



Amendments to the Enforcement Decree and Enforcement Rules of the REIT Act

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Following the amendment to the Real Estate Investment Company Act (the original statute, the “**Act**,” and the amended statute, the “**Amended Act**”) promulgated on May 27, 2025, the draft Enforcement Decree (the “**Draft Enforcement Decree**”) and the draft Enforcement Rules (the “**Draft Enforcement Rules**”) of the Real Estate Investment Company Act were published for public comment on August 13, 2025.

The Draft Enforcement Decree introduces, among other things:

- (i) new clauses relating to the introduction of Project Real Estate Investment Companies (the “**Project REITs**”);
- (ii) narrowed scope of matters requiring regulatory approval in connection with the amendments to the articles of incorporation;
- (iii) statutory basis for business delegation to the REITs Support Center and its designation procedures;
- (iv) broadened scope of real estate development projects eligible for a REIT’ investment;
- (v) inclusion of the State as a designated shareholder exempting a REIT from the public offering requirement;
- (vi) potential waiver of administrative fines;
- (vii) improvement and clarification of the largest shareholder requirements of asset management companies; and
- (viii) relaxed registration requirements for real estate investment advisory companies.

[1] Key Features of the Draft Enforcement Decree and Draft Enforcement Rules

A. Clauses newly inserted with the introduction of Project REITs

The Draft Enforcement Decree establishes new provisions for the introduction of Project REITs.

Area	Newly Inserted Clauses	Clause
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<p>Contents of the Establishment Report</p>	<p>The establishment report must include the following:</p> <ol style="list-style-type: none"> 1. Corporate name, registered office, and corporate registration details; 2. Capitalization; 3. Promoters and officers; 4. Business overview, including the subject land for development, development method, project schedule, and construction plan; 5. Asset management company (in case of entrusted management REITs) and terms of delegation; 6. Administrative agent entrusted to perform general services of the entrusted management REITs and delegation terms; and 7. Custodian and delegation terms. 	<p>Article 8-4(1)</p>
<p>Timing for Obtaining a Business License</p>	<p>Within 18 months from the date of an occupancy permit or the completion of the construction inspection for a real estate development project, the Project REIT must obtain a business license or registration (the “Business License”). Upon request, and if deemed necessary for public interest and investor protection, a one-time extension of up to six (6) months may be granted.</p>	<p>Article 8-4(2)</p>
<p>Obligation to Submit Investment Report</p>	<p>A business investment report must be prepared at the end of every three months of the fiscal year and submitted (reported) within 45 days (or within 90 days if covering the fiscal year-end).</p>	<p>Article 8-4(3)</p>
<p>Disclosure Obligation</p>	<p>A Project REIT must disclose the occurrence of any non-performing assets, such as defaults by bond issuers or counterparties, commencement of rehabilitation proceedings, or bankruptcy proceedings.</p>	<p>Article 8-4(4)</p>
<p>Miscellaneous</p>	<p>Detailed forms and other procedural matters relating to establishment reports and investment reports will be set forth by the Ministry of Land, Infrastructure and Transport (MOLIT).</p>	<p>Article 8-4(5)</p>

- **Additional Establishment Requirements:** While Article 26-4(1)(4) of the Amended Act authorizes the Presidential Decree to prescribe additional establishment requirements for Project REITs other than those prescribed in the Amended Act, the Draft Enforcement Decree does not introduce any such additional requirements. Under Article 8-4(1)(4) of the Amended Act, the applicant is required to fill out overview of the business in the establishment report and does not need to provide a separate business plan. If adopted as drafted, the Enforcement Decree would not impose additional requirements beyond those set forth in the Amended Act, such as the adequacy of the business plan or other substantive criteria. This suggests that Project REITs may be used in a wide range of development structures, including post-development sale of units, partial leasing, and other variations.
- **Timing of Business Approval/Registration:** Under the Draft Enforcement Decree, the deadline for a Project REIT to obtain a Business License is set at 18 months following project completion (with a one-time extension of up to six months permitted where deemed necessary for public interest and investor protection). A Project REIT must then conduct a public offering within five years of obtaining a Business License. Once the public offering is completed, any investor cannot own the shares in excess of 50% of the total outstanding shares of a Project REIT. Assuming a

three-year construction period, the public offering requirement may be deferred for up to 10 years from the filing of the establishment report. For investors, this structure provides multiple exit options, including share transfers (share deals), public offerings or listings of shares on the stock exchange, and, prior to obtaining the Business License, the sale of the developed property itself through an asset transaction (asset deal).

- **Share Issuance to Third-Parties During Development Stage**: Article 26-4(5) of the Amended Act provides that a Project REIT which has filed an establishment report may issue new shares to persons other than existing shareholders, within the methods and scope prescribed by the Presidential Decree. However, the Draft Enforcement Decree does not set forth any provisions on this point.

