regulations in the form of comprehensiveism at the time of enactment.

2. Current Status of the Protection Regulation (2)

B. Administrative guidance system for financial consumer protection

- There were insufficient provisions in the law to protect financial consumers. Therefore, the Financial Consumer Protection Model Standard, which is an administrative guidance, was established in September 2006 and is now in operation.
- Key content of model standards
 - appointment of CCO(chief customer officer), Build Consumer Protection Organization
 - It categorizes the work into three stages, such as planning, sales, and post-management, and stipulates matters to be observed at each stage.

Stage	Compliance
planning	Conducts consultation between the consumer protection department and the planning department before product development
sales	The principles of faithfulness, conformity, obligation of explanation, protection of the underprivileged (aged and disabled, etc.) shall be observed
post-management	Construction of complaint management system, Development of evaluation tool for consumer protection

2. Current Status of the Protection Regulation (3)

<모범규준상 민원관리 시스템 필수 사항>

가. 모니터링 기능

금융회사는 민원의 다발성, 변동추이 등을 모니터링할 수 있어야 하며, 이를 활용하여 조기경보 등을 통하여 민원 예방이 실현될 수 있는 시스템을 구축하여야 한다. 또한 신상품 출시후 상품별 고객불만 및 민원 발생 모니터링을 수행할 수 있어야 한다.

나. 신속성, 투명성 확보

금융회사는 금융소비자의 불만을 다양한 접수채널(방문, 전화, 서신, 팩스, e-mail, 인터넷 등)을 통해 접수하고, 금융소비자불만이 접수되는 즉시 민원 접수사실, 민원처리 담당자 성명, 전화번호 등을 민원인에게 문서, 팩스, e-mail, 문자메세지, 전화 등의 방법으로 통지하여야 한다.

민원의 접수, 처리 과정은 총괄부서 및 유관부서(영업점 포함)에서 실시간 조회가 가능하도록 운영하여야 한다.

금융소비자불만의 처리기한은 접수시간부터 처리결과에 대한 안내시점까지 관리하여야 하며, 상품별 금융소비자불만의 유형에 따라 구분·처리하여야 한다.

다. 전과정 전산화

금융회사는 민원의 접수단계에서 종결까지 전 과정에 대하여 전산시스템(음성녹취, 이미지 스캐닝, E-mail, SMS서비스등)을 개발, 운영함으로써 업무처리의 효율성을 높여야 한다. (단, 민원건수가 적어 수작업 분석이 가능한 경우에는 제외가능)

라. 모든 처리결과 Data Base화

민원처리 시스템내에는 유형별, 원인별, 상품별, 부서별, 영업조직별 통계 Data를 제공할 수 있어야 하며, 문제영역에 대해서는 조기대응 및 분석이 가능하여야 한다.

3. Trends in regulatory changes

A. Strengthening principle-based regulations

- Financial regulators, including the Financial Services Commission, have continuously announced their determination to change the regulatory system into a principle-based regulation to financial companies.
- Switching from positive to negative
 - The Capital Market Act defines financial instruments with investment potential as financial investment instruments and regulates funds and variable insurance equally.
- Preparing to legislate the Financial Consumer Protection Act to establish a comprehensive regulatory system for protecting financial consumers

3. Trends in regulatory changes

B. From Protection to Enhancement

- As the current regulations stipulate the operation of financial companies in a positive manner, there was some efficiency in protecting financial consumers.
- However, there were limitations, such as limiting the appearance of new financial services and limiting financial consumers' options.
- Recently, financial consumer protection has been shifted to the promotion of rights and interests, which is consistent with Korea's Consumer Basic Act.
- For example, regulatory sandboxes recently introduced in the financial sector are exempt from the application of financial regulations under certain conditions.
 - Conditions for approval of regulatory sandboxes in the financial sector include measures to protect financial consumers, such as preparation of dispute settlement procedures and insurance for damages

4. Contents of the FCPA Bill

- The Financial Consumer Protection Act Bill regulates the behavior of financial companies, but it also strengthens the rights and interests of financial consumers by stipulating the rights of financial consumers

A. Regulations by function

- Categorize financial consumers and financial products so that the same regulations are applied to the same type of financial transactions
- Regulations by function can reduce regulatory non-uniformity and regulatory gaps that can occur with existing industry-specific regulations. As a result, the effect of strengthening financial consumer protection appears.

