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# Supporting Laws for Developmental Stages of Small-Medium Enterprises in South Korea

Kwan-Hoon Kwak · Dae-Hoon Kwak · Jiyeon Choi



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# Abstract

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## I . Purpose and Scope of Research

- With the accomplishment of the rapid economic growth for the past decades after the Korean War, Korea has been set as one of the model countries to study and to benchmark for development by many Asian countries. As the Small and Medium Enterprises (“SMEs”) taking the majority of the economic vehicle in Korea, reviewing and sorting out relevant laws and regulations on SMEs would certainly shed lights in assessing effectiveness of those laws.
- According to the developmental stages of SMEs, each supporting law’s specific provisions and their effectiveness are reviewed and assessed.

## II . Contents

- Supporting laws for small-medium enterprises can be classified into three developmental stages: (i) Establishment Stage, (ii) Growth Stage, and (iii) Conversion Stage.
- For establishment stage of small-medium enterprises, there are several support laws including ‘Support for Small and Medium

Enterprises Establishment Act’, ‘Act on Special Measures for the Promotion of Venture Businesses’.

- Consumer cash loan, policy financing, and funding through the Fund for the Establishment and Promotion of Small and Medium Enterprises based on Small and Medium Enterprises Promotion Act are available for start-ups.
- For growth stage of small-medium enterprises, supporting systems include ① Support for R&D, ② Support for manpower, and ③ Support for development of their markets, and related supporting laws are ‘Framework Act on Small and Medium Enterprises’, ‘Act on the Promotion of Technology Innovation of Small and Medium Enterprises’, ‘Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises’.
- During the conversion stage, ‘Special Act on the Promotion of Business conversion in Small and Medium Enterprises’ is considered most helpful.
- Support for funding as well as business operations and managements are available throughout the developmental stages by various laws.

### **III. Expected Effects**

- For each stages, establishment, growth, and conversion, laws provide methods to assist financially and also with management. These systematic support throughout the developmental stages of enterprises has been effective in having the SMEs survive, if not thrive, in Korea, and the same system may be utilized, with modifications based on each country's political and societal circumstances, by developing countries and transition economies.

➤ **Key Words : Small and Medium Enterprises, Supporting Laws, Developmental Stages, Funding, Management Support**

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## I . Introduction

### A. Purpose of Research

Small and Medium Enterprises (“SMEs”) comprise over 99% of Korea’s business entities, with 3,416,000 enterprises hiring 13,422,000 employees, and this overwhelmingly disproportionate share of the business market has been the same way for the past nine years, if not longer.<sup>1)</sup> Although foreigners may only recognize a couple of large conglomerate companies in Korea, it is no exaggeration that Korea runs on SMEs and most Koreans’ livelihoods are on those SMEs, similarly to the circumstances in the United States<sup>2)</sup> or other countries with advanced industrial structure and economy. The importance of law and regulations that supports, promotes, and protects everyday business activities of those SMEs cannot be stressed enough, especially when providing models and guidance for developing countries and/or transition economies for Korean law.

With the accomplishment of the rapid economic growth for the past decades after the Korean War, Korea has been set as one of the model countries to study and to benchmark for development by many Asian countries. As the SMEs taking the majority of the economic vehicle in Korea, reviewing and sorting out relevant laws and regulations on SMEs, especially those supporting and promoting SMEs would certainly shed lights in understanding which measure was set for what purposes, which

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1) Government Statistics: [http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx\\_cd=1181](http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx_cd=1181) (last visited Sep. 21, 2015)

2) Small Businesses with less than 500 employees take 99.7%, and businesses with less than 20 employees make 89.8% of all business entities in the United States. <http://www.sbecouncil.org/about-us/facts-and-data/> (Last visited June 2, 2015)

## I. Introduction

worked best, which didn't, and why, and what would be most effective.

There are more than handful laws related to SMEs - some of them are directly operated by the Small and Medium Enterprise Administration, others are under different government authorities. Grouping the laws into administering body may not result in meaningful analysis to show measures of promoting and/or supporting SMEs, as different authorities may aim for similar goals in assisting SMEs. As laws inevitably reflect political discords by different administrations, it may not be easy to concoct the developmental flow when laws are analyzed in the chronological order only. Thus, dividing the laws into different batches, depending on the stages of the SMEs that the law supports, and sorting out the traits of each law that affects relevant stages of SMEs would most productively portray supporting laws and their tactics.

SME related laws will be separated and laid out in accordance with SMEs' developmental stages as: (i) Establishment Stage, (ii) Growth Stage, and (iii) Conversion Stage. By classifying laws on SMEs as such, this study aims to produce modela laws promoting and supporting SMEs for developing countries and transition economies to have a chance to research and review our law for them to modify and utilize for the changes, development, and/or advancement of their legal system.

## B. Scope and Methods of Research

A Comprehensive overview on Laws related to SMEs is provided. Review and analysis on laws supporting SMEs, along with status of SMEs in the business environment are conducted. According to the developmental stages of SMEs, each supporting law's specific provisions and their

effectiveness are reviewed and assessed. Extracting specific provisions and traits of supporting laws of SMEs are done to facilitate setting out model laws.

Introduction in Chapter I and Conclusion in Chapter IV are stated by Jiyeon Choi of KLRI, while Chapter II and Chapter III are provided by Professor Kwan-Hoon Kwak and Professor Dae-Hoon Kwak jointly.

## II. Current Status of Laws related to Small-Medium Enterprises and Venture Businesses in South Korea

### A. Overview of Laws related to Small-Medium Enterprises

There are various laws related to Small-Medium Enterprises including ‘Framework Act on Small and Medium Enterprises’, ‘Support for Small and Medium Enterprises Establishment Act’, ‘Act on Special Measures for the Promotion of Venture Businesses’, ‘Special Act on the Promotion of Business Conversion in Small and Medium Enterprises’, ‘Industrial Development Act’, ‘Korea Finance Corporation Act’, ‘Small and Medium Enterprises Promotion Act’, ‘Act on the Promotion of Technology Innovation of Small and Medium Enterprises’, ‘Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises’, and so on.

Aforementioned laws primarily focus on financial supports and tax benefits for establishment and management of small-medium enterprises. For example, according to ‘Support for Small and Medium Enterprises Establishment Act’, if it is necessary, financial supports including investment, contributions, subsidies, financial aid, loans are available for business starter and a person who supports small-medium enterprises. Also, small-medium business start-up investment companies are eligible for a tax exemption for capital gain from stock transactions. According to ‘Act on Special Measures for the Promotion of Venture Businesses’,

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financial supports and reduction or exemption from income tax are also available for small-medium enterprises.

### B. Current Status of Laws Related to Small-Medium Enterprises

#### 1. Determination of the Company Type

Those who wish to establish small-medium enterprise shall decide type of company and establish the company in accordance with the procedure in appropriate laws. Based on number of investors, enterprise can be classified into individual enterprise and joint company. Joint company is categorized into two types including a corporate entity and unincorporated company(association)

Type of company that the founder can choose from are as follows:

( i ) Individual company

( ii ) Joint company

① Unincorporated type : Association, Limited Partnership, Undisclosed Association

② Corporate type: Partnership, Limited Partnership Company, Stock Company, Limited Company, Incorporated company

##### a. Individual Company

Individual Company is a wholly-owned and private enterprise and its rights and obligations belong to individuals.

For individual company, the simple and easy establishment procedure could be considered as its biggest advantages. Also, since investors directly

manage the company, it is more appropriate type of company for business start-up. It is not required to have a separate establishment procedure relating to the case of a individual company. In accordance with the tax laws, the company shall be registered in competent tax office.

However, since individual company is a wholly-owned and private entity, it is not appropriate to engage in risk involving business and large-scale projects. Since income and debt from business operations belong to individuals, individuals should accept liability for any debt caused by business failure. This type of company is not adequate to conduct a large-scale project because necessary funds should be provided by individuals.

Overall, individual company is more appropriate for business start-up while it is not appropriate to engage in risk involving business and large-scale projects

b. Joint Company

i ) Unincorporated type

A typical type of join company is ‘partnership’ or ‘a contract of partnership.’ According to Commercial Act, specific types of association includes undisclosed association and limited partnership.

① Partnership (Civil Act)

In case of jointly doing business by two or more persons, the arrangements for such contribution and distribution between the parties are necessary which is known as ‘partnership.’ A partnership shall become effective when two or more persons have agreed to carry on a join undertaking by making mutual contribution thereto (Civil Act Article

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703). This is a typical type of contract in Civil Act. Rights and obligations and income distribution between the parties are specified in Civil Act Articles 703 to 724. Joint company like partnership is not required any specific establishment procedure which is similar to individual company.

② Undisclosed Association (Commercial Act)

An undisclosed association is formed when the parties agree that one of them shall make an investment in the business of the other and they shall divide any profits accruing from such business (Commercial Act Article 78). For joint business, it is possible to use ‘partnership’ in Civil Act which has some practical limitations. However, undisclosed association can be an alternative choice to overcome those limitations. Since the partnership members bear unlimited liability for all debts, it is not appropriate for those who are willing to pay only a limited risk. Also, it is difficult to carry out business with mobility because partnership members are all involved in business operations. Undisclosed association can be an alternative for overcoming practical limitations related to partnership.<sup>3)</sup>

By contracts, association members have rights to make investments and to receive profits from business owners. Business owners also have rights to manage those funds provided by the association members and obligations to distribute profits to their members. Undisclosed association is a type of joint company in accordance with Commercial Act and externally, it is appeared as an individual company where the business owner take a full ownership of the company.<sup>4)</sup> Those who have inability of management,

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3) Chulsong Lee, “General Rules of Commercial Law, Commercial Activities“, Bakyounsa (2012), p.412

4) Chulsong Lee, *Supra* note 5, p.412

constrained social status and legal difficulty can benefit from operation performance by participating in undisclosed association members.<sup>5)</sup>

③ Limited Partnership (Commercial Act)

A limited partnership can be defined as “when general partners who, as managers of the partnership, bear unlimited liability for the partnership's obligations and limited partners who bear limited liability within the amount of their investment agree to make a joint investment and jointly go into a business” (Commercial Act Article 86-2)

Limited partnership is a new corporate form which takes advantages of stock companies and associations. It is same as “Limited partnership” in the United States. Although limited partnership is similar to limited partnership company, limited partnership company is a corporation and limited liability members are not possible to participate business operations. On the other hands, a limited partnership is an association where principle of private autonomy is generally accepted and limited liability members are able to participate business operations.<sup>6)</sup>

ii) Corporate type

Corporate type company can be defined as ‘company’ in Commercial Act and according to the act, there are five types of company including partnership company, limited partnership company, incorporated company, stock company, limited company(Commercial Act Article 170).

Each type of companies can be determined based on how employees as an investor can be taken the legal liability for company creditors. In respect to liabilities of the company, an employee has either limited liability

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5) *Id.*

6) Kiwon Choi, Commercial Law New Studies (Part I), Bakyounsa(2014), p. 272



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or unlimited liability for fixed amount; either direct liability for company creditors or indirect liability for the corporation property. These are the factors that determine type of companies<sup>7)</sup>

### ① Partnership Company (Commercial Act)

Partnership company is a company with direct, joint and unlimited liability for company creditors. Each member has the rights and obligations to manage the affairs of the company and represents the company if a company has not designated managing members to be in charge of the management of the company (Commercial Act Article 200, 207). Since each members bear unlimited liability, employees have relatively high risk so that it is appropriate for small size joint company where small number of the members are closely related to each others. Because of these characteristics, it does not allow to freely transfer company shares.

Since employees shall have unlimited liability, corporate property, property of employees and individual ability can be used to evaluate company credit.

### ② Limited Partnership Company (Commercial Act)

Limited partnership company is composed of both unlimited liability members and limited liability members (Commercial Act Article 268).

Limited partnership company is considered as an alternative form of partnership company. Thus, commercial regulations for partnership company can be applied for limited partnership company. Limited liability members contribute a small portion of the company funds and they shall be liable for the amount they invested. However, they do not allow to have

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7) Kiwon Choi, *Supra* Note 8, p.451

business execution authority and to represent the company. Unlimited liability members shall have business execution authority and the rights and obligations to manage the business of the company.

③ Stock Company (Commercial Act)

Stock company is a company consisting of employee-owned capital and its capital is divided into shares for each employee in proportion to the capital company.<sup>8)</sup> An employee as a stockholder is not liable for the company's debt, but liable for contribution obligations to the stock acquisition price. Since stockholders owning shares can be transferred, it is easy to withdraw the investment capital. Thus, stock market become a target of public investment. Overall, since it is easy to raise larger capital, stock company is the most preferred type of the company.