Article 26-4(5) was introduced with the intent of allowing Project REITs in the development stage, prior to obtaining a Business License, to raise capital through issuance of new shares to third parties within defined limits. If the Draft Enforcement Decree is adopted as drafted, however, raising capital through third-party issuance of shares may not be possible prior to obtaining a Business License.

It should be noted that Article 26-4(6) of the Amended Act provides certain exceptions by deeming a Project REIT that has filed an establishment report to have obtained a Business License for purposes of in-kind contributions, borrowings, and issuance of debentures. These exceptions, however, do not extend to the prohibition on new share issuances prior to obtaining a Business License set forth in Article 9(4) of the Real Estate Investment Company Act.

Given the legislative intent underlying Article 26-4(5) of the Amended Act, and the practical need for flexible capital raising during the development stage prior to obtaining a Business License, it is possible that the relevant provisions may be added in the final Enforcement Decree in the course of the legislative process. Therefore, it is important to closely monitor the development of legislative process.

B. Narrowed Scope of Matters Requiring the MOLIT Approval in connection with the Amendment of the Articles of Incorporation (Article 42-2(1) of the Draft Enforcement Decree)

The Amended Act introduced a two-tier framework for amendments to Project REITs' articles of incorporation: (i) amendments involving matters prescribed by the Enforcement Decree for the purpose of investor protection will require an approval by the Minister of Land, Infrastructure and Transport ("MOLIT"), while (ii) other amendments need only be reported to the MOLIT (Articles 40-1(1) and 41-1(2)(2)).

The Draft Enforcement Decree further narrows the scope of amendments requiring MOLIT approval to provisions relating to (i) dividend distribution which have a direct impact on shareholder interests (Article 8-1(8) of the Act), and (ii) corporate directors who may have conflict of interests in relation to the asset management companies (sponsor companies) (Article 8-1(10)(2) of the Act). With the narrowing of matters requiring MOLIT approval down from fifteen to two, the change is expected to significantly ease compliance burden on asset management companies when making amendments to the articles of incorporation of Project REITs.

C. Statutory Basis for Business Delegation to the REITs Support Center (Draft Enforcement Decree Article 47-7(1), Addenda Article 2) and Provisions on Designation Procedures (Draft Enforcement Rules Article 7)

The Amended Act authorizes the MOLIT to designate a government-funded research institute or public institution as the REITs Support Center (“**REITs Support Center**”). The REITs Support Center will be responsible for supporting REITs and asset management companies in filing establishment report and obtaining Business License, supporting MOLIT in the inspection of REITs, the establishment and operation of REIT information systems, etc. (Article 49-9 of the Amended Act).

In addition, the Draft Enforcement Decree replaces the delegated institution under Article 49-7(1) of the Amended Act from the Korea Real Estate Board to the REITs Support Center. Until the REITs Support Center is formally designated, however, the Korea Real Estate Board will continue to perform the REITs Support Center’s functions (Article 2 of the Addendum; Article 47-7(1) of the Draft Enforcement Decree).

The Draft Enforcement Rules further set out the detailed designation procedures of REITs Support Center. Specifically, the MOLIT will assess the adequacy of the REITs Support Center’s operating plan, the suitability of the institution, and the level of commitment to project implementation, before granting designation. The designation will be valid for a five-year term and may be renewed (Article 7 of the Draft Enforcement Rules).

D. Expansion of the Scope of Real Estate Development Projects (Article 2-1(1) of the Draft Enforcement Decree)

The Act currently enumerates “real estate development projects” eligible for a REIT investment as (i) land development (e.g., housing sites, industrial sites), (ii) land reclamation from public waters, and (iii) new construction, extension, or reconstruction of buildings or other artificial structures, etc. Further, as for the extension and reconstruction projects, the current Enforcement Decree requires the extension or reconstruction area be more than 10% of the total floor area and exceeding 3,000m² (Article 2(4) of the Act; Article 2(4) of the Enforcement Decree of the Act).

These restrictions have long been cited as a barrier to REITs’ investment in development projects. The Draft Enforcement Decree expands the scope of development projects by eliminating the size thresholds for extension and reconstruction projects and including remodeling within the definition of real estate development projects (Article 2(4)(1) of the Draft Enforcement Decree).

As a result, Project REITs will be permitted to invest not only in remodeling-based urban renewal projects, but also in extension and reconstruction projects of any scale, thereby broadening investment opportunities in the development sector.

E. Inclusion of the State as the Designated Shareholder Exempting REITs from Public Offering Obligations (Article 12-3(1) and (31) of the Draft Enforcement Decree)

The Act provides that where the shareholders designated under the Presidential Decree, such as local governments or pension funds, hold 50% or more of the shares in a REIT, the REIT is exempt from the public offering requirement. This

framework was intended to allow such institutional investors to recoup their investment smoothly through dividend distributions (Article 14-8(3)(1) of the Act). However, the State (e.g., the Housing and Urban Fund and the Regional Extinction Response Fund*) is currently excluded from the designated shareholders category.