4. Contents of the FCPA Bill

B. Definition of financial consumers

- First legislation that uses the term "consumer" in financial law
 - The banking act uses 'depositor', the capital market law uses 'investors', the insurance business law uses 'insurance contractors', etc.
- The Financial Consumer Protection Bill does not define a "financial consumer" as a "financial instrument contractor", but rather as a "financial company counterparty"
- Financial consumers are categorized as general financial consumers and professional financial consumers, and the general financial consumers are protected.
 - Specifies the requirements (characteristics, expertise, etc.) of professional financial consumers, and defines those who do not fall under the category of professional financial consumers as general financial consumers

4. Contents of the FCPA Bill

C. Financial products

- Financial contracts are referred to as financial products and are divided into four types:

Division	Concept	example
Deposit-type products	Products whose principal is guaranteed as financial products that generate interest income, such as deposits	deposits
Investment products	Non-guaranteed products as investable financial products	Fund
Insurance products	Financial products for which insurance money is paid in the event of a future insurance accident after payment of insurance premiums	Life insurance
Loan products	Financial products that repay principal and interest after borrowing money at a financial company, etc.	Loans, credit cards, etc.

4. Contents of the FCPA Bill

D. Classification of financial companies according to function

- Financial companies are classified into production, sales, advisor, etc. according to their functions.
- Distribution and advisor that act directly on financial consumers in the course of financial product transactions are subject to regulation.
- In the case of financial product sales, it is divided into direct sales and brokerage.

Division	Concept	example
direct sales	Selling financial products directly to financial consumers	Bank, Insurance company, etc.
brokerage	Between financial companies and financial consumers, mediate sales of financial products or act on behalf of financial companies.	insurance planner, loan broker, etc

4. Contents of the FCPA Bill

E. Principles for selling financial products

- The Financial Consumer Protection Act stipulates six sales principles as follows: Financial products sellers must comply with all six principles.

division	contents	
1. Suitability Principle	Recommend only financial products suitable for financial consumers	Bill §17
2. Appropriateness rule	If the financial products that a financial consumer desires to purchase are not appropriate, let them know the facts.	Bill §18
3. Duty of Explanation	Explain the main contents of products that financial consumers should know	Bill §19
4. Prohibition of unfair business conduct	Prohibiting contracts for other products against consumers' intentions, prohibiting unreasonable collateral requirements, unreasonable convenience requests, etc.	Bill §20
5. Prohibition of Unjust Solicitation	Prohibition of assertion or provision of false facts	Bill §21
6. Advertising regulations	Including necessary contents in financial product advertisements	Bill §22

4. Contents of the FCPA Bill

F. Other characteristic regulations

- Right to cancel illegal contract (Bill §51) : If a financial product seller violates the six major principles described above, the financial consumer can cancel the contract within five years
- Sales restriction command(Bill §53) : The Financial Committee may order sales restrictions if it is clearly acknowledged that a financial product could cause significant property damage to financial consumers
 - System similar to a ban order of ESMA(European Securities and Markets Authority)
- Prohibit leaving adjustment(Bill §45) : In the case of a small dispute (about 20 million won), the financial company cannot file a lawsuit until the dispute adjustment procedure is completed.

4. Contents of the FCPA Bill

F. Anticipation

- The Financial Consumer Protection Act bill is expected to be enacted in 2019.
- Specific scope of application is delegated to subordinate laws. The scope of application and effectiveness of the act are expected to be more closely watched.
- It is hoped that the financial consumer protection system in Korea will be further developed by enacting the Financial Consumer Protection Act.

Thank You





2019 IAFICO Global Forum for Financial Consumers

Financial Consumer Dispute Mediation and Resolution in Korea

Mi Soo Choi(Seoul Digital University)



INDEX

1. Overview
2. Consumer Complaint Mediation
3. Consumer Complaint Administration
4. Consumer Dispute Mediation and Resolution

1. Overview

- ◆ The Financial Supervisory Service works to protect financial consumers in collaboration with various government consumer protection agencies such as the Korea Consumer Agency, the Korea Deposit Insurance Corporation, and the Fair Trade Commission.
- ◆ Consumer protection activities that the Financial Supervisory Service performs can be broadly divided into ex-ante and ex-post measures.
- ◆ Whereas ex-ante measures include activities such as enforcing proper contract provisions for financial products and due disclosures and providing counseling and financial education to consumers, ex-post measures refer to actions that are intended to rectify abuses and malpractices of financial institutions and bring remedy to consumers who have been harmed.

1. Overview

- ◆ In May 2012, the Financial Supervisory Service consolidated its consumer protection functions and established the Financial Consumer Protection Bureau (FCPB) for enhanced financial consumer protection.
- ◆ The FCPB's main responsibilities and functions are to administer consumer complaints, provide consumer counseling and dispute mediation services, and take supervisory actions on improper business practices of financial institutions.
- ◆ In addition, the FCPB conducts wide-ranging financial education programs to help improve consumer financial literacy.
- ◆ As part of its consumer protection mandate, the FCPB also evaluates financial institutions' consumer protection practices and consumer complaint administration systems.