④ Limited Company (Commercial Act)

Likewise a stock company, limited company also requires limited liability for the total amount of capital provided by each employee. However, stock company is appropriate for a large-scale company while limited company is suitable for a small-size company.<sup>9)</sup>

Limited company is established based on advantages of personal company and stock company and it is the most appropriate type of company for small-medium enterprise.<sup>10)</sup> Limited company adopts advantages of stock company such as limited liability for employees in order to promote permanence of the company and business rationalization. It also takes advantages of partnership company which has simplified company

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8) Chanhyung Chung, Commercial Law Lessons (Part I), Bakyounsa(2014), p. 615

9) Kiwon Choi, *Supra* Note 8, p. 452

10) Chanhyung Chung, *Supra* Note 10, p. 1234

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system along with convenience of establishment procedures.<sup>11)</sup>

### ⑤ Limited Liability Company (Incorporated Company)

While incorporated company allows its members to have a board private autonomy, each employee has limited liability which is considered as a hybrid type of the company(Commercial Act Article 287-2).

In partnership company, each member has the rights and obligations to manage the affairs of the company which allows business owner to freely manage the company. However, each member has unlimited liability for company's debits so it is somewhat risky. While each member in stock company has limited liability for the company's debt which results in less burden, the commercial act strictly regulates business operations in stock company so it is difficult to freely manage the company. Incorporate company which is a hybrid company incorporating advantages from both stock and partnership companies was recently introduced in the commercial act(2011). This type of company can be used for a small size closed company, venture business, and investment companies (e.g., technology and ICT companies).<sup>12)</sup>

## 2. Establishment Procedures for Each Type of Company

### a. Individual Company

It is not required to have special legal procedures for individual business. However, with respect to tax payment, business registration shall be required.

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11) Chanhyung Chung, *Supra* Note 10, p. 1234

12) Daeik Chung, "Review of New Enterprise Types under the Commercial Law Amendment Proposal," *Commercial Law Studies*, Vol. 28 No. 3, Korea Commercial Law Studies Association, 2009, p. 5

## B. Current Status of Laws Related to Small-Medium Enterprises

Business registration is a process that taxpayer is registered in the government (tax offices). Those who initiate new business must submit an application for business registration to competent tax office within 20 days from the commencement date of his or her business. In general, an entrepreneur is someone involved in business, where in particular undertaking of company activities. According to Value-Added Tax Act (Article 2, 3), an entrepreneur means any person who supplies goods or services independently for business, regardless of whether the business aims to make profit and an entrepreneur shall be liable to pay the value-added tax.

### b. Unincorporated Type Joint Company

#### i ) Partnership (Civil Act)

Generally, a partnership shall become effective when two or more persons have agreed to carry on a joint undertaking by making mutual contribution thereto (Civil Act Article 703). It is not required to have special legal procedures to establish partnership, it can freely established by agreement between the parties. For the compositions and management of partnership, the agreement between parties is preferentially applied. If there is no such agreement, the civil act is applied.

#### ii) Undisclosed Association (Commercial Act)

An undisclosed association is formed when the parties agree that one of them shall make an investment in the business of the other and they shall divide any profits accruing from such business (Commercial Act Article 78). Undisclosed association members are consist of undisclosed members (investors) and business owner. Undisclosed association members

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can be anyone regardless of whether they are businessmen or not and several people may jointly be association members. Business owner shall be a business person, several investors can make a contract for undisclosed association

The investments made in terms of money or property by association members shall be regarded as the property of the business owner (Commercial Act Article 79). Period of Investments can be determined by making an agreement between parties. If no agreement is available, investors shall make investments when business owner request the funds. Business owners shall be liable for any loss from business operations. Thus, disclosed association members is not required to make additional investments.

Undisclosed association can be economically considered as a joint company, the principle of dividend of profits and bearing losses is applied. Even if there is no agreement or contract, loss-sharing rate shall be equal to that of dividend of profits rate.<sup>13)</sup> If investment of an association member has been reduced to losses, he or she cannot demand any dividend of profits until such loss has been compensated(Commercial Act Article 82-1). Even if a loss has exceeded the amount of the investment, the association member shall not be bound to return the profits which he or she has taken or to increase the capital(Commercial Act Article 82-2).

iii) Limited Partnership

Regarding a partnership agreement for the purpose of establishing a limited partnership, the following matters shall be entered therein and all the partners shall write their names and affix their seals or signs thereon

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13) Kiwon Choi, *Supra* Note 8, p. 263

(Commercial Act Article 86-3). Following information shall be included in a partnership:

1. Objectives;
2. Name;
3. Names or trade names, addresses, resident registration numbers of general partners;
4. Names or trade names, addresses, resident registration numbers of limited partners;
5. Locality of the principal office;
6. Matters on investment of the partners;
7. Matters on distribution of losses and profits to partners;
8. Matters on transfer of shares of limited partners;
9. In the case of having determined that at least two general partners jointly execute affairs of or act as an agent for the limited partnership, the regulation;
10. In the case of having determined that only some of the general partners execute affairs of or act as an agent for the limited partnership, the regulation;
11. Matters on distribution of remaining assets upon dissolution of the limited partnership;
12. Matters on the term of existence of the limited partnership or other matters on grounds for dissolution thereof;
13. Effective date of the limited partnership agreement.

A general partner of a limited partnership shall register the following matters (see below box) in the locality in which the principal office is located within two weeks after establishment of the partnership (Commercial Act Article 86-4).

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1. Objectives;
2. Name;
3. Names or trade names, addresses, resident registration numbers of general partners;
4. Names or trade names, addresses, resident registration numbers of limited partners;
5. Locality of the principal office;
6. In the case of having determined that at least two general partners jointly execute affairs of or act as an agent for the limited partnership, the regulation;
7. In the case of having determined that only some of the general partners execute affairs of or act as an agent for the limited partnership, the regulation;
8. Matters on the term of existence of the limited partnership or other matters on grounds for dissolution thereof;
9. Effective date of the limited partnership agreement.
10. Objectives of partners' capital investment and, in cases of an investment in kind, the amount of such investment and the portion performed.

General partners have the rights and obligations to execute and represent affairs of a limited partnership, unless otherwise provided for in a partnership agreement (Commercial Act Article 86-5). A limited partner shall be liable for the amount obtained by deducting the already invested amount from the amount of capital investment (Commercial Act Article 86-6). General partners shall not transfer all or part of their share to a third party without obtaining the unanimous consent of other parties (Commercial Act Article 86-7).

c. Corporate Type: Company

i ) Partnership Company

Establishment procedures of partnership company include execution of articles of incorporation and registration for incorporation.

① Execution of articles of incorporation

Articles of incorporation for partnership company shall be executed jointly by at least two members of the company (Commercial Act Article 178). Matters for article of incorporation may include matters absolutely required, matters relatively required and arbitrary matters: Matters absolutely required are matters necessary for a valid article of incorporation, Matters relatively required means regardless of whether matters are filled out or not, it does not affect the validity of the article of incorporation, yet when it is written in the article, this article becomes valid, and Arbitrary matters are those that even if the provisions of the commercial act is not available, it can be defined arbitrarily in the article of incorporation as long as it does not violate the commercial act

Matters absolutely required for Articles of Incorporation (Commercial Act Article 179) include below:

1. Objectives;
2. Trade name;
3. Name, resident registration number and domicile of each member;
4. The subject matter, value, or the basis for valuation of investment by each member;
5. Place of the principal office;
6. Date of execution of the articles of incorporation



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Matters relatively required for Articles of Incorporation includes as  
below:

1. Rights and obligations of business management (Commercial Act Article 200-1)
2. Representation of company (Commercial Act Article 207)
3. Joint representation (Commercial Act Article 208-1)
4. Reasons for withdrawal of members (Commercial Act Article 218-1)
5. Reasons for dissolution (Commercial Act Article 217-1, 227-1)
6. Refund of equity holdings (Commercial Act Article 222)
7. Voluntary liquidation (Commercial Act Article 247-1)

And Arbitrary Matters in the article of incorporation can be written in  
the article if they do not contradict the essential parts of partnership,  
mandatory rules, and social order

② Registration of Incorporation

A company shall come into existence upon registration for its incorpora-  
tion at the place of its principal office (Commercial Act Article 172). In  
case of partnership company, it is officially established after completion  
of the article of incorporation and the registration of incorporation.  
Required matters in registration for incorporation are as below (Commercial  
Act Article 180):

1. Objectives;
2. Trade name;
3. Name, resident registration number and domicile of each member;
4. Place of the principal office;
5. The subject matter of investment by each member and, in cases of  
investment in kind, its value and the part already effected;

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6. The time period of existence or reasons for dissolution, if such period or reasons have been determined;
7. The name, address and resident registration number of the member representing the company, if such member has been designated;
8. A provision, if any, to the effect that the company is represented jointly by two or more members.

And the attached documents are (Commercial Registration Act Article 57):

1. The articles of incorporation;
2. A document evidencing that property contribution has been made.

Members of the partnership company shall make investments to the company (Commercial Act Article 179-4, 195). Obligations for investments and its scope are matters absolutely required and specified by the article of incorporation. The purpose of investment is available for investment property, cash, credibility, and contribution of labor (personal service).

If the period of investment is specified in the article of incorporation, it shall be followed the article accordingly. If the period is not defined in the article, the company management can decide freely.<sup>14)</sup> Investment method varies based on the purpose of the investment as below:

- Cash investment: cash payment
- Investment in kind: transferring investment property
- Contribution of personal service: providing labors
- Fiduciary contribution (Credibility): contributing credit

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14) Chanhyung Chung, *Supra* Note 10, p. 541

## II. Current Status of Laws related to Small-Medium Enterprises and Venture Businesses in South Korea

If members do not fulfil their obligations for investment, a member shall withdraw from the company under the commercial act along with measures in accordance with the default under the civil act.

Profits and losses from business operations shall be distributed to each members in the company. When the amount of net assets in the balance sheet exceeds total amount of the corporation capital, it is called profits. If the net assets do not exceed the corporation capital, it is known as losses.<sup>15)</sup> Profit-loss ratio is specified in the article of incorporation or freely decided through an agreement by all members in the company. If profit-loss ratio is not yet determined, it shall be determined in proportion to the amount of investment.

Dividend of profits shall be a cash in principle. However, if the article of incorporation is specified or if all members in the company have agreed, whole or part of the total amount can be accumulated into the company. If it is prescribed in the article of incorporation for a period of profit distribution, it shall be followed. If not, it shall be paid for each accounting period.

### ii) Limited Partnership Company

Establishment procedures of limited partnership company include execution of articles of incorporation and registration for incorporation.

#### ① Execution of articles of incorporation

Articles of incorporation for limited partnership company is basically the same as that of partnership company with few exceptions as shown below.

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15) Chanhyung Chung, *Supra* Note 10, p. 547

1. Articles of incorporation shall be executed jointly by a least one unlimited liability member and more than one limited liability member (Commercial Act Article 178, 268, & 269)
2. Unlimited or limited liability for members should be specified in articles of incorporation, especially in matters absolutely required to be entered in articles of incorporation (Commercial Act Article 270)
3. The lettering “Limited partnership company” shall be contained in the trade name of a company (Commercial Act 19)

## ② Registration of Incorporation

Registration of incorporation for limited partnership company is basically the same as that of partnership company. However, when registration for the incorporation of a limited partnership company is made, it shall be recorded whether each partner's responsibility is limited or not (Commercial Act Article 271-1).

For unlimited liability members of the limited partnership company shall make investments to the company. However, no limited liability members of the company shall use, as the subject matter for their investment, personal services or credibility (Commercial Act Article 272).

Distribution of profits and losses limited partnership company is basically the same as that of partnership company. If profit-loss ratio is not yet determined by articles of incorporation or all members' agreement, it shall be determined in proportion to the amount of investment (Commercial Act Article 195, 269).

### iii) Stock Company

Every company should establish through procedures of substance formation and registration for incorporation. Unlike other types of company, stock

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company shall be required to have investment implementation process as well as configuration process in addition to execution of articles of incorporation.

Establishing methods of stock companies can be categorized into two including incorporation by promoters and subscripitive incorporation based on method of undertaking stocks.

In case of an incorporation by promoters, only promoters acquire all of the shares issued at the time of establishment in order to establish a company (Commercial Act Article 259). In the subscripitive incorporation, promoters acquire a part of the shares issued at the time of incorporation and they shall solicit shareholders for subscription (Commercial Act Article 301).

### ① Execution of articles of incorporation

At least one promoter shall prepare the articles of incorporation and each of them shall write his or her name and affix his or her seal or sign thereon (Commercial Act Article 288, 289). The articles of incorporation shall take effect upon being notarized by a public notary (Commercial Act Article 292). However, small-size stock company, the total capital of which is less than one billion won, shall be exempt from the certification of a public notary and the articles of incorporation take effect after each promoter writes his or her name and affixes his or her seal or sign. These allow small-size stock company to mitigate establishment procedures.