This exclusion has put a constraint on the ability to channel government and such government funds' capital into policy REITs. The Draft Enforcement Decree addresses this limitation by explicitly adding "the State" to such designated shareholder category, thereby enabling broader deployment of public funds into REITs. In addition, the MOLIT is authorized to further designate such shareholders where necessary, providing regulatory flexibility to respond swiftly to economic and policy priorities (Enforcement Decree Articles 12-3(1) and (31) of the Draft Enforcement Decree).

** The Regional Extinction Response Fund (RER Fund) is one of the investors in the Regional Revitalization Investment Fund (together with the Ministry of Economy and Finance and the Korea Development Bank), through which it can invest in assets such as data centers and solar and wind power facilities. However, because the RER Fund was not included in the designated shareholder category," there were limitations with using its capital for policy REITs.*

F. Broader Grounds for Reduction or Waiver of Administrative Fines (Appendix 2)

Under Appendix 2 of the current Enforcement Decree, minor errors that occur without willful misconduct or gross negligence, or those that do not cause any investor harm, are nonetheless subject to administrative fines. In such cases, the fines may be reduced by and up to 50% but could never be waived entirely.

Under the Draft Enforcement Decree, fines may be waived entirely where the violation arises from a simple administrative error, no investor harm occurs as a result, and adequate remedial and recurrence-prevention measures are in place (Appendix 2 of the Draft Enforcement Decree). This brings the REITs regime in line with the Financial Investment Services and Capital Markets Act (the "**Capital Markets Act**") and reflects a shift toward a more practical and proportionate approach to enforcement. In practice, this means that REIT market participants can now seek a complete waiver of fines, through a verification by the REITs Support Center and a review by the REITs Advisory Committee.

G. Improvement and Clarification of the Largest Shareholder Requirements of Asset Management Companies (Appendix 3 of the Draft Enforcement Decree)

Under the current Enforcement Decree, the largest shareholder of, or any person holding 10% or more of equity in ("major shareholder"), an asset management company must meet certain requirements prescribed under Appendix 3, which focuses on factors such as disciplinary history and adequacy of capital to safeguard governance soundness. However, in a governance structure where a shell company, such as a special purpose company (SPC), is a major shareholder, it is unclear which entity should be subject to such largest shareholder requirements.

Similar to the Act, the Act on Corporate Governance of Financial Companies also imposes the largest shareholder requirement. However, Appendix 1-2 of the Act on Corporate Governance of Financial Companies expressly provides that where a shell entity is the largest shareholder, the ultimate controlling entity with substance will instead be subject to that largest shareholder requirement. Thus, the need to establish clear rules became apparent.

The Draft Enforcement Decree directly addresses this issue by providing that, where an SPC or other form of shell

company is a major shareholder, the substantive company exercising control behind such nominal entity will be deemed the major shareholder and will be subject to the major shareholder requirement. In addition, while the current framework categorizes major shareholders as (i) domestic corporations, (ii) individuals, and (iii) foreign corporations, the Draft Enforcement Decree refines and expands these categories to include the following:

1. domestic corporations;
2. domestic individuals;
3. foreign corporations established under foreign law; and
4. private collective investment vehicles only for institutional investors and investment purpose companies invested by them under the Capital Markets Act.

Further, Appendix 3 of the Draft Enforcement Decree broadens the scope of review relating to operational reliability (such as history of regulatory sanctions or warnings under financial laws and regulations). The review will extend beyond the asset management company's largest shareholder entity to also include: (i) the largest shareholder of that entity, (ii) its representative, and (iii) any shareholder who exercises de facto influence over that entity's key management decisions.

By extending the scope of review to the entity having de facto control behind nominal ownership structure, the Draft Enforcement Decree increases accountability and is expected to bolster confidence in the governance of asset management companies.

H. Relaxed Registration Requirements for Real Estate Investment Advisory Companies (Article 24 of the Draft Enforcement Decree)

Article 24 of the current Enforcement Decree provides that those who wish to be registered as real estate investment advisory companies must have a minimum capital of KRW 1 billion.

The Draft Enforcement Decree reduces the minimum capital requirement for registration from KRW 1 billion to KRW 500 million, thereby lowering the entry threshold for real estate investment advisory companies.

[2] Conclusion

The Draft Enforcement Decree and the Draft Enforcement Rules are scheduled to come into effect on November 28, 2025, concurrently with the Amended Act, following the review by the Regulatory Reform Committee and Ministry of Legislation and approval at the Cabinet meeting.

Together with these amendments, corresponding amendments to the related regulations will follow, which include (i) Guidelines for Authorization and Registration of Real Estate Investment Companies, (ii) Regulations on Supervision of Real Estate Companies, and (iii) Regulations on Inspection of Real Estate Companies.

If you have any questions or need assistance with any of the above, please do not hesitate to contact us at the contact

details below and we will be happy to discuss the matter with you in more detail.

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