1. Overview

- ◆ When deemed necessary, the FCPB reviews complaints filed against financial institutions and conducts on-site inspections.
- ◆ In respect of product and service disclosures, the FCPB works to improve disclosures standards to help consumers make informed decisions.
- ◆ It also provides personal finance counseling services to help consumers exercise responsible and sound personal finance, management debt, and understand financial products.
- ◆ The FCPB also works to expand financial education by fostering partnerships between schools and financial institutions so that students can develop sound personal finance habits and skills.

2. Consumer Complaint Mediation

- ◆ The Financial Disputes Settlement Committee (FDSC) is a committee that has been created within the FSS specifically to help mediate and resolve financial disputes between consumers and financial service firms.
- ◆ Upon a consumer petition or in response to a consumer complaint, the FSS verifies the relevant facts and makes impartial recommendations so that both the consumer and the financial institution can mutually come to a resolution with resorting to often time-consuming and costly litigation through the court.
- ◆ The FDSC is staffed by 30 specialists that include independent outside experts.

2. Consumer Complaint Mediation

- ◆ Each FDSC mediation meeting is attended by seven to eleven members who are selected by the FDSC chairperson on the basis of the specific areas of consumer complaints, which may vary from banking, nonbanking, and financial investments to insurance.
- ◆ Consumer complaint is referred to the FDSC when the parties involved are unable to reach an agreement within 30 days from the day the request for mediation was submitted.
- ◆ The FDSC then deliberates on the case and proposes a resolution within 60 days with due consideration given to the applicable rules and regulations and information provide by both parties.

2. Consumer Complaint Mediation

- ◆ The FDSC may dismiss a complaint if it does not merit a mediated resolution from the FDSC or if the facts and information provided by the parties involved cannot be substantiated.
- ◆ The FSDC decides on a resolution proposal with the majority vote. Once an FDSC resolution proposal is accepted by the parties involved, no further recourse is available.
- ◆ Unlike arbitration, the FDSC recommendation is not legally binding, and adjudication through the court is still available to consumers and financial institutions.
- ◆ The FSS may provide litigation support to a consumer if the FSS deems the action of a financial institution improper.

3. Consumer Complaint Administration

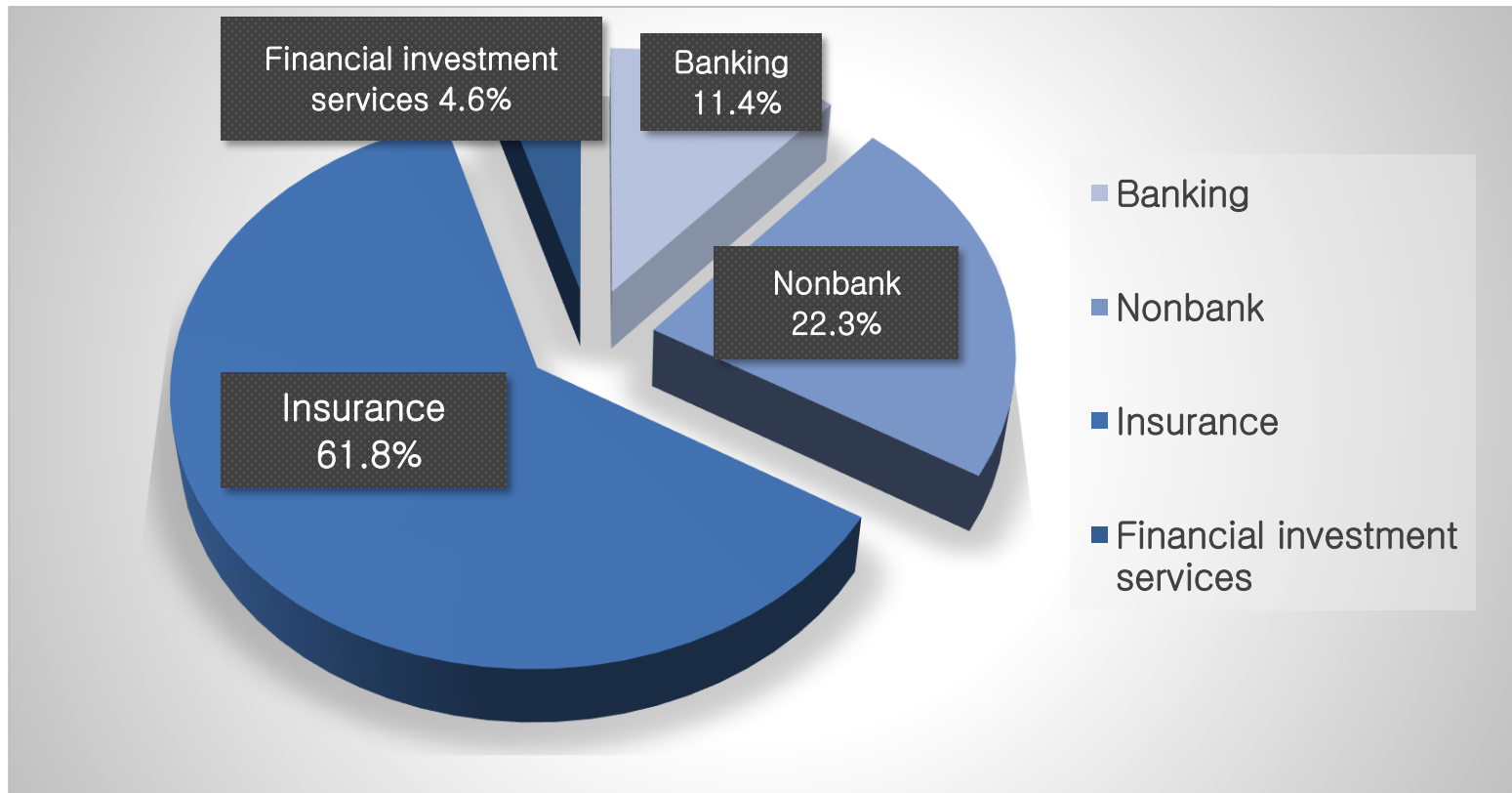
- ◆ The number of complaints consumers filed with the FSS against financial services firms totaled 83,097 in 2018, a 8.8 percent rise from the previous year.