Matters absolutely required to be entered therein are as below (Commercial Act Article 89-1):

1. Objectives;
2. Trade name;
3. The total number of shares authorized to be issued;
4. Par value per share where par value shares are issued;
5. The total number of shares to be issued at the time of incorporation;
6. The place of a principal office;
7. Method of giving public notice by the company;
8. The name, resident registration number and address of each promoter;

As for matters relatively required for Articles of Incorporation, there are various types of matters relatively required for articles of incorporation and matters on irregular incorporation is the most important matters for stock companies. Matters on irregular incorporation shall take effect upon entry in the articles of incorporation (Commercial Act Article 290).

Matters on Irregular Incorporation are followed:

1. Any special benefits to be received by promoters and names of such promoters;
2. The name of a person who is to make an investment in kind, the type, quantity and value of the subject matter of such investment in kind and the class and number of shares to be given in consideration thereof;
3. The class, number and value of the assets agreed to be transferred to the company after its incorporation and the name of the transferor;
4. The expenses for incorporation to be borne by the company and the amount of compensation payable to the promoters.

② Determination of matters concerning issuance of shares at time of incorporation

In cases of shares and the par value shares issued at the time of incorporation, value of each stock shall be specified in the articles of

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incorporation. Class and number of shares, and the price shall be determined with the unanimous agreement of the promoters unless otherwise provided for in the articles of incorporation (Commercial Act Article 291).

③ Procedures for share subscription

In cases of incorporation by promoters, shares issued at the time of incorporation shall be acquired by promoters. Each promoter shall subscribe to their shares based on paper which is attached to registration of incorporation (Commercial Act Article 293)

In cases of subscripive incorporation, promoters acquire a part of the shares issued at the time of incorporation and they shall solicit shareholders for subscription. There is no limits for solicitation of shareholders, it must be in writing in order to protect the applicants shareholder equity. A person who intends to subscribe to shares shall complete a share subscription form in duplicate, in which the class and number of shares for which he or she is to subscribe and his or her address are stated, and shall write his/her name and affix his/her seal or shall sign thereon (Commercial Act Article 302-1). A share subscription form shall be filled out by promoters and the following matters shall be entered (Commercial Act Article 302-2).

1. The date of notarization of the articles of incorporation, and the name of the notary public;
2. The matters listed in Articles 289 (1) and 290;
3. The period of existence or reasons for dissolution of the company, if determined;
4. The class and number of shares subscribed to by promoters;
5. The matters listed in Article 291;

6. Provisions that transfer of shares requires the approval of the board of directors, if so determined;
7. Retirement of shares out of profits to be distributed to shareholders, if so determined;
8. A statement to the effect that the subscription of shares may be canceled if the inaugural general meeting is not closed by a fixed date;
9. The bank and any other financial institution in charge of the payment of the subscription price and the place for payment;
10. The name, address and business office of a transfer agent, if any.

For the subscription of the shares, if promoters do not notice assignment method in advance, it can be freely allocated

④ Investment implementation procedure

Where promoters subscribe to all the shares to be issued at the time of incorporation, they shall without delay make full payment of the subscription price (Commercial Act Article 295-1). If the shareholders make a payment including promissory notes or checks, it is presumed to paid when those notes and checks are cleared through banks<sup>16)</sup> Promoters shall designate a bank or other financial institution at which the subscription price is to be paid as well as the place for payment (Commercial Act Article 295-1), payment shall be made at the place set in the share subscription form. A promoter who is to make an investment in kind shall, without delay, provide all of the asset which is the subject matter of the investment on the date designated for the payment of the subscription price, and if registration, records, or the creation or transfer of rights is required, he/she shall prepare completely

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16) Chanhyung Chung, *Supra* Note 10, p. 651



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the relevant documents and deliver them to the company (Commercial Act Article 295-2).

In case of a subscripitive incorporation, when all the shares to be issued at the time of incorporation have been subscribed to, promoters shall, without delay, cause the subscription price to be paid fully by the subscribers (Commercial Act Article 305-1). In cases of subscripitive incorporation, subscribers shall make a payment at the place set in the share subscription form, the place for payments shall be limited to bank and any other financial institution (Commercial Act Article 302-9, 305-2). The bank and financial institution can be changed only with the permission of the court. For establishment of incorporation, it is possible for both promoters and subscribers to make an investment in kind. Methods of investment in kind is basically same as that of incorporation by promoters.

### ⑤ Institutional configuration procedure

In cases of incorporation by promoters, when the payment of a subscription price and the investment in kind are completed, promoters shall without delay appoint directors and auditors by a majority vote (Commercial Act Article 296-1). The articles of incorporation may provide that such representative director shall be appointed at a general shareholders' meeting (Commercial Act Article 317 2-9, 389-1).

In cases of subscripitive incorporation, at an inaugural general meeting, directors and auditors shall be appointed (Commercial Act Article 312). Promoters shall convene an inaugural general meeting and resolutions of an inaugural general meeting shall be adopted by affirmative votes of at least two-thirds of the total votes of attending subscribers and also by affirmative votes representing a majority of the total number of shares

which have been subscribed to (Commercial Act Article 308-1, 309). A company shall appoint, by a resolution of the board of directors, a director who shall represent the company (Commercial Act Article 317-1, 389 2-9).

⑥ Investigation

Directors and auditors shall, without delay after their appointment, investigate whether or not all matters concerning the incorporation of the company were done in compliance with the Acts, subordinate statutes and the articles of incorporation, and report the outcomes thereof to promoters (Commercial Act Article 298-1). In cases where the articles of incorporation provide for the matters on irregular incorporation, the directors shall request a court to appoint an inspector for the purpose of investigating such matter (Commercial Act Article 298-4). The provision of “Investigation and reporting by inspectors” shall not apply in cases falling under any of the following (Commercial Act Article 299-1):

- In cases where the total amount of assets does not exceed both one fifth of the amount of capital and less than 50 million won
- In cases where the assets constitute securities for which there is an exchange based market, and the price stated in the articles of incorporation does not exceed the price calculated by the method determined by Presidential Decree (Commercial Act Article 299-2)
- Other cases determined by Presidential Decree

In case of a subscripitive incorporation, directors and auditors shall, without delay after their inauguration, investigate whether all matters concerning the incorporation of the company were done in compliance with Acts, subordinate statutes and the article of incorporation and shall

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report the outcomes thereof to the inaugural general meeting (Commercial Act Article 313-1). In cases of irregular incorporation, promoters shall request the court to appoint an inspector to investigate such matters and a written report of an inspector shall be submitted to an inaugural general meeting. However, a company with the total capital of which is less than one billion won may choose not to appoint auditors (Commercial Act Article 409-1).

⑦ Registration for incorporation

A stock company is established by a registration for incorporation (Commercial Act Article 172). For incorporation by promoters, it shall be registered within two weeks from the date of completion of the investigation procedures. For subscription incorporation, it shall be registered within two weeks from the date of closing of the inaugural general meeting or the date of completion of the procedures for irregular incorporation (Commercial Act Article 317-1).

Registration for Incorporation requires below information (Commercial Act Article 317-2):

1. Objectives;
2. Trade name;
3. The total number of shares authorized to be issued;
4. Par value per share where par value shares are issued;
5. The place of a principal office;
6. Method of giving public notice by the company;
7. The amount of the capital;
8. The total number and class of shares issued and outstanding, and the details and number of each class of shares;
9. Provisions that the transfer of shares requires the approval of the board of directors, if so determined;

10. Provisions under which stock options are granted, if so decided;
11. The place of each branch office;
12. The period of existence or reasons for dissolution of the company, if determined;
13. Retirement of shares out of profits to be distributed to shareholders, if so determined;
14. The matters listed in Article 347, if convertible shares are issued;
15. The names and resident registration numbers of inside directors, outside directors, other directors who are not engaged in regular business, auditors and executive directors;
16. The name, resident registration number and address of the representative director or executive directors;
17. Provisions that two or more representing directors or representative executive directors shall jointly represent the company, if so determined;
18. The trade name and the principal office of a transfer agent, if any;
19. The name and resident registration number of each auditor of the audit committee, if such committee has been set up.

#### iv) Limited Company

Establishment procedures of limited company include execution of articles of incorporation, investment implementation, configuration process and registration for incorporation.

##### ① Execution of articles of incorporation

At least one member shall prepare the articles of incorporation for the incorporation of a limited company and each member shall write his or her name and affix his or her seal or sign thereon (Commercial Act Article 543). Likewise stock companies, articles of incorporation shall

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take effect upon being by a public notary (Commercial Act Article 543-3). Matters absolutely required for Articles of Incorporation are as below (Commercial Act Article 543-2):

1. Objectives;
2. Trade name;
3. Name, resident registration number and domicile of each member;
4. The total amount of capital;
5. The amount of one unit of investment;
6. The number of units of investment for each member;
7. The seat of the principal office.

Matters relatively required for Articles of Incorporation are as below (Commercial Act Article 544):

1. The names of persons who are to make an investment in kind and the type, quantity and value of the subject matter of the investment and the number of units of investment to be given in consideration thereof;
2. The type, quantity and value of assets agreed to be transferred to a company after its incorporation and the name of the transferor;
3. Expenses for incorporation to be borne by the company.

Arbitrary matters in the article of incorporation could be matters such as number of directors and time of closing accounts which are not against the compulsory law can be determined.

Directors shall have members pay the full amount of their investments or furnish all the assets which are subject matter of the investments in kind (Commercial Act Article 548-1). If registration, records, or the creation or transfer of rights is required, he or she shall prepare completely the

relevant documents and deliver them to the company (Commercial Act Article 295-2, 548-2).

Where directors have not been designated by the articles of incorporation, a general meeting of members shall be convened before the incorporation of a company and such directors shall be elected at such meeting (Commercial Act Article 547). If the articles of incorporation shall specify appointment of auditors, such auditors shall be elected at a general meeting.

Registration for incorporation of a limited company shall be made within two weeks of the date of completing payment for investment or making an investment in kind set forth (Commercial Act Article 549-1). Registration for incorporation requires below information (Commercial Act Article 549-2):

1. Objectives;
2. Trade name;
3. Place of the principal office;
4. The total amount of capital;
5. The amount of one unit of investment;
6. The name, resident registration number and address of each director:  
Provided, That if a director representing the company has been appointed, the addresses of other directors shall be excluded;
7. The name, address and resident registration number of a representative director, if any;
8. Provisions pertaining to the joint representation of a company by two or more directors, if so determined;
9. Term of existence of a company and grounds for dissolution thereof, if determined;
10. Name and resident registration number of auditors, if any.

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v) Limited Liability Company

Establishment procedures of limited liability company include execution of articles of incorporation, investment implementation, and registration for incorporation. While partnership company and limited partnership company do not require to investment implementation, limited liability company requires to make an investment before registration for incorporation.

① Execution of articles of incorporation

At least one member shall prepare the articles of incorporation for the incorporation of a limited liability company and each member shall write his or her name and affix his or her seal or sign thereon (Commercial Act Article 287-2).

Matters absolutely required for Articles of Incorporation are as below:

1. Objectives;
2. Trade name;
3. Name, resident registration number and domicile of each member;
4. The objective and amount of capital investments of the members;
5. The amount of capital;
6. The names (in cases of a corporation, referring to its business name) and addresses of the managers.
7. Place of the principal office;
8. Date of execution of the articles of incorporation.

Matters relatively required for Articles of Incorporation are as below:

1. Transfer of equity holdings (Commercial Act Article 287-8-3)
2. Amendment to article of incorporation (Commercial Act Article 287-16)

3. Representation of Limited Liability Company (Commercial Act Article 287-19-2)
4. Two or more managers jointly represent the limited liability company (Commercial Act Article 287-19-2)
5. Members' Right to Withdraw from Company (Commercial Act Article 287-24)
6. Reasons for Withdrawal of Members (Commercial Act Article 287-25)
7. Adjudication on Expulsion (Commercial Act Article 287-27)
8. Refund of Equity Holdings of Withdrawn Members (Commercial Act Article 287-28-3)
9. Distribution of Surplus (Commercial Act Article 287-37-4)
10. Reasons for Dissolution (Commercial Act Article 287-24,38)

Arbitrary matters in the article of incorporation can be written in the article if they do not contradict the essential parts of limited liability company, mandatory rules, and social order.

In cases of limited liability company, no member shall use, as the subject matter for their investments, personal services or credibility (Commercial Act Article 287-4). Members shall complete execution of their capital or other property investments no later than the time of registration of incorporation after drawing up the articles of incorporation (Commercial Act Article 287-5).

In case of making a cash contribution, members shall complete execution of their capital or other property investments no later than the time of registration of incorporation after drawing up the articles of incorporation (Commercial Act Article 287-4). If making an in-kind investment, a member who is to make an investment in kind shall deliver to the limited liability company the property which is the subject matter of the investment without delay by the due date and, if registration, records, or



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a creation or transfer of rights is required, he/she shall prepare and deliver all the documents therefor (Commercial Act Article 287-4).

A limited liability company shall come into existence upon registration of the following matters at the place of its principal office (Commercial Act Article 172, 287-5).