<Table 1> Number of Consumer Complaints

	2018	2017	2016
Banking	9,447	8,927	8,843
Nonbank	18,501	16,813	15,674
Insurance	51,323	47,742	48,573
Financial investment services	3,826	2,875	3,147
Total	83,097	76,357	76,237

3. Consumer Complaint Administration

<Figure 1> Rate of consumer complaints



3. Consumer Complaint Administration

- ◆ The overall number of complaints moderated in the life insurance sector. For nonlife insurance solicitor-related complaints decreased.
- ◆ However, complaints related to the calculation and payment of claim and the effect and lapse of a policy increased overall.
- ◆ For the financial investment services sector, complaints about derivatives trading and beneficiary certificates went down, while complaints about internal controls, computer systems, and stock trading went up.

4. Consumer Dispute Mediation and Resolution

- ◆ A total of 28,118 consumer dispute cases were resolved before reaching the Financial Dispute Settlement Committee (FDSC) in 2018, a increase of 3,074 (12.3 percent) from a year earlier.
- ◆ Dispute resolutions involving banking and nonbanking financial firms increased by 157 (8.7 percent).
- ◆ For financial investment services providers, the total figure fell by 18 (3.2percent).
- ◆ Resolutions involving life insurance and nonlife insurance firms increased by 2,935 (12.9 percent).
- ◆ Of the mutually agreed resolutions reached, the initiating party's claims were accepted in 46.1 percent of the cases, an increase of 1.4 percent points.

4. Consumer Dispute Mediation and Resolution

<Table 2> Number of FDSC Dispute Mediation and Settlement

	2018	2017	2016
Banking/nonbank	1,960	1,803	3,001
Financial investment services	544	562	861
Life insurance	7,413	6,884	8,252
Nonlife insurance	18,201	15,795	14,494
Total	28,118	25,044	26,608
Complaints accepted		9,829	10,592
Complaints rejected		11,491	13,110
Complaints withdrawn		21,320	23,702
Others		3,724	2,906
Total	28,118	25,044	26,608

4. Consumer Dispute Mediation and Resolution

- ◆ This paper suggested six ideas to protect financial consumers in light of financial consumer dispute resolution system.
- ✓ First, Alternative Dispute Resolution (ADR) decision should be legally binding only for the financial institutions. At least, it is necessary to accept the first suggestion on the small amount of money related to financial dispute between consumers and financial institutions.
- ✓ Second, the entities with an authority to settle financial disputes, such as Korea Consumer Agency, Financial Supervisory Service, and Korea Financial Investment Association, should be integrated into a single channel, and if the integration appears to be impossible, it is urgent that at least, the entities should work together.

4. Consumer Dispute Mediation and Resolution

- ✓ Third, an independent and consumer-friendly entity should be established, in order to guarantee rapid dispute resolution and transparency of the resolution process, and to facilitate accessibility for financial consumers.
- ✓ Forth, it is necessary to adopt a collective alternative dispute resolution system to protect financial consumers.
- ✓ Fifth, it is necessary to encourage financial institutions to employ a self-resolution system such as conciliation-prepositive principle.
- ✓ Finally, the institutions for financial dispute resolution institutions should be reinforced and the experts in the relevant sector should be educated.



Thank You !