Registration for incorporation requires below information:

1. Objectives;
2. Trade name;
3. Place of the principal office;
4. The time period of existence or reasons for dissolution, if such period or reasons have been determined;
5. The amount of capital;
6. The name, address and resident registration number of each manager (in the case of a corporation, referring to its business name, address and corporate registration number): Provided, that where a manager who is to represent the limited liability company has been designated, other members shall be excluded;
7. In cases where a person who is to represent the limited liability company has been designated, the name or business name and address of such person;
8. The method of public notification, if such method has been determined by the articles of incorporation;
9. Provisions pertaining to the joint representation of the limited liability company by two or more managers, if so determined.

Where there have been changes in any of the matters, such changes shall be registered within two weeks at the place of the principal office and within three weeks at the place of each branch office, respectively.

With respect to registration for incorporation, articles of incorporation and investment implementation are attached as an evidence.

### 3. Supporting Laws for Small-Medium Enterprises by Three Developmental Stages

Supporting laws for small-medium enterprises can be classified into three developmental stages: (i) Establishment Stage, (ii) Growth Stage, and (iii) Conversion Stage. For establishment stage of small-medium enterprises, there are several support laws including ‘Support for Small and Medium Enterprises Establishment Act’, ‘Act on Special Measures for the Promotion of Venture Businesses’. For growth stage of small-medium enterprises, supporting systems include ① Support for R&D, ② Support for manpower, and ③ Support for development of their markets, and related supporting laws are ‘Framework Act on Small and Medium Enterprises’, ‘Act on the Promotion of Technology Innovation of Small and Medium Enterprises’, ‘Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises’. For conversion stage, ‘Special Act on the Promotion of Business conversion in Small and Medium Enterprises’.

#### a. Establishment Stage

##### i ) Civil Act and Commercial Act

Enterprises can be classified into two categories such as associations and corporations. More specifically, because associations as an enterprise are established by contracts with basic terms and agreements, civil act is applied. However, commercial act is preferentially applied for associations defined in commercial act such as undisclosed association or a limited partnership.

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According to commercial act, there are five types of corporations: a partnership company, limited partnership company, incorporated company, stock company, limited company. In order to establish any type of these companies, commercial act shall be applied, especially for establishment procedures and organizations of the company.

### ii) Support for Small-Medium Enterprise Establishment Act

Following its amendment in 2012, the purpose of [Support for Small-Medium Enterprises Establishment Act] is to contribute to the establishment of a solid industrial structure through sound development of small and medium enterprises by facilitating the setting-up of small and medium businesses and developing a firm basis for their growth (Article 1). This Act shall apply to the affairs pertaining to business start-ups: Provided, that this shall not apply to the types of small and medium-sized businesses specified by Presidential Decree, such as finance business, insurance business, and real estate business (Article 3).

According to Article 4.2.1, the administrator of the Small-Medium Business administration may implement any project of the following:

- ( i ) Finding and raising competent possible future business starters and supporting them;
- ( ii ) Supporting the commercialization of outstanding ideas of the business starters
- ( iii ) Other projects prescribed by Presidential Decree such as training for the establishment of business and extension of the infrastructure of business start-ups.

In addition, any person who intends to receive support under this Act as a company conducting a business falling under any of the following:

investment in business starters, investment in venture businesses and so on, shall register it as a small-medium business start-up investment company with the Administrator of the Small-Medium Business Administration (Article 10~19: also see Article 20~30 for Small-Medium Business start-up investment cooperative).

iii) Act on Special Measures for the Promotion of Venture Businesses

The purpose of this Act is to contribute to the facilitation of the structural adjustment of the industry as well as to the enhancement of the competitiveness thereof, by promoting the conversion of existing enterprises into venture businesses and the establishment of venture businesses (Article 1).

For efficient supply of capital, a person administering any Fund (hereinafter referred to as a “fund administrator”) prescribed by Presidential Decree, which falls under the provisions of the National Finance Act, may invest funds into venture businesses within the ratio prescribed by Presidential Decree, or contribute them to small and medium enterprise start-up investment associations, new technology project investment associations, or the Korea Venture Fund, pursuant to the plans for operating the relevant Fund (Article 4.1). With regard to investments in venture businesses or contributions to small and medium enterprise start-up investment associations, new technology project investment associations, or the Korea Venture Fund within the scope of plans for operating the relevant Fund, the fund administrator shall be deemed to have obtained authorization, permission, approval, etc. in compliance with the provisions of relevant Acts and subordinate statutes (Article 4.2). Finally, according

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to Article 4.4, an insurance company pursuant to subparagraph 5 of Article 2 of the Insurance Business Act may make investments in venture businesses or contributions to small and medium enterprise start-up investment associations or new technology project investment associations within the scope determined by the Financial Services Commission.

Next, in order to facilitate business activities and smooth supply of manpower, any venture business which seeks to make a stock exchange under paragraph (1) shall acquire treasury stocks necessary for stock exchange under paragraph (1) on its own account, notwithstanding Article 341 of the Commercial Act. In such cases, the amount of acquisition shall be within the limits capable of paying a dividend under Article 462 (1) of the same Act (Article 15). In addition, Appraisal right of opposing stockholders (Article 15.2), Simplification of merger procedures (Article 15.4), Special cases on takeover of business by other stock companies (Article 15.8), Special cases on small-scale merger of venture businesses (Article 15.9), Special cases on short-form merger of venture businesses (Article 15.10), and Short-form transfer of business (Article 15.11) also included in this Act.

Finally, according to Article 17.2, the head of a university or research institute may request the Administrator of the Small and Medium Business Administration to designate a specific land held by the university or research institute as an area for the collective location of new technology-based businesses (hereinafter referred to as “collective area”) in which the production facilities and other support facilities of founders, venture businesses, etc. are collectively equipped.

b. Growth Stage

i ) Framework Act on Small and Medium Enterprises

The purpose of this Act is to provide for fundamental matters pertaining to the direction in which the small and medium enterprise sector is to advance and measures to be taken to develop small and medium enterprises with aims of supporting the creative and independent growth of small and medium enterprises, advancing their industrial structure, and facilitating the balanced development of the national economy (Article 1). This Act determines scope of Small-Medium business proprietors (Article 2) and establishes duties of government and its responsibilities and roles (Article 3).

This Act also provides the basic principals such as Cooperation between Small-Medium businesses (Article 8), Conversion of business structure (Article 9), Encouragement of fair competition and mutual growth (Article 10), and Protection of business sphere (Article 11). Lastly, legislative and financial measures is necessary for implementing its policy for Small-Medium businesses (Article 18).

ii) Act on the Promotion of Technology Innovation of Small and Medium Enterprises

The purpose of this Act is to contribute to the development of the national economy by promoting technology protection and improving technology competitiveness. Also, this Act expands infrastructure and supports for small-medium enterprises (Article 1).

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iii) Act on the Promotion of Collaborative Cooperation Between  
Large Enterprises and Small-Medium Enterprises

The purpose of this Act is to sharpen the competitiveness of large enterprises and small-medium enterprises by consolidating win-win cooperation between them and to attain their shared growth by resolving the polarization between large enterprises and small-medium enterprises with the aim of laying the foundation for sustainable growth of the national economy (Article 1). The term “win-win cooperation” means joint activities carried out between large enterprises and small-medium enterprises, between small-medium enterprises to increase their mutual interests in sectors of technology, human resources, fund, purchase, marketing, and so on (Article 2).

iv) Small and Medium Enterprises Promotion Act

Following its amendment in 2012, Small and Medium Enterprises Promotion Act stipulates requirements with regards to the “corporate social responsibility of small and medium enterprises.” This Act provides that SMEs shall make efforts to undertake socially responsible business operations in relation to its employees, suppliers, customers and the local community (Article 62.4.1). Furthermore, it also stipulates that the government and local self-governing bodies can provide necessary support for the socially responsible business operations of SMEs (Article 62.4.2).

This Act targets SMEs and requires the Small and Medium Business Administration (SMBA) to take necessary measures and provide support for facilitating Corporate Social Responsibility (CSR) implementation. In particular, the Administrator of SMBA shall establish and implement a basic plan for promote CSR implementing SMEs every five years with

## B. Current Status of Laws Related to Small-Medium Enterprises

a goal to facilitate CSR implementation by SMEs and provide systematic support(Article 62.5.1). The basic plan shall include the ① basic policy goals and objectives for facilitating promoting CSR implementation by SMEs; ② action plan for promoting CSR management by SMEs; ③ assistance programs for CSR implementing SMEs; ④ current status of CSR implementing SMEs; and ⑤ other items prescribed by the Presidential Decree for facilitating and supporting CSR implementing SMEs(Article 62.5.2). In this case, the items under the Presidential Decree refer to a) training and development of CSR professionals; b) CSR business management training for SME employees; c) development and diffusion of implementation indicators for CSR management by SMEs and ; d) other major initiatives relevant to facilitating CSR implementing SMEs(enforcement ordinance Article 54.3).

Furthermore, annual execution plan built on the basic plan must be implemented(Article 62.5.3), and the requirements to this end must be determined under the Presidential Decree (Article 62.5.4).

Moreover, the Administrator of SMBA can designate a SME support agency or group to effectively assist the socially responsible business management by SMEs (Article 62.6.1). Pursuant to this regulation, SMBA designated “Korea Productivity Center” as the “CSR Small and Medium Business Center”, which first began its activities in April 2014. A center or group must fulfill the following requirements to be designated as CSR Small and Medium Business Center: ① non-profit organization; ② with an specialized team dedicated to supporting CSR practice of SMEs; ③ consulting or training program to be included in the scope of the institution or group’s activities; ④ total surface of training facilities shall be above 150m<sup>2</sup> with one or more training and consulting room



## II. Current Status of Laws related to Small-Medium Enterprises and Venture Businesses in South Korea

(enforcement ordinance Article 54.5.1). A center or group fulfilling such requirements should attach evidence documents and submit its application to the Administrator of SMBA (Article 54.5.2).

The CSR Small and Medium Business Center must ① provide guidelines regarding CSR implementation by SMEs; ② nurture professional workforce in CSR implementation by SMEs; ③ provide training and education to raise awareness on CSR; ④ and provide necessary information and consulting assistance regarding CSR(Article 62.6.2). The Administrator of SMBA may make an investment or grant a loan to support the costs required for the operation of the Center (Article 62.6.4), and in case of failing to meet the legal requirements for designation, the designation can be canceled(Article 62.6.5).

### c. Conversion Stage

#### i ) Special Act on the Promotion of Business Conversion in Small-Medium Enterprises

The purpose of this Act is to promote the business conversion of small and medium enterprises that suffer difficulties due to changes in the economic environment, which will enhance the competitiveness of small and medium enterprises and upgrade the industrial structure, thereby contributing to the healthy development of the national economy (Article 1).

This Act allows any small-medium business proprietor intending for business conversion to submit a plan for business conversion (Article 8). According to Article 11.1, If an approved enterprise intends to modify important details of a plan for business conversion, it shall obtain approval from the Administrator of the Small and Medium Business Administration; whereas if it intends to suspend the plan for business

conversion, it shall notify the Administrator of the Small and Medium Business Administration thereof. In addition, If the Administrator of the Small and Medium Business Administration deems, as a result of investigation under Article 10 (1), that the feasibility of implementing a plan for business conversion is low, he/she may recommend modification or suspension of the plan to the relevant approved enterprise (Article 11.2).

- ii) Bill for Business Reinvigoration (Proposal; also known as “One Shot Bill”)<sup>17)</sup>

This bill provides companies a temporary exemption to allow them to reshuffle their companies for increasing the competitiveness by eliminating oversupply. That is to say that the primary purpose of this bill is to provide a shortcut for business reshuffling and to reinvigorate national industrial competitiveness.

This bill will not be applicable to all enterprises, but it will be applied to the companies that intend to reshuffle their companies in order to eliminate such excess supply. The eligibility is limited to those companies in oversupply industry and sector which is determined by Ministry after deliberation of the committee. Below is the overview of the proposed bill.<sup>18)</sup>

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17) This bill was submitted to the National Assembly in order to reinvigorate and reorganize business and enterprises. This bill is well supported by companies which emphasize the necessity of such act. This bill was not designed solely for small-medium enterprises but it has many practical implications for such enterprises.

18) Jongho Kwon, “Enactment Strategies for the ”Special Act on Business Reshuffling Reinvigoration, “Public Hearing Booklet, Korea-Japan Industrial and Financial Law Forum, 2015), p.9

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◇ Overview

- o (Eligibility) Limited to enterprises that attempt to resolve national agenda or problem
  - i ) Oversupply sectors;
  - ii ) Reshuffling business
- o (Period of support) Business reshuffling plan period (e.g., 3 years)
  - Ensuring efficiency and unity of the support system through special act
  - Facilitating a short-term business reshuffling through limited support period
- o (Business reshuffling plan approved) Determined by Ministry after deliberation of the committee which is consist of members from private and public sectors
  - In Japan, ministry reviews and approve the plan.
- o (Approval criteria) Comprehensive evaluation based on improving productivity, eliminating oversupply, facilitating investment
  - Various supporting systems shall be enhanced competitiveness of the industry as a whole
- o (Support Package) In order to maximize the efficiency of supports, supporting items are provided as a package
  - For tax exemption, Restriction of Special Taxation Act and Restriction of Special Local Taxation Act will be applied
- o (Resolving regulatory difficulty) Improving regulation for an emerging industry
  - Approved companies eliminate the uncertainty of entering new business and improve regulatory conditions to ensure safety measures
- o (Ex post facto management) Business reshuffling plan shall be announced publicly and performance status shall be reported on a regular basis
  - For fabrication, false information, and failure to implement the plan without justifiable reasons, the plan shall be cancelled

## B. Current Status of Laws Related to Small-Medium Enterprises

The company has received an approval for business reshuffle in accordance with this act shall be exempt from 'Fair Trade Act' and 'Commercial Act'. This special exemption privilege allows the company to facilitate a smooth and rapid measures to support business reshuffle. It is also possible for the company to be entitled to tax exemption and financial supports.

### III. Current Status of Supporting Laws for Small-Medium Enterprises

#### A. Supporting Laws and Systems for Establishment Stage of Small-Medium Enterprises

Financial support systems for small-medium enterprises are classified into two categories: indirect financing (from a third party) and direct financing (self-funded). Indirect financing is that a person borrow some money from banks through loan agreement or contract. In contrast, direct financing is to raise money by issuing stocks, bonds, and so on.

Small-Medium enterprises in establishment stage is hardly known in the market so it is impossible to raise funds by themselves. Thus, bank loan shall be used to make funds for small-medium enterprises. However, Capital Market Act is recently amended which allows small-medium enterprises to obtain a fund through crowdfunding (2016. 01). In this case, direct financing for small-medium enterprises shall be feasible.

As noted earlier, typical method of indirect financing is to obtain a fund from banks (i.e., loan, loan contract for consumption). It is also possible for small-medium business to utilize policy financing.

#### 1. Funding Through Consumer Cash Loan

Consumer cash loan refers to a contract generating a claim or credit. That is, A is committed to lend his or her own money to B, B promises to return the money within a certain period of time to A. Those who

### III. Current Status of Supporting Laws for Small-Medium Enterprises

wish to start up small-medium enterprises shall be financed through bank loan and consumer cash loan from third parties or individuals.

## 2. Funding Through Policy Financing

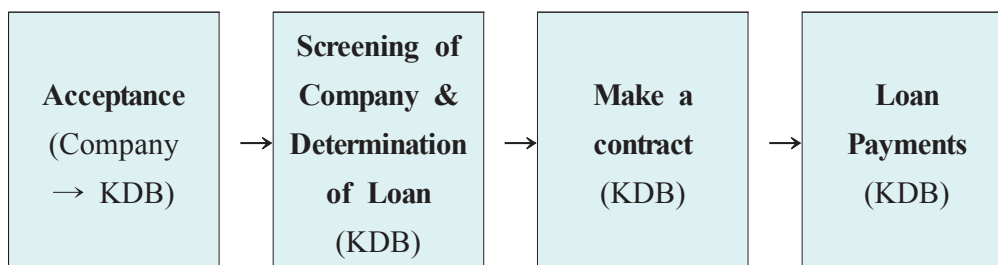
For small-medium enterprises in establishment stage, it is difficult to obtain funds through the banks because they do not support small-medium business start-up loans, especially for new and unproved firms. Thus, the government institutions develop a supporting systems to support the necessary funds to small-medium enterprises. The related laws only specify a legal base for financial support while specific funding and support is made available through the Korea Development Bank (KDB).

With starting new small and medium enterprises, balanced development of industries, establishment of industrial infrastructure, expansion of business sphere, and structural advancement, the Government shall establish the Fund for the Establishment and Promotion of Small and Medium Enterprises (Small and Medium Enterprises Promotion Act Article 63). Based on Industrial Development Act (Article 33), the Fund for the Establishment and Promotion of Small and Medium Enterprises is available for the following business:

1. Projects for improving industrial productivity and higher added value;
2. Projects for laying the industrial groundwork, such as sites, logistics, distribution and informatization;
3. Projects for establishing environment-friendly industrial infrastructure;
4. Projects for promoting policies to strengthen industrial competitiveness;
5. Projects for promoting policies to raise efficiency of the industrial structure;
6. Projects for developing the leisure equipment industry, including bicycles and motorboats

A. Supporting Laws and Systems for Establishment Stage of Small-Medium Enterprises

Companies apply to KDB which review their applications and determines loan (e.g., private placement bond) to support those companies.



Facility funds can be classified into two categories including general facility funds and special facility funds. Operating funds include general operating funds and designated funds for small-medium and mid-size enterprises.

- Facility funds: financial support for purchasing, maintaining, and repairing production facilities
- Operating funds: financial support for material cost, personnel

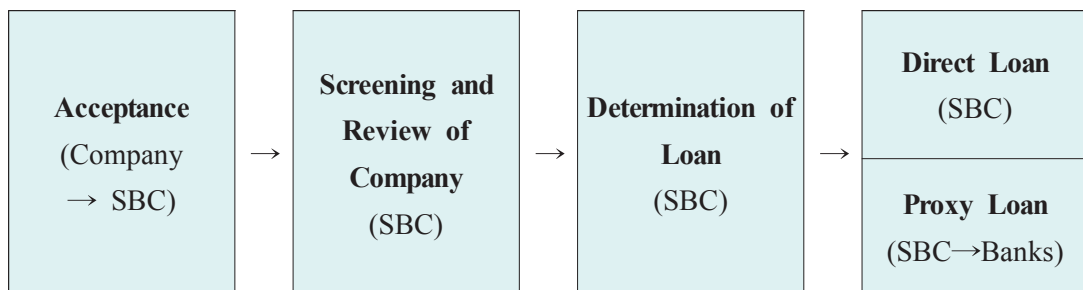
Investment funds for new growth industry, manufacturing business, SOC and restructuring projects in accordance with corporate demand for customized support.

Items	
Operation Scale	<ul style="list-style-type: none"> <li>▪ A total of 30 trillion won*</li> <li>* KDB supports 15 trillion won and facilitates investment from business industry through 1:1 matching</li> </ul>
Eligible Company	<ul style="list-style-type: none"> <li>▪ Small-Medium, Med-size, Large-size companies</li> </ul>

III. Current Status of Supporting Laws for Small-Medium Enterprises

Purpose	▪ Infrastructure Investment, R&D funds, Business restructuring
Limits	▪ No limit
Support Rate	▪ 50% of the total required funds within the principles (flexible operation)
Support Methods	▪ Stocks and stocks related bonds (e.g., convertible bonds) are mainly operated and corporate bonds and loans are also available depends on demands
Conditions of support	▪ Comprehensive reviews considering size of investment, financing structure, loan payback period, investment-loan ratio.
Support Procedure	<ul style="list-style-type: none"> <li>① Application of financial support (Company → KDB)</li> <li>② Feasibility Study and Evaluation* (KDB)</li> <li>* If necessary, external agency reviews the applications</li> <li>③ Negotiating financial conditions and consultation arrangements (Business owner·KDB)</li> <li>④ Financial support (KDB → Business owner)</li> </ul>

Small-Medium enterprises apply for funding or financial support to Small and Medium Business Corporation (SBC) which reviews and determines funding for the companies.





A. Supporting Laws and Systems for Establishment Stage of Small-Medium Enterprises

	Establishment	Growth	Conversion
Aims	<ul style="list-style-type: none"> <li>• Startup and Market</li> <li>• Foundations for Growth stage</li> </ul>	<ul style="list-style-type: none"> <li>• Growth stage</li> </ul>	<ul style="list-style-type: none"> <li>• Improving financial structure Re-establishment</li> </ul>
Support	<ul style="list-style-type: none"> <li>• Startup funds</li> </ul>	<ul style="list-style-type: none"> <li>• Based funds for new growth industry</li> <li>• Technology commercialization funds</li> </ul>	<ul style="list-style-type: none"> <li>• Reform funds</li> <li>· Restructuring funds (300 hundred million)</li> <li>· Facilitating business transformation funds (990 hundred million)</li> <li>· Re-establishment funds (700 hundred million)</li> </ul>
Scale ('15)	1.4 trillion won	1 trillion & 3,270 hundred million	1,990 hundred million

### 3. Funding Through Crowdfunding

Crowdfunding is a fund that raises monetary contributions from a large number of people for a venture or company, typically via the internet and social network services (SNS). For this reason, crowdfunding is also known as ‘social funding.’<sup>19)</sup> In general, crowdfunding can be categorized into three distinct categories: ( i ) donations and sponsor-type crowdfuning, ( ii ) loan-type crowdfunding and ( iii ) share(investment)-type crowdfunding.<sup>20)</sup>

19) Heehwal Sung, “A Study on the Regulatory Framework for the Equity Crowdfunding, Securities Law Association, Vol. 14 No.2 (2013), p. 394

20) Minsup Yoon, A Legal Study on the Crowdfunding as Means of Obtaining Capital, Corporate Law Study Vol. 26, No. 2 (2013), pp. 192~199; Heehwal Sung, *Supra* Note

### III. Current Status of Supporting Laws for Small-Medium Enterprises

‘Capital Market Act Amendment’ (also known as ‘crowdfunding act’) has been passed recently, it is expected to implement in 2016. This act introduces an investment-type crowdfunding where startup business allows to solicit funding from small investors via internet or funding portal site. In particular, it created ‘Investment services for online small investors’ as a type of investment brokerage services. Securities report is exempt in order to reduce difficulties of financing for start-up. There is also a system for protecting the investors.

Since crowdfunding is primarily used by business owners who have experienced difficulties to obtain funds from the capital market, it has significantly eased the procedures that could be burdensome for small start-up companies. In particular, securities reports are exempt to save share-related expenses and the procedure has been simplified for small investors in order to facilitate convenience of funding. However, there are certain regulations made for the protection of investors.

#### a. Issue limit

Corporate funding is available through the crowdfunding up to 700 million won per year. However, this amount does not include additional expenses for limitation of resale of professional investors such as financial company, venture investment funds, new technology project financing company, and professional angel investors.

#### b. Investment limit

Since the publisher of crowdfunding is a major risk start-up companies, investment companies to limit the extent of the investor. For general

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investors, up to ₩2,000,000 per corporate and up to ₩5,000,000 per year. For investors imposed global taxation on financial income, up to ₩10,000,000 per corporate and up to ₩20,000,000 per year. No investment limit is drawn for professional investors.

c. Resale restrictions between investors

In order to protect secondary investors, resale restrictions are imposed. Primary investors are able to gather all relevant information through two-way communication and interactions via online funding portal. However, secondary investors usually lack of information regarding the issuers so that they can deal enough information. For this reason, resale restrictions are imposed for 1 year. Since professional investors are able to deal sufficient information, the restrictions are not applied.

d. Restrictions of Share Sale for Issuers and Major Shareholders

In order to prevent “eat and leave”, issuers and major shareholders are limited to share sale Issuers who attract investors through crowdfunding to sell-off its stake. In particular, issuers and major shareholders are limited to share sale within 1 year after issuing shares.

e. Miscellaneous

If the subscription amount less than or equal to a certain percentage of the amount expected, the securities can be cancelled since it is somewhat impossible to operate business due to lack of funding. In addition, brokers are not allowed to keep the wealth of investors and to prohibit receiving deposits. Subscription deposit and trust shall be deposited in

### III. Current Status of Supporting Laws for Small-Medium Enterprises

banks and securities finance companies. To prevent conflict of interests between brokers and investors, investors shall not provide any consultation and advertisement of investment shall be advertised through brokers' internet site only. After implementation of crowdfunding system (about January, 2016), it is possible for small-medium enterprises to obtain funds directly from the market. Small-Medium company in a developmental phase to introduce marketable business items and newly produced goods to the market actively and it is also feasible to directly obtain funds from small investors who intend to make a profit as well as to support unproven social company for public interests.

#### 4. Funding by Support for Small and Medium Enterprise Establishment Act

The purpose of 『Support for Small and Medium Enterprise Establishment Act』 is to contribute to the establishment of a solid industrial structure through sound development of small and medium enterprises by facilitating the setting-up of small and medium businesses and developing a firm basis for their growth (Article 1). This act shall be applied to finance business, insurance business, real estate business, golf and ski resorts business, casino, and other personal services business (Article 3). This act provides a legal basis for supporting small and medium business start-ups, especially helping business starters by providing necessary financial support. The Government may provide business starters and persons who engage in the business of supporting business (e.g., Business Incubator, Entrepreneur graduate schools, start-up investment cooperative, Small-Medium start-up investment company, etc) with support as may be necessary, including but not limited to investments, contributions, subsidies and loans

(Article 4-2). In accordance with this act, small-medium start-up investment company and small-medium start-up investment partnership can be funded so that they facilitate investment.

A variety of administrative support system enacted in Support for Small and Medium Enterprise Establishment Act in order to support the establishment of small-medium enterprises. This act allows the government to implement various administrative support in order to accelerate the small and medium business start-ups (Article 4-2, 1) as below:

- Finding and raising competent possible future business starters and supporting them;
- Supporting the commercialization of outstanding ideas of the business starters;
- Other projects prescribed by Presidential Decree such as training for the establishment of business and extension of the infrastructure of business start-ups

There are a couple of business start-up supporting projects based on Support for Small and Medium Enterprise Establishment Act as following:

a. Support for Re-Establishment

The administrator of the small and medium business administration may request the head of a relevant central administrative agency or the head of a local government of the related materials as below in order to formulate a plan for supporting business start-ups (Article 4).

- Identify small-medium business person who has excellent technology and experience and wish to start his or her own business again (re-establishment) and reeducate them

### III. Current Status of Supporting Laws for Small-Medium Enterprises

- Reducing various regulatory burden and barriers for re-establishment
- Providing tax and legal consultant for re-establishment
- Expanding educational facilities for re-establishment such as training centers and operational support facilities
- Other support projects prescribed by the administrator of the small and medium business administration

#### b. Support for Establishment of Regional Specialized Industry

In order to create regional employment and vitalize regional economy, the administrator of the small and medium business administration shall develop a plan to facilitate industry that include regional specialized industry and support prep entrepreneurs who has regionally specialized technology and experience.

#### c. Operations of Business Incubators

A person who establishes and runs a business incubator and desires to receive the various support under this Act shall meet the requirements and obtain a designation from the administrator of the Small and Medium Business Administration (Article 6). Requirements of the Operator of Business Incubator are as followings (Article 6-1):

- The operator shall possess the following facilities and equipment:
  - (a) Equipment such as testing or measuring instruments available for the use of business starters;
  - (b) Facilities with an area of 500 square meters available for the use of at least 10 business starters;
- The operator shall have at least two experts, each of whom shall be a holder of a doctorate degree in business administration, an attorney

A. Supporting Laws and Systems for Establishment Stage of Small-Medium Enterprises

under the Attorney-at-Law Act, or any other professional specified by Presidential Decree;

- A business plan, etc. for carrying out the business of the business incubator shall meet the standards prescribed by Ordinance of the Ministry of Knowledge Economy

The Government or each local government may abate or exempt the rent for state-owned or public property leased to the persons who have moved into a business incubator (Article 6-2).

d. Supports for Vitalizations of Start-ups by College Students

University or college shall establish and operate a specialized unit for start-ups funded by the university or college (Article 7-2, 1). The administrator of the Small and Medium Business Administration may designate entrepreneur graduate schools, which aim at raising professionals in business start-ups and provide any other support as may be necessary (Article 8).

e. Operation of Small-Medium Business Consulting Company

Small-Medium business consulting company shall be established in order to support start-ups. Small-Medium consultant company engaging in the following business shall register itself as a small and medium business consulting company with the administrator of the Small and Medium Business Administration in accordance of Ministry of Trade, Industry, & Energy Ordinance (Article 31-1):

- Assessment of marketability for small-medium enterprises
- Conducting projects for improving mangement and technology of small -medium enterprises

### III. Current Status of Supporting Laws for Small-Medium Enterprises

- Referral of business opportunities to small or medium businesses
- Providing advices on and acting as a proxy in supplying and operating funds for small or medium businesses
- Vicarious processing for business start-ups
- Providing advices regarding establishment and operations of Business Incubators
- Other support projects prescribed by the administrator of the small and medium business administration

## B. Supporting Laws and Systems for Small-Medium Enterprises at Growth Stage

### 1. Supports for Business Funds

#### a. Overview

There are various financial support systems for small-medium enterprises (see below)

Current System	Financial Support
Industry Development Act	Support for small and medium enterprise to improve its productivity and Fund for the establishment and promotion of small-medium business is limited to small and medium enterprises
Framework Act on Small and Medium Enterprises	Restructuring of small-medium enterprises, entrepreneurship support, technical support and innovation-related support only
Small and Medium Enterprises Promotion Act	
Support for Small and	



B. Supporting Laws and Systems for Small-Medium Enterprises at Growth Stage

Current System	Financial Support
Medium Enterprises Establishment Act	
Act on the Promotion of Technology Innovation of Small and Medium Enterprises	
Act on Special Measures for the Promotion of Venture Business	Support for merging venture business and PEF investment of initial fund
Credit Guarantee Fund Act & Korea Technology Credit Guarantee Fund Act	The primary purpose of credit guarantee fund and technology credit fund is to guarantee for enterprises with weak mortgage ability (especially for small-medium business)

b. Financial Support System based on Industry Development Act

Industry Development Act is to sharpen competitiveness of the industrial sector and to promote sustainable industrial development to cope with the advent of the knowledge-based economy (Article 1). This act is only applied to manufacturing industry and the service industry closely related to enhancing competitiveness of the manufacturing industry.

i) Supports for Productivity-Oriented Management System

The Minister of Trade, Industry, & Energy may grant certification of productivity-oriented management systems to companies equipped with a management system suitable for improving productivity in order to encourage companies to commit themselves to improving their productivity

### III. Current Status of Supporting Laws for Small-Medium Enterprises

(Article 30). Certification institutions shall assess the following criteria and issue the productivity-oriented management system certificate prescribed by the President Decree:

- Leadership including management vision • strategy and assessment
- Innovation for continuous growth
- Operating system for value creation
- Performance evaluation and management

If small-medium business obtains productivity-oriented management system certificate, it shall be eligible for financial support.

The government or public institutes prescribed by President Decree (e.g., central government agencies, local government, banks, credit guarantee fund, technology credit guarantee fund) shall provide financial support for increasing productivities of the companies (Article 30-6). The Minister of Trade, Industry, & Energy or banks, credit guarantee fund, technology credit guarantee fund shall provide the following supports:

- In accordance with the Small and Medium Business Promotion Act, a company engages in small-medium business enterprises shall be eligible for preferential support
- Central government agencies, local government, banks, credit guarantee fund, technology credit guarantee fund engages in small-medium business enterprises shall be eligible for preferential support
- Support for training and overseas workshop to employees of certified companies
- Support for research funds in order to innovate productivity of certified companies
- Support for publicizing outstanding cases of certified companies

ii) Fund for the Establishment and Promotion of Small and Medium Enterprises

Financial resources for any of the following projects shall be supported by the Fund for the Establishment and Promotion of Small and Medium Enterprises (Industry Development Act Article 33).

- Projects for improving industrial productivity and higher added value
- Projects for laying the industrial groundwork, such as sites, logistics, distribution and informatization
- Projects for establishing environment-friendly industrial infrastructure
- Projects for promoting policies to strengthen industrial competitiveness
- Projects for promoting policies to raise efficiency of the industrial structure
- Projects for developing the leisure equipment industry, including bicycles and motorboats

In accordance with the small and medium enterprises promotion act article 63, the Government shall establish the Fund for the Establishment and Promotion of Small and Medium Enterprises for facilitating starting new small and medium enterprises, balanced development of industries, establishment of industrial infrastructure, expansion of business sphere, and structural advancement.

c. Financial Support under Framework Act on Small and Medium Enterprises

Framework Act on Small and Medium Enterprises is to provide for fundamental matters pertaining to the direction in which the small and medium enterprise sector is to advance and measures to be taken to develop small and medium enterprises with aims of supporting the creative and

### III. Current Status of Supporting Laws for Small-Medium Enterprises

independent growth of small and medium enterprises, advancing their industrial structure, and facilitating the balanced development of the national economy (Article 1). No specific provisions relating to the financial support is specified in the act and the necessary measures to implement small-medium business policy regulations is declaratively stated. The Government shall take measures necessary for facilitating the conversion of small and medium businesses into corporations, business conversion, mergers between small and medium businesses, etc. to enhance the structure of small and medium enterprise sector (Article 9). The Government shall take legislative and financial measures necessary for implementing its policy for small and medium businesses (Article 18). The Government shall take measures necessary for smoothly financing small and medium business proprietors through facilitation of a steady supply of financial resources and credit and establishment of a credit guarantee system (Article 19-1). Even though specific provisions are not specified in the act, it provides fundamental matters as well as a legal basis for financial support for small-medium business.

#### d. Financial Support under Small and Medium Enterprises Promotion Act

Small and Medium Enterprises Promotion Act is to strengthen the competitiveness of small and medium enterprises through their structural advancement, and expand the business sphere for small and medium enterprises, thereby contributing to the balanced development of the national economy (Article 1). This act provides a variety of support schemes for growth and development of small and medium enterprises

i ) Structural Advancement of Small and Medium Enterprises

Government can promote the structural advancement of small-medium enterprises to overcome the difficulties of the company and provide a legal basis for administrative and financial support. Government may take measures as may be necessary for supporting their efforts for structural advancement, such as conversion of a private business into a corporation, merger and split-off of companies, joint ventures, collaboration, business conversion, relocation of business premises, and rationalization of management (Article 3-1). Mayors and governors shall develop and publish a plan for supporting the structural advancement of small and medium enterprises within his/her jurisdiction. In such cases, the Mayor and governors may request the heads of institutions responsible for supporting small and medium enterprises to furnish him/her with data required for the establishment of the plan for supporting structural advancement, and the heads of the institutions so requested shall, in return, give cooperation in this matter (Article 3-2). The plan for supporting structural advancement shall cover the following matters in accordance with actual conditions of each local government (Article 3-3).

- Budget subsidies for each project
- Counseling, consulting, guidance for management and technology, furnishing information
- Other matters necessary for supporting the structural advancement

Each Mayor and governor may request the heads of the relevant central administrative agencies to render assistance as may be necessary for promoting the plan for supporting structural advancement smoothly (Article 3-4).

### III. Current Status of Supporting Laws for Small-Medium Enterprises

The government shall implement policies to support automation of small-medium enterprises, and support necessary funds for the companies. The Administrator of the Small and Medium Business Administration shall execute the projects for supporting automation of small and medium enterprises with aims of promoting automation of small and medium enterprises and fostering the business entities specializing in manufacturing and engineering of automated equipment and systems (Article 4-1). The Administrator of the Small and Medium Business Administration may promote the projects for rendering assistance in the following activities (Article 4-2):

- Supplying the equipment and systems for promoting automation of small and medium enterprises
- Executing exemplary projects and standardization for automation of small and medium enterprises
- Raising professionals in automation of small and medium enterprises
- Providing financial aids for promoting automation of small and medium enterprises
- Other matters necessary for promoting automation of small and medium enterprises

#### ii) Providing Supports for Business Site Development

The Administrator of the Small and Medium Business Administration shall provide a financial support for business site development and reduction in environmental pollution. The Administrator of the Small and Medium Business Administration may commission the Small Business Corporation to execute the following projects for site development in accordance with the provisions of relevant Acts with an aim of supplying

small and medium enterprises smoothly with sites for building factories (Article 41).

The Administrator of the Small and Medium Business Administration may implement the projects for providing support for reduction in environmental pollution by improving the manufacturing process to the low-pollution process, installing facilities for preventing environmental pollution (Article 42).

Facilities for preventing environment pollutions as follows (Article 37):

- Replacing existing production facilities and processes with low-polluting or pollution-free facilities and processes
- Commercialization of advanced technology for reducing environmental pollution
- Installing production facilities and waste treatment facilities for recycling wastes produced from production activities
- Other projects that the Administrator of the Small and Medium Business Administration deems necessary for reducing environmental pollution caused by small and medium enterprises

iii) Support for Internationalization

When a small and medium enterprise proprietor intends to relocate his/her manufacturing facilities to overseas, the government may take measures for supporting such relocation (Article 59). The projects for providing support for internationalization shall include the following activities (Article 52):

- Inviting foreign investments for small and medium enterprises
- Introducing and exchanging technology for small and medium enterprises
- Assisting small and medium enterprises in investing in overseas markets and transferring technology to overseas markets

### III. Current Status of Supporting Laws for Small-Medium Enterprises

- Arranging overseas training programs and observation tours for executives and employees of small and medium enterprises
- Other activities that the Administrator of the Small and Medium Business Administration deems necessary for supporting internationalization of small and medium enterprises

When a small-medium enterprise proprietor intends to relocate his/ her manufacturing facilities to overseas, the Government may take measures necessary for supporting such relocation (Article 59) as below:

- Granting a loan for exportation and overseas investment provided for in Article 18 of the Export-Import Bank of Korea Act
- Making investment or granting a loan from the Foreign Economic Cooperation Fund under Article 3 of the Foreign Economic Cooperation Fund Act
- Providing support from the overseas investment insurance provided for in the Trade Insurance Act
- Granting a loan from the Fund for the Establishment and Promotion of Small and Medium Enterprises provided for in Article 63
- Implementing preferential credit guarantee services necessary for providing supports
- Providing information for relocation of manufacturing facilities to overseas

#### iv) Supports for Stable Business Management of Small and Medium Enterprises

The Administrator of the Small and Medium Business Administration may request the heads of related administrative agencies to take measures for assisting small and medium enterprises in normalizing their business



including financial support (Article 60). If a substantial number of small and medium enterprise proprietors suffer or are likely to suffer hardship in their business management due to any ground as described below, the Administrator of the Small and Medium Business Administration may take measures necessary for assisting them in normalizing their business (Article 60-2).

- If they suffer serious hardship in their business due to downfall in sales, temporally financial difficulties, shortage of human resources, etc
- If it is difficult for them to secure raw materials
- If there occurs such an event as temporary shutdown, permanent closedown, suspension of operation due to a labor dispute in a related company

If the number of small and medium enterprises that temporarily shut down or permanently close down their business or suspend operation increases or is anticipated to increase due to an occurrence of a natural disaster or calamity at a specific area, a drastic change in economic situation or any other similar cause or event, the Administrator of the Small and Medium Business Administration may prepare and implement an emergency aid plan for business stabilization to help small and medium enterprise proprietors stabilize their business management (Article 61-1).

The emergency aid plan for business stabilization shall include the following matters: (Article 61-2)

- Area eligible for the aid
- Businesses eligible for the aid
- Aid implementation period

### III. Current Status of Supporting Laws for Small-Medium Enterprises

- Details of aids granted by each central administrative agency, including financial aids, business site development, human resources support, and technical guidance
- Other matters that the Administrator of the Small and Medium Business Administration considers necessary for emergency aids for business stabilization

The Government may open accounts of insurance for trade receivables for small and medium enterprises in the Credit Guarantee Fund under the Credit Guarantee Fund Act with a view to preventing risks of chain reaction bankruptcies caused by the dishonor of promissory notes or bills of exchange held by small and medium enterprise proprietors in connection with commercial transactions, and by default on debts by debtors for trade receivables (Article 61-2).

#### v) Fund for Establishment and Promotion of Small and Medium Enterprises

Government shall establish the Fund for the Establishment and Promotion of Small and Medium Enterprises for securing financial resources necessary for facilitating starting new small and medium enterprises, balanced development of industries, establishment of industrial infrastructure, expansion of business sphere, and structural advancement (Article 63).

The Fund shall be raised from the following financial resources (Article 64).

- Capital contribution and loan from the Government or local governments
- Capital contribution and loan from those other than the Government or local governments
- Funds raised by issuing bonds and revenue from lottery tickets

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- Deposits received from the Public Capital Management Fund under the Public Capital Management Fund Act
- Revenue accruing from the management of the Fund
- Other revenues prescribed by Presidential Decree

The Fund shall be operated and managed by the Small and Medium Business Corporation and the person responsible for management of the Fund may operate the Fund by granting loans, etc. in accordance with the plan for the operation of the Fund (Article 66)

Small-Medium Business Corporation intends to formulate a draft plan for the operation of the Fund shall obtain approval from the Administrator of the Small and Medium Business Administration after undergoing deliberations by the operating committee (Article 66-2)

The Fund may be used for the following purposes (Article 67):

- Financial support to a business operator of a start-up business support center and to a person who moves in such start-up business support center
- Investments in or loans to small and medium enterprise start-up investment companies
- Investments in small and medium enterprises start-up investment associations
- Financial support to small and medium enterprises counseling companies
- Projects entrusted by the Administrator of the Small and Medium Business Administration to provide support to start-up small and medium enterprises
- Support to small and medium enterprises for automation
- Support to small and medium enterprises for informatization

### III. Current Status of Supporting Laws for Small-Medium Enterprises

- Support to small and medium enterprises for the development of technology and for exchanges with different businesses
- Support to small and medium enterprises for business conversion
- Support to finding markets at home and abroad for products produced by small and medium enterprises, and to link production
- Support to small and medium enterprises for the modernization of logistics system
- Support to small and medium enterprises for cooperative projects
- Support to small and medium enterprises for collaborative projects
- Support to small and medium enterprises for sites to move in and for the reduction of environmental pollution
- Support to small and medium enterprises for guidance and training programs for small and medium enterprises and for training of technical experts
- Support to small and medium enterprises for internationalization
- Support to small and medium enterprises for management normalization
- Underwriting stocks or debentures of small and medium enterprises
- Installation and operation of facilities for the Small Business Corporation
- Projects entrusted by the Administrator of the Small and Medium Business Administration for the promotion of small and medium enterprises
- Leasing necessary facilities to small and medium enterprises, and collecting, disseminating, surveying and researching related information
- Promotion of local small and medium enterprises, including support to the creation of funds for fostering local small and medium enterprises.

The Small and Medium Business Corporation may issue bonds on the account of the Fund with approval from the Administrator of the Small

and Medium Business Administration, after undergoing a resolution by its board of directors (Article 65). The Small and Medium Business Corporation may issue bonds on the account of the Fund with approval from the Administrator of the Small and Medium Business Administration who consults in advance with the Minister of Strategy and Finance, after undergoing a resolution by its board of directors (Article 65-1,2).

Issuing Bonds have following restrictions (Article 65-3,4,5,6):

- The amount of bonds to be issued shall not exceed 20 times the fund reserved
- The Government may guarantee the redemption of the principal and interest of bonds issued by the Small and Medium Business Corporation
- The extinctive prescription of bonds shall complete at the lapse of five years for principal and at the lapse of two years for interest, respectively, reckoned from the due date for redemption

e. Financial Support under Act on the Promotion of Technology Innovation of Small and Medium Enterprises

The purpose of this Act is to contribute to the development of the national economy through the strengthening of the technological competitiveness of small and medium enterprises by expanding infrastructure to promote technological innovation of small and medium enterprises and establishing and implementing policies related thereto (Article 1). The government shall implement necessary policies such as financial support and credit guarantee fund in order to provide sufficient funds for technology innovation and informatization (Article 27). The Administrator of the Small and Medium Business Administration shall perform the following support projects for promoting technological innovation of small and medium enterprises (Article 9):

### III. Current Status of Supporting Laws for Small-Medium Enterprises

- Funding necessary for technological innovation (Article 9-1)
- Where the Administrator of the Small and Medium Business Administration deems it necessary to promote technological innovation of small and medium enterprises, the administrator may provide contributions to a technological innovation project performed solely by a small and medium entrepreneur or jointly with other small and medium entrepreneur who has the capability of technological innovation (Article 10-1)
- The Administrator of the Small and Medium Business Administration may provide the support (e.g., Funding for the manufacturing of prototypes and investment in facilities) to small and medium entrepreneurs who commercialize the outcomes of technological innovation, etc. (Article 14-1)

#### f. Financial Support under Act on Special Measures for the Promotion of Venture Business

The purpose of this Act is to contribute to the facilitation of the structural adjustment of the industry as well as to the enhancement of the competitiveness thereof, by promoting the conversion of existing enterprises into venture businesses and the establishment of venture businesses (Article 1). The government shall take special measures in order to provide necessary funds to venture companies for fostering venture business.

A person administering any Fund prescribed by Presidential Decree, which falls under the provisions of the National Finance Act, may invest funds into venture businesses within the ratio (less than 100:10), or contribute them to small and medium enterprise start-up investment associations, new technology project investment associations, or the Korea Venture Fund, pursuant to the plans for operating the relevant Fund

(Article 4-1). Organizations that are designated by the Administrator of the Small and Medium Business Administration, from among the investment management organizations, including the Small Business Corporation, which are prescribed by Presidential Decree, may establish a Fund that is invested by the person, etc. who manages the Fund for the Establishment and Promotion of Small and Medium Businesses (“Fund for the Establishment and Promotion of Small and medium Businesses”) to make investments in an association or a fund that is established with the aim of making investments in small and medium enterprises as well as venture businesses (“Fund of Funds for Small and Medium Enterprise Investments”) (Article 4-2, 1). The managing member shall use the funds of the Korea Venture Fund for the business of the following: (Article 4-3, 5)

- Investments in small and medium enterprises and venture businesses
- Overseas investments
- Contributions to small and medium enterprise start-up investment associations or new technology project investment associations
- Other businesses undertaken to strengthen the competitiveness of small and medium enterprises and venture businesses, which are recognized by the Administrator of the Small and Medium Business Administration.

g. Financial Support under Credit Guarantee Fund Act

The purpose of Credit Guarantee Fund Act is to facilitate the financing of enterprises by establishing the Korea Credit Guarantee Fund and causing the Fund to guarantee the liabilities of enterprises which lack security solvency, and to contribute to the balanced development of the national economy by establishing sound credit order through efficient

### III. Current Status of Supporting Laws for Small-Medium Enterprises

management and use of credit information (Article 1). In order to support small and medium business, credit guarantee fund shall be used.

Credit guarantee is a guarantee provided by the Korea Credit Guarantee Fund for liabilities borne by enterprises. It provides support for start-ups by providing customized one-stop service including from start-up consultant to after consulting service. It also provides supports for management through providing management consulting and diagnosis/guidance for improving productivity and competitiveness.

The Fund shall provide preferential credit guarantees to small and medium enterprises which lack security solvency and funds corresponding to objectives prescribed by Presidential Decree (Article 3). Not less than 60 percent of the total amount of guarantees shall be guarantees for small-and-medium enterprises in preparing or modifying the operational plan of the Credit Guarantee Fund (Enforcement Decree of the Credit Guarantee Fund Act Article 5).

#### h. Korea Technology Credit Guarantee Fund Act

The purpose of this Act is to facilitate the financing of new technology business by stabilizing and developing the technology credit guarantee system through the establishment of the Korea Technology Finance Corporation, and further contribute to the development of the national economy (Article 1). The Korea Technology Finance Corporation shall perform the following business (Article 28):

- Administering the fundamental property
- Providing a technology credit guarantee
- Providing a general credit guarantee
- Guarantee-linked investment



B. Supporting Laws and Systems for Small-Medium Enterprises at Growth Stage

- Providing management consulting and technology consulting services to enterprises
  - Conducting credit investigations and comprehensive managements of credit information
  - Conducting technology evaluations
  - Exercising the right to indemnity
  - Conducting an investigation into and research on the credit guarantee system
  - Providing a re-guarantee and guarantee for a special purpose company
- The Corporation shall make at least three-fourth the total amount of guarantee to be provided for a technology credit guarantee (Article 30-2).

i ) Financial Support under Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises

The purpose of this Act is to sharpen the competitiveness of large enterprises and small-medium enterprises by consolidating win-win cooperation between them and to attain their shared growth by resolving the polarization between large enterprises and small-medium enterprises with the aim of laying the foundation for sustainable growth of the national economy. The Government may subsidize funds necessary to develop technologies jointly by large enterprises and small-medium enterprises, or develop the technology which requires the cooperation of large enterprises in order to facilitate technological cooperation between large enterprises and small-medium enterprises (Article 9-1). The Government may subsidize the issuance of asset-backed securities in order to support the management of commissioned enterprises, including technological development, investment in facilities (Article 11-2).

## 2. Supports for Business Operations

### a. Supports under Industry Development Law

#### i) Stimulation of Inter-corporate Cooperation

The Minister of Trade, Industry and Energy may extend necessary support when a company carries out projects falling under any of the followings as a measure for enhancing industrial competitiveness through inter-corporate cooperation (Article 11):

- Projects for standardizing or sharing of parts
- Projects for jointly developing technology or trademarks
- Projects for partnership in terms of technology and human resources, through inter-corporate cooperation
- Projects for improving resource productivity or reducing green house gas emissions through inter-corporate cooperation

Supports for stimulation of Inter-corporate Cooperation shall be limited to technology and administrative supports, not financial supports.

#### ii) Promotion and Development of Managerial Resources

The Government may extend necessary support for the enhancement of managerial capacity of companies, such as the development of human resources.

#### iii) Support for Business Realignment

The Government may provide necessary support for the following projects to enhance the utilization of idle managerial resources resulted from such processes as business realignment determined by Presidential Decree (Article 13).

B. Supporting Laws and Systems for Small-Medium Enterprises at Growth Stage

- Projects for the disposition of idle facilities, such as sale of idle facilities and removal of security
- Business for employment stability, such as job retraining programs and job centers
- Projects for utilization of idle managerial resources, such as transfer of technology and succession of workers

iv) Comprehensive Policies for Sustainable Management

The Government may provide necessary support to encourage companies to autonomously promote sustainable management (Article 19-3).

b. Supports under Small and Medium Enterprises Promotion Act

The Administrator of the Small and Medium Business Administration shall execute the projects for supporting inter-business exchanges in order to promote exchanges of information and technology between or among small and medium enterprise proprietors who engage in different business fields (Article 5-1). The Administrator of the Small and Medium Business Administration may promote the projects for rendering assistance in the following matters (Article 5-2):

- Dispatching experts for active exchanges of information and technology
- Providing financial aids as may be necessary for exchanges of information and technology
- Other matters necessary for promoting exchanges of information and technology

The Administrator of the Small and Medium Business Administration shall provide supports for expanding business management base of small and medium enterprises

### III. Current Status of Supporting Laws for Small-Medium Enterprises

#### i ) Supports for Cooperative Projects

The Administrator of the Small and Medium Business Administration shall establish and publicly notify the standards for cooperative movement, applicable to clustering small and medium enterprise proprietors and developing common facilities for them (Article 28-1).

Anyone who establishes an action plan for cooperative movement in accordance with standards for cooperative movement shall obtain the approval of the Administrator of the Small and Medium Business Administration for implementation (Article 29-1).

Although there is no explicit provision of funding for the cooperative project, it can be interpreted that it is possible to provide financial supports for such projects due to revocation of approval on action plan and recovering the principal and interest of subsidies granted (Article 30).

Administration or the mayor or governor may revoke such approval already granted on the action plan for cooperative movement and recover the principal and interest of subsidies granted if anyone who has obtained approval on an action plan for cooperative movement falls under any of the followings (Article 30-1).

- If the person has obtained the approval on the action plan for cooperative movement by falsity or in any other fraudulent way
- If the person changes the action plan for cooperative movement without an approval on such modification or suspends his/ her implementation of the plan and
- If it is impossible to achieve the objectives of the project or the subsidies granted have been spent for any purpose other than originally intended purposes

ii) Supports for Collaborative Projects

Anyone who desires to have aids granted in executing a collaborative project shall prepare a collaborative project plan containing the following matters for approval of the Administrator of the Small and Medium Business Administration (Article 37).

The Government may grant the following aids to approved project executors (Article 39):

- Granting subsidies for collaboration funds
- Furnishing them with information
- Promoting informatization
- Raising human resources, and providing guidance and training programs
- Contributing to technology development funds

iii) Support on Family Business Succession

The Government may provide necessary support to help facilitate family business succession by small and medium enterprise such as tax benefits (Article 62-2).

iv) Supports for Stable Business Management of Small and Medium Enterprises

If a substantial number of small and medium enterprise proprietors suffer or are likely to suffer hardship in their business management due to any ground or following events, the Administrator of the Small and Medium Business Administration may take measures necessary for assisting them in normalizing their business (Article 60).

- Downfall in sales, temporally financial difficulties, shortage of human resources

### III. Current Status of Supporting Laws for Small-Medium Enterprises

- Difficult for them to secure raw materials
- Temporary shutdown, permanent closedown, suspension of operation due to a labor dispute in a related company

For above mentioned events, the Administrator of the Small and Medium Business Administration may request the heads of related administrative agencies to take measures for assisting small and medium enterprises in normalizing their business.

If the number of small and medium enterprises that temporarily shut down or permanently close down their business or suspend operation increases or is anticipated to increase due to an occurrence of a natural disaster or calamity at a specific area, a drastic change in economic situation or any other similar cause or event, the Administrator of the Small and Medium Business Administration may prepare and implement an emergency aid plan for business stabilization to help small and medium enterprise proprietors stabilize their business management (Article 61).

The Government may open accounts of insurance for trade receivables for small and medium enterprises in the Credit Guarantee Fund under the Credit Guarantee Fund Act with a view to preventing risks of chain reaction bankruptcies caused by the dishonor of promissory notes or bills of exchange held by small and medium enterprise proprietors in connection with commercial transactions, and by default on debts by debtors for trade receivables (Article 61-2)

#### c. Supports under Act on Special Measures for the Promotion of Venture Businesses

The Administrator of the Small and Medium Business Administration may designate agencies or institutions relevant to support for small and

medium enterprises as a supporting center for takeover and merger of small and medium venture businesses (“supporting center”) to efficiently support takeover and merger of small and medium venture businesses (Article 15-13).

Duties of Supporting Center are as following (Article 15-13):

- Development of takeover and merger plan of small and medium venture businesses
- Collection and provision of information of enterprises and consulting support for takeover and merger of small and medium venture businesses
- Development and supply of enterprise value evaluating models of small and medium venture businesses
- Support of funds necessary for takeover and merger plan of small and medium venture businesses
- Fostering and education of experts in takeover and merger plan of small and medium venture businesses
- Other matters determined by the Administrator of the Small and Medium Business Administration

d. Supports under Act on the Promotion of Collaborative Cooperation between Large Enterprises and Small-Medium Enterprises

The Government may provide following support to small-medium enterprises that take over the business of large enterprises (Article 36):

- Subsidization of the start-up fund
- Preferential occupancy of cooperative industrial complexes and knowledge-based industry center
- Preferential subsidization of technology-development fund

### III. Current Status of Supporting Laws for Small-Medium Enterprises

When the businesses transferred by a large enterprise to small-medium enterprises meet the standards prescribed by Presidential Decree, the Government may provide such large enterprises with financial and taxation support (see below; Article 37):

- When the whole or part of production facilities are yielded or loaned
- When the intellectual property right such as patent right related to the business type or item of the business to be transferred is yielded
- When large enterprises, construction work, processing, repair or service of the item of the business they possess or subcontract with small and medium enterprises after downsizing or stopping the business

#### C. Supporting Laws and Systems for Small-Medium Enterprises at Conversion Stage

In order to enhance the competitiveness of small and medium enterprises and upgrade the industrial structure, Special Act on the Promotion of Business Conversion in Small and Medium Enterprises was enacted in 2006. The purpose of this Act is to promote the business conversion of small and medium enterprises that suffer difficulties due to changes in the economic environment (Article 1). Business Conversion<sup>21)</sup> can be defined as a small and medium business proprietor discontinues his or her current type of business to operate a new type of business (Article 2-2).

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21) Definition of business conversion differentiate from that of start-up. That is, business conversion means that a business owner discontinues his or her current type of business to operate a new type of business while start-up is a process where a business owner establish and operate new business in a new company. Technically, during the conversion period (3 years), sales for newly added business project or items should account for more than 30% of total sales (i.e., business conversion).



Business conversion can be classified into three distinct categories: conversion of business type, addition of new business, and addition of new goods or items. It is important to note that although there are three different types of business conversion, their eligibility, legal conditions, and support systems are same.

### 1. Supports for Business Funds

Approved company that meets Small and Medium Business Corporation's criteria which can be divided into facilities funds and operation funds are subjects for assistance. There are conditions for loans such as that the interest rate (variable rate) is set as 0.7%p deducted from base rate; the period of a loan is up to 8 and 5 years for facilities funds and operation funds, respectively; and the limits of a loan limited to 30 billion won.

### 2. Supports for Business Operations

The Administrator of the Small and Medium Business Administration may give assistance with consultancy on the improvement of management, technology, finance, and accounting to small and medium business proprietors who promote business conversion (Article 22-1). The administrator provides assistant with consultancy up to 60% of total expense for consultancy, up to 50,000,000 won per year, within 6 months, and one assistance per company.

### 3. Supports for Technology Development

Total supporting limit is up to 25 billion won; up to 1 billion per project; and spend up to 75% of total fund (not applied in 2010). Also,

### III. Current Status of Supporting Laws for Small-Medium Enterprises

laws and systems provide information regarding technology, idle equipment, etc, and they also provide employment security, tax exemptions, supporting funds.

#### D. Summary of Laws for Each Stage

<p>Develop- mental Stage</p>	<ul style="list-style-type: none"> <li>- Establishment Procedures: Civil Act, Commercial Act</li> <li>- Funding:             <ul style="list-style-type: none"> <li>· Small and Medium Enterprises Promotion Act</li> <li>· Financial Support, promotion development investment, (Korean Development Bank Act)</li> <li>· Financial Support from Small-Medium Business Corporation</li> <li>· Crowdfunding (Capital Market Act)</li> <li>· Small and Medium Start-up Investment Company, Small and Medium Start-up Investment Cooperative (Support for Small and Medium Enterprise Establishment Act)</li> </ul> </li> <li>- Support for Management:             <ul style="list-style-type: none"> <li>· Business Incubators, supports for start-ups (Support for Small and Medium Enterprise Establishment Act)</li> </ul> </li> </ul>
<p>Growth Stage</p>	<ul style="list-style-type: none"> <li>- Financial Support:             <ul style="list-style-type: none"> <li>· Supports for Productivity (Industry Development Act)</li> <li>· Establishment and Promotion of Small-Medium Enterprise (Industry Development Act, Small and Medium Enterprises Promotion Act)</li> <li>· Structural advancement (Framework Act on Small and Medium Enterprises, Small and Medium Enterprises Promotion Act)</li> <li>· Business Site Development (Small and Medium Enterprises Promotion Act)</li> <li>· Internationalization (Small and Medium Enterprises Promotion Act)</li> <li>· Stable Business Management (Small and Medium Enterprises Promotion Act)</li> </ul> </li> </ul>

D. Summary of Laws for Each Stage

	<ul style="list-style-type: none"> <li>· Technology Innovation (Small and Medium Enterprises Promotion Act)</li> <li>· Fostering Venture Business (Act on Special Measures for the Promotion of Venture Businesses)</li> <li>· Credit Guarantee Fund for Small and Medium Enterprises (Credit Guarantee Fund Act)</li> <li>· Technology Credit Guarantee Fund for Small and Medium Enterprises (Korea Technology Credit Guarantee Fund Act)</li> <li>· Supporting Collaborative Cooperation between large and small-medium enterprises (Act on the Promotion of Collaborative Cooperation Between Large Enterprises and Small-Medium Enterprises)</li> <li>- Support for Management:             <ul style="list-style-type: none"> <li>· Supporting for Cooperation among companies (Industry Development Act)</li> <li>· Projects for Supporting Inter-business Exchanges (Small and Medium Enterprises Promotion Act)</li> <li>· Expansion of Business Sphere for Small and Medium Enterprises (Small and Medium Enterprises Promotion Act)</li> <li>· Support to Small and Medium Enterprises on Family Business Succession (Small and Medium Enterprises Promotion Act)</li> <li>· Support for Takeover and Merger of Small and Medium Venture Businesses (Act on Special Measures for the Promotion of Venture Businesses)</li> <li>· Protection of Business Area of Small-Medium Enterprises (Act on the Promotion of Collaborative Cooperation Between Large Enterprises and Small-Medium Enterprises)</li> </ul> </li> </ul>
<p>Convert -sion Stages</p>	<ul style="list-style-type: none"> <li>- Financial Support:             <ul style="list-style-type: none"> <li>· Financial Assistance for Business Conversion (Special Act on the Promotion of Business Conversion in Small and Medium Enterprises)</li> </ul> </li> </ul>

### III. Current Status of Supporting Laws for Small-Medium Enterprises

	<ul style="list-style-type: none"><li>· Support for Technology Development of Business Conversion (R&amp;D) (Special Act on the Promotion of Business Conversion in Small and Medium Enterprises)</li><li>- Support for Management:<ul style="list-style-type: none"><li>· Assistance with Consultancy (Special Act on the Promotion of Business Conversion in Small and Medium Enterprises)</li><li>· Mitigation of Regulation (Special Act on the Promotion of Business Conversion in Small and Medium Enterprises)</li><li>· Supply of Information (Special Act on the Promotion of Business Conversion in Small and Medium Enterprises)</li><li>· Placement of Other Governmental Support (Special Act on the Promotion of Business Conversion in Small and Medium Enterprises)</li></ul></li></ul>
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## IV. Conclusion

SMEs have been the driving force of Korean economy for the past couple of decades and they still are supporting most of the economic accomplishments, at least in the domestic employment and market, in Korea. With the SMEs' manufacturing industries Korea has accomplished the rapid growth in economy, and now, more than ever, support system for SMEs is needed, when the economic crisis does not show any silver lining and the unemployment rate keeps raising. Laid off employees are forced to devise their own businesses, whether a corporation or a sole proprietorship, and those usually pull every string possible to the new venture they start, it is important to provide solid foundation for those businesses so that not to fail, by setting up an environment that those SME entrepreneurs may obtain supports they need to succeed.

Laws and regulations supporting, promoting, and encouraging SMEs exist, and they are carefully crafted matching the needs that arose in each stages of SMEs along with their progress. When considering the fact that very minimal number of enterprises survive after 5 years from registering their businesses,<sup>22)</sup> it is crucial to have, to know, and to utilize those laws supporting SMEs, especially in its establishment and growth stage. Of course, obtaining help with conversion when the business is in its downhill with no possibility of overturn is almost as important as securing funds for starting the enterprise. For each stages, establishment, growth, and conversion, laws provide methods to assist financially and also with management. These systematic support throughout

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22) <https://timryan.house.gov/press-release/april-21-2010-congressman-ryan-introduces-business-incubator-promotion-act> (Last visited May 21, 2015)

#### IV. Conclusion

the developmental stages of enterprises has been effective in having the SMEs survive, if not thrive, in Korea, and the same system may be utilized, with modifications based on each country's political and societal circumstances, by developing countries and transition economies.

